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**A. GENERAL INFORMATION**

1. Date

2025-06-27

2. Department

California Energy Commission

3. Organizational Placement (Division/Branch/Office Name)

Commissioner Gallardo's Office

4. CEA Position Title

Legal and Policy Advisor

5. Summary of proposed position description and how it relates to the program's mission or purpose.  
(2-3 sentences)

Governor Newsom has tasked the CEC with the primary role in leading the state to a 100% clean energy future for all. The CEA position will advise Commissioner Noemi Gallardo on some of the CEC's most legally and politically complex program areas enabling the state to achieve a buildout of clean energy infrastructure by 2045 for a more reliable, affordable and equitable grid. The CEA will be responsible for policy and program implementation and extensive participation in policy and program involvement in the areas of power plant siting, clean energy facility permitting, renewables credit guidebook work, tribal energy sovereignty proceeding, and internal audits efforts.

6. Reports to: (Class Title/Level)

Commissioner Gallardo

7. Relationship with Department Director (*Select one*)

- ☐ Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- ☒ Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(*Explain*):

8. Organizational Level (*Select one*)

- ☐ 1st ☐ 2nd ☒ 3rd ☐ 4th ☐ 5th (mega departments only - 17,001+ allocated positions)

## B. SUMMARY OF REQUEST

### 9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

State law requires each CEC commissioner have certain expertise. One commissioner must be an attorney. Commissioner Noemi Gallardo is the CEC's attorney member. The CEA position will advise Commissioner Gallardo whose policy portfolio includes some of the most legally and politically complex responsibilities at the CEC and that entail development, implementation and improvement of sensitive new policy, programs and procedures, including:

(1) implementing and improving the newest siting certification program called Opt-In created by Assembly Bill 205, which enables the CEC to permit in a consolidated manner non-fossil-fuel-based facilities for the first time in its 50 years of existence; (2) creating legislation and policy to enable the build out of data centers in California needed to support the growth in artificial intelligence needs with flexible permitting for their back-up power (3) overseeing the drafting and publishing of a new Renewables Portfolio Standard (RPS) Eligibility Guidebook (10th edition, last done in 2017, that will add battery energy storage systems and distributed energy resources for the first time; (4) identifying solutions to the statewide impacts of the loss of the current software vendor for the Western Renewable Energy Generation Information System (WREGIS) tracking and verification system for Renewable Energy Credits (REC) in the RPS program utilized by load serving entities and technology developers across the state; (5) supporting and advising on the CEC's first informational proceeding on tribal energy sovereignty and developing corresponding policy consistent with Governor Newsom's tribal executive orders, and in engagement with over 100 California Native American tribes, each of which is a sovereign nation with unique needs; and (6) crafting and developing procedures and new policies for the CEC's internal audits and investigations program processes, which are critical to grant administration success and vital for the department's financial stability.

Commissioner Gallardo's policy areas require a CEA who possesses a specialized skill set and extensive experience to carefully navigate administrative law, environmental review, federal law, tribal law, procedural fairness, and meaningful government-to-government engagement, often under heightened public and intergovernmental scrutiny. The CEA will be responsible for policy and program implementation and extensive participation in policy and program evolution.

The work of this office requires a CEA who has the highest level of policy sophistication, legal acumen, and political sensitivity to have continuous, direct interface with executives in the Governor's Office, legislators and their staff, CEC leadership, heads of and members of tribal nations, aside from executives and staff of other agencies. This office requires a highly capable advisor who can manage multiple programs; conduct policy and legal analysis; draft legislation and create policy; all while navigating sensitive and ever-changing political dynamics and advising Commissioner Gallardo on several critical policy areas with minimal guidance and direction. The CEA will work closely with the CEC Chair on siting and tribal matters; and with other commissioners on relevant issues; and with the CEC's Executive Director and Chief Counsel to coordinate efforts, exchange information and implement policies, procedures and programs.

## B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- ☒ Program is directly related to department's primary mission and is critical to achieving the department's goals.
- ☐ Program is indirectly related to department's primary mission.
- ☐ Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

**Description:** The siting, RPS, tribal energy sovereignty and audits programs are directly related to the CEC's primary mission to achieve a 100% clean energy future for all and is critical to achieving the state's climate policies and CEC's clean energy goals. The CEC has been the lead state agency for the siting of thermal power plants 50 MW and over for the last 50 years. These efforts continue to help ensure a reliable grid. Additionally, to accelerate the massive buildout of renewable energy infrastructure to meet state goals for 100% zero-carbon electricity by 2045, the Legislature and Governor established the Opt-In Program through AB 205 (2022), enabling the CEC to consolidate permitting for certain clean energy projects. In a press release about the recently approved Darden Clean Energy Project that went through the Opt-In permitting process led by Commissioner Gallardo, Governor Gavin Newsom stated: "California is moving faster than ever before to build the clean energy we need – now with the world's largest solar and battery project."

The CEC and the Governor's Office is realizing that Opt-In implementation has proven significantly more complex than initially anticipated. The cases involve novel legal questions; extensive education of and engagement with local communities; process explanations and deep discussion with private sector developers; and coordination across local, state and federal jurisdictions and California Native American tribes. The CEA must navigate tensions between traditional siting procedures and evolving policy expectations for expediency, transparency, and community benefits. In addition, the CEA must manage bills introduced and passed that have and may amend the Opt-In program since the program was first introduced, including in the current session.

Commissioner Gallardo, as the CEC's Attorney Commissioner and lead on permitting issues, is at the center of this effort. There has been significant pressure from the Legislature to improve the Opt-In process and the program. The CEA would work closely with Commissioner Gallardo and the Governor's Office to identify enhancements to the program such as speedier processing, clearer guidance on community benefits, improved engagement, more guidance for developers, clearer communication to educate the public and other changes that will enable Opt-In to better fulfill its envisioned role.

Additionally, the proliferation of AI has necessitated the build out of more data centers. The CEC has been conducting Small Power Plant Exemptions through their siting program for the back up power, mostly diesel generators, of data centers. However, these processes may take up to two years to finalize. Legislators and developers have been seeking options to speed up the permitting processes. The CEA would work closely with Commissioner Gallardo and the Governor's Office to identify pathways to better support the build out of data centers and their back up power facilities.

For siting programs overall, the CEA must provide advice to Commissioner Gallardo on the direction of program implementation and enhancements; assist Commissioner Gallardo in preparing for presentations on legal and policy impacts related to permitting programs before the Governor's Office and CNRA; assist in preparing legislation and explanations on enhancements to the Opt-In Certification Program and data center back up power facilities; represent the Commissioner and the CEC before the Governor's Office, Legislature and other agencies, especially CNRA, CPUC and CARB; formulate policy on all siting matters and related emerging issues; and participate as a member of top management in the development and implementation of policies and procedures for CEC's siting programs.

## **B. SUMMARY OF REQUEST (continued)**

**11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.**

Commissioner Gallardo is one of five CEC Commissioners. She was appointed by Governor Gavin Newsom in February 2023 to serve as the CEC's attorney member. In this capacity, she serves as the lead commissioner on the following policies and programs:

Siting (facility certification proceedings, compliance and enforcement), Renewables Portfolio Standard (RPS), Audits and Investigations, Lithium Valley Vision, Justice Access Equity Diversity Inclusion (JAEDI) proceeding, PAO+ Initiatives and Disadvantaged Community Advisory Group (DACAG), CalAPP Program, Geothermal Grant and Loan Program, Solar Equipment List, and Clean Energy Hall of Fame Awards.

Commissioner Gallardo is also Associate Commissioner on several policy areas: including Tribal Affairs, Military Engagement and Non-Energy Benefits (NEBs); and serves as the CEC's representative on the Green Empowerment Zone Board. Commissioner Gallardo is requesting the CEA position due to five key circumstances: the evolution of siting proceedings with the new Opt-In program and the need for data centers due to the proliferation of AI, the creation of a new Renewables Portfolio Standard (RPS) Guidebook edition, the emerging Western Renewable Energy Generation Information System (WREGIS) challenges, the development and implementation of a tribal energy sovereignty informational proceeding, the need for development of audits and investigations program procedures, and the set up of the Lithium Valley Vision program.

The evolution of siting proceedings due to changes in the state's energy needs and priorities requires a CEA who has higher level skills and political savvy to manage the evolution of policies, programs and procedures. A major focus has become accelerating the buildout of renewable energy infrastructure to meet state goals for 100% zero-carbon electricity by 2045 through the Opt-In Program established through AB 205 (2022), enabling the CEC to consolidate permitting for certain clean energy projects. To achieve its goals, California needs to build more than 5GW of new electricity generation resources every year between now and 2045. The CEC is observing after processing the first three applications, that the implementation of Opt-In has proven significantly more complex than initially anticipated.

The shift from the traditional Application for Certification process to Opt-In requires staff to change their ways of handling proceedings and engaging with the Commissioner's office, which the CEA would need to help Commissioner Gallardo navigate to ensure the CEC meets its 270-day timeline per AB 205. Additionally, the cases involve novel legal and policy questions such as thresholds for community benefits agreements; interpretation of parameters and timing for gathering data from developers; involvement of local government and California Native American tribes; process explanations and deep discussion with private sector developers; and coordination across local, state and federal jurisdictions and California Native American tribes. The CEA must navigate tensions between traditional siting procedures and evolving policy expectations for expediency, transparency, and safety. In addition, the CEA must manage bills introduced by the Legislature this session that would amend the Opt-In program. The CEA would work closely with Commissioner Gallardo and the Governor's Office to identify enhancements to the program such as speedier processing, clearer guidance on community benefits, simpler material, improved engagement, more guidance for developers, clearer communication to educate the public and other changes that will enable Opt-In to better fulfill its envisioned role.

Aside from the new Opt-In program, the recent proliferation of AI has necessitated the build out of more data centers. Our interlinked world increasingly relies on data centers that must have back-up power to ensure they do not lose power during an electricity outage. The CEC is responsible for conducting the required environmental review process for the data center industry's back-up power proposals. However, these processes can take up to two years to finalize. Legislators and developers have been seeking options to speed up the permitting processes. The CEA would work closely with Commissioner Gallardo and the Governor's Office to identify pathways to create policy or negotiate and draft legislative language to change statutes to better support the build out of data centers and their back up power facilities.

The creation of a new Renewables Portfolio Standard (RPS) Eligibility Guidebook edition combined with the emerging Western Renewable Energy Generation Information System (WREGIS) challenges requires the skills of a talented CEA. Staff, under Commissioner Gallardo's direction, have initiated a formal process to update the Guidelines. Due to changes in policy under the new federal administration in 2025, this new Tenth Edition of the Guidebook is likely to draw considerable interest and scrutiny as clean energy providers seek clarity on credits for the proposed additions into RPS of battery energy storage systems and distributed energy resources.

The need for development of audits and investigations program procedures due to changes caused by the change in the federal administration and the constrictions caused by the state budget deficit require the support of a CEA. The CEC's Audits and Investigations program is responsible for ensuring accountability and compliance in the use of public funds allocated through the CEC's various grant, loan, and incentive programs.

### **C. ROLE IN POLICY INFLUENCE**

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The CEA position will advise the CEC's attorney member, Commissioner Noemi Gallardo whose policy portfolio includes some of the most legally and politically complex responsibilities at the CEC and that entail development, implementation and improvement of sensitive new policy, programs and procedures. The CEA will engage with CEC executives and other state leadership to advance these efforts. The CEA will be the principle policy maker on the following:

1. Draft policy and programs to ensure successful implementation of the Opt-In certification process and drafting legislative language to continue improving Opt-In. This will lead to faster permitting for clean energy facilities which would help achieve the infrastructure build out to meet Governor Gavin Newsom's clean energy goals by 2045. Based on current applications submitted and anticipated most projects consist of large solar plus battery energy storage systems with construction able to start in 2025 for the sole approved project thus far.
2. Create legislation and policy to enable the build-out of data centers in California needed to support the growth in artificial intelligence needs for entities like Microsoft, with flexible permitting for their back-up power so that outages do not interrupt the flow of business. This will enable more data centers to be built in California faster and the build-out will enable other businesses to establish themselves in California, creating more job opportunities.
3. Oversee the drafting and publishing of a new Renewables Portfolio Standard (RPS) Eligibility Guidebook (10th) edition that, if adopted, will add battery energy storage systems and distributed energy resources such as residential rooftop solar systems to be considered for the first time. This will enable the state to surpass the current 67% clean electricity on the grid to reach the 100% clean electricity sales goal by 2045.
4. Support and advise on the CEC's first informational proceeding on tribal energy sovereignty and developing corresponding policy consistent with Governor Newsom's tribal executive orders, and in engagement with over 100 California Native American tribes. This will improve relationships with tribes and enable more clean energy upgrades to be done and infrastructure, such as microgrids, to be developed on tribal land. The more clean energy generation and storage built closer to tribes, the less they will experience frequent and prolonged outages due to the current gaps in transmission and other equipment in proximity to where tribes reside throughout the state.
5. Craft and develop procedures and new policies for the CEC's internal audits and investigations program processes to prevent fraud and misuse of funds. This will save money for California taxpayers and enable the CEC to invest those funds in other beneficial programs or grantees.



### **C. ROLE IN POLICY INFLUENCE (continued)**

#### **13. What is the CEA position's scope and nature of decision-making authority?**

The scope of the CEA position would be to advise Commissioner Gallardo, oversee multiple programs, draft legislation and policies related to Commissioner Gallardo's portfolio (siting, RPS, tribal affairs, audits). The CEA would need to work independently and on a team. The nature of the CEA's decision-making authority would be to represent Commissioner Gallardo when she is not available and work closely with CEC's Chair, Executive Director and Chief Counsel to identify solutions and make decisions about direction on policy, programs and procedures.

The CEA will have decision-making authority over various issues handled by the Commissioner's Office, and will assist in formulating and directing the development of new and/or existing policies within the CEC.

The CEA will work closely with the Chief Counsel and other executive-level leadership in the department in doing so and will also serve as an expert legal advisor when revising and implementing policies and procedures affecting internal programs' administrative and legal procedures.

#### **14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?**

The CEA position will be both developing and implementing new policy while interpreting and implementing existing policy. For example, the Opt-In Certification Program is still considered a new program that is being interpreted and that the CEC is implementing because the first application for certification was not filed until late 2023 and that application has not yet been finalized. But Opt-In will also require developing and implementing improvements to the program. It is envisioned by Governor's Office that the improvements could be continuous for multiple years as we learn more patterns and trends from the program that can show us gaps, weaknesses and opportunities for enhancements.

For data center back-up generation efforts, the CEA will mostly be developing and implementing new policy to identify creative, legitimate ways to enable more data centers to have back up generation without increasing legal risk due to being viewed as not meeting its statutory obligations to keep the public safe when licensing power plants and related facilities.

For RPS, the CEA will oversee the development of the 10th Edition of the RPS Eligibility Guidebook and must interpret existing law to ensure the Guidebook meets statutory obligations. The WREGIS

For tribal energy sovereignty, the CEA will mostly developing and implementing a new tribal consultation policy and tribal energy sovereignty programs/policies after the informational proceeding concludes.

For audits and investigations, the CEA will be interpreting existing policy to identify any aspects that need to be changed or improved to prevent fraud and abuse of funding. But, will mostly be developing new procedures and policies that are missing.