

## INITIAL STATEMENT OF REASONS

### California Alternative Energy and Advanced Transportation Financing Authority

Sections 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9,  
10091.10, 10091.11, 10091.12, 10091.13, 10091.14, 10091.15

Title 4, Division 13, Article 5  
of the California Code of Regulations.

### INTRODUCTION

The California Alternative Energy and Advanced Transportation Financing Authority (“Authority” or “CAEATFA”), organized and operating pursuant to Division 16 (commencing with Section 26000) of the California Public Resources Code—pursuant to the authority vested in it by the Public Resources Code Section 26009 to promulgate regulations, and acting pursuant to the Memorandum of Agreement (“MOA”) between CAEATFA and the California Public Utilities Commission (“CPUC”) which sets forth the policies and procedures for establishment of a series of ratepayer-funded pilot programs as authorized and described in the CPUC-approved Decision 13-09-044, *Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs* (the “Decision”), issued September 20, 2013—proposes to adopt the Residential Energy Efficiency Loan Assistance Program regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

The Decision created the California Hub for Energy Efficiency Financing (“CHEEF”), to lower the cost and increase the flow of private capital to energy efficiency projects by managing the flow of funds and data, and providing a simple, streamlined structure through which IOU ratepayers, financial institutions, energy efficiency retrofit contractors and the four investor owned utilities—Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company (collectively the “IOUs”)—can participate in a standardized “open market” that facilitates energy efficiency financing in California within the IOU territories. The CPUC requested that CAEATFA act as the administrator and assume the CHEEF functions, and in July 2014, the Authority received Legislative budget authority, subsequently entering into the MOA and a receivables contract with the IOUs (the “Implementation Agreement”).

Under CAEATFA’s statutory authority (Division 16, commencing with §26000 of the Public Resources Code) to provide “financial assistance” to “participating parties” for the implementation of “projects” as those terms are defined in PRC Section 26003, these regulations interpret the Decision and implement the Residential Energy Efficiency Loan Assistance Program (“REEL Program” or “Program”)<sup>1</sup>. The goals of the Program are to attract a greater amount of private capital to the energy efficiency retrofit market by reducing risk to lenders: to broaden the availability of financing to individuals who might not have been able to access it otherwise: and to address the upfront cost barrier to energy efficiency retrofit projects. To encourage residential energy efficiency lending, the Authority is creating a loan loss reserve to mitigate lenders’ risk in originating loans for energy efficiency retrofit projects. Primarily, the

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<sup>1</sup> The REEL program is referred to and described in the Decision as the Single Family Loan Program (SFLP).

Program is intended to attract a greater amount of private capital to the energy efficiency retrofit market by reducing risk to lenders; broaden the availability of lower cost financing to individuals who might not have been able to access it otherwise; and address the upfront cost barrier to energy efficiency retrofit projects.

In initially developing the Program, Authority staff (“Staff”) undertook a public participation process beginning in October 2014 to develop emergency regulations, which included individual meetings and consultation with State agencies and interested parties, notices to interested parties, public availability with comment periods specific to preliminary drafts of proposed regulations and Program structure, and public workshops. Stakeholders included CPUC staff and representatives of the IOUs, cities and counties, various interest and consumer advocacy groups, financial institutions, independent contractors and contractor associations and technical consulting groups representing the energy efficiency industries.

In total, six focus groups and workshops were held with the public to discuss key issues and gain substantial input to develop the Program. Workshops were held in Sacramento, San Francisco and Los Angeles, with the option provided for interested parties to participate over webinar and teleconference in order to reach as many stakeholders as possible. Through this public process, Authority staff gained a strong understanding of the Program’s mandate, California’s ongoing need for energy efficiency financing incentives, and Program structuring issues and concerns. The proposed regulations balance stakeholder comments with the statutory, legal and Program administration framework established in the Decision as required by the CPUC, and establish the REEL Program structure and procedures.

The Authority proposes to add Title 4, Division 13, Article 5, Sections 10091.1 through 10091.15 of the California Code of Regulations concerning the implementation of the REEL Program. The proposed Regulations duplicate or overlap state or federal statute or regulations which are cited as “authority” or “reference” for the proposed Regulations and the duplication or overlap is necessary to satisfy the “clarity” standard of Government Code Section 11349.1(a)(3).

On March 9, 2015 the Office of Administrative Law (“OAL”) approved CAEATFA’s initial Proposed Emergency Regulations (OAL File No. 2015-0227-01E) to establish the Residential Energy Efficiency Loan Assistance Program pursuant to Public Resources Code Section 26131. The regulations were re-adopted with modifications under the emergency rulemaking process for a 90-day period effective September 8, 2015. These proposed regulations are substantially similar to those enacted on September 8, 2015 under the emergency rulemaking process, and include some amendments and additions that Authority staff believe are appropriate to strengthen the REEL Program and incorporate lessons learned from early implementation. The Authority is soliciting input for any modifications or amendments to these proposed regulations.

## SECTION-BY-SECTION ANALYSIS

### SECTION 10091.1. DEFINITIONS

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision authorizes an energy efficiency loan program with a credit enhancement in the form of a loan loss reserve, with the primary goals “to (i) increase the volume of (energy efficiency) EE financing to attract capital providers and attract new market participants; (ii) provide a reliable, one-stop mechanism which provides attractive rates and terms for consumers; and (iii) a relatively quick turn-around for payments to contractors.”

The Decision does not define all of the terms necessary to implement this loan program. This section provides definitions of commonly used terms throughout the Regulations, to ensure that stakeholders and users are provided a clear and transparent description of Program requirements, and the Program is consistent with the Decision and governing documents.

2. Specific Purpose of the Regulation.

This section clearly defines terms commonly used throughout the regulations and Program documents. The definitions provide detail on various Program requirements, including Borrowers, Eligible Energy Efficiency Measures, Eligible Financial Institutions and Eligible Finance Lenders, Eligible Improvements, and the different loss reserve accounts that will be established by the Authority.

**10091.1(a):** This subsection establishes the definition of “Authority” as the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), and indicates the Public Resources Code Section that established the Authority.

**10091.1(b):** This subsection defines the “Bill Impact Estimate” as an estimate of the anticipated energy cost savings to Borrower expected to result from the installation of proposed energy saving improvements.

**10091.1(c):** This subsection defines who is an eligible “Borrower” to receive a loan to finance energy saving improvements.

**10091.1(d):** This subsection defines the “California Hub for Energy Efficiency Financing Disclosure” or “CHEEF Disclosure” as the disclosure described in Section 10091.15.

**10091.1(e):** This subsection defines the identification number to be created by the Authority and used to identify each corresponding Eligible Loan in all subsequent correspondence between the PFI, PFL, or Successor Servicer and the Authority in order to protect Borrower privacy.

**10091.1(f):** This subsection establishes the definition of the “Commission” or “CPUC” as the California Public Utilities Commission.

**10091.1(g):** This subsection references the definition of “Community Choice Aggregator” or “CCA” in Section 331.1 of the California Public Utilities Code.

**10091.1(h):** This subsection references the California Contractors State License Board or “CSLB.”

**10091.1(i):** This subsection defines “Customer Data” as it represents all information and data regarding an IOU customer that is furnished, disclosed, or otherwise made available by an IOU to an authorized agent, and establishes the requirements for safeguarding confidential Customer Data via a Customer Data Release Form.

**10091.1(j):** This subsection defines the “Customer Data Release Form” as a legal release required by the Investor-Owned Utilities to give authorization to a designated agent to provide Customer Data to the Authority.

**10091.1(k):** This subsection defines who is considered an “Eligible Contractor” to become a “Qualified Contractor” in the Program, subject to approval as described in Section 10091.5.

**10091.1(l):** This subsection defines what “Eligible Energy Efficiency Measures” or “EEEMs” may qualify for loans to receive financial assistance under the Program. The definition is intended to give Participating Financial Institutions, Participating Financial Lenders and the Qualified Contractors completing the work guidance as to what energy-saving home improvement measures financed are eligible to receive the credit enhancement provided if the loan is enrolled in the Program.

**10091.1(m):** This subsection defines the identification number to be assigned by the IOUs and used to identify each “Eligible Energy Efficiency Measure” or “EEEM.”

**10091.1(n):** This subsection defines the name assigned by the IOU and used to identify each “Eligible Energy Efficiency Measure” or “EEEM.”

**10091.1(o):** This subsection defines the types of finance lenders eligible to participate in the Program. This definition is necessary to make it clear what type of Finance Lenders may apply to participate in the Program.

**10091.1(p):** This subsection defines the types of financial institutions eligible to participate in the Program. This definition is necessary to make it clear what type of financial institutions may apply to participate in the Program.

**10091.1(q):** This subsection establishes “Eligible Improvements” as certain IOU-specified measures and related home improvements made to Eligible Properties, installed

by Qualified Contractors (except as set forth in Section 10091.10(b)), and establishes that Eligible Improvements do not include solar photovoltaic, solar thermal or other distributed generation or renewable energy systems.

**10091.1(r):** This subsection defines what is considered an “Eligible Loan” for a reserve contribution if enrolled in the Program. The definition further clarifies the ineligible purposes of loans in the Program.

**10091.1(s):** This subsection defines what types of properties are eligible for financing in order to qualify for the credit enhancement.

**10091.1(t):** This subsection defines an “Enrolled Loan” as an Eligible Loan that has been approved by the Authority for enrollment in the Program.

**10091.1(u):** This subsection establishes the definition of “Executive Director,” as the executive director of CAEATFA or her or his designee.

**10091.1(v):** This subsection identifies the four investor-owned utilities and defines them collectively as the “IOUs.”

**10091.1(w):** This subsection defines an “IOU-Program Holding Account” and establishes that the Authority is responsible for establishing and maintaining it for the purposes of the Program.

**10091.1(x):** This subsection defines an “IOU-Program Reservation Account” and establishes that the Authority is responsible for establishing and maintaining it for the purposes of the Program.

**10091.1(y):** This subsection defines a “Loss Reserve Account” and establishes that the Authority is responsible for establishing and maintaining it for the purposes of the Program.

**10091.1(z):** This subsection references the amount of financial assistance provided to a Loss Reserve Account for an Enrolled Loan in the Program. This definition is included in the regulations to clearly identify the type and level of benefit available to a PFI, PFL or Successor Servicer for each loan enrolled in the Program.

**10091.1(aa):** This subsection establishes that funds may be reserved at the request of a PFI or PFL for deposit to a Loss Reserve Account upon enrollment of an Eligible Loan.

**10091.1(bb):** This subsection defines the income limits required for inclusion under the Low-to-Moderate Income criteria for the Program, as required by the Decision.

**10091.1(cc):** This subsection defines what is considered a “Participating Finance Lender” or “PFL” and establishes the distinction between an eligible Finance Lender and a Participating Finance Lender.

**10091.1(dd):** This subsection defines what is considered a “Participating Financial Institution” or “PFI” and establishes the distinction between an Eligible Financial Institution and a Participating Financial Institution.

**10091.1(ee):** This subsection defines the identification number to be assigned by the Authority and used to identify each PFI, PFL, or Successor Servicer upon approval to participate in the Program.

**10091.1(ff):** This subsection establishes the definition of “Program,” referencing the authorizing Decision and further CPUC regulatory filings that govern the Program.

**10091.1(gg):** This subsection establishes the definition of a “Program Identifier,” used to track pilot program participation and loan enrollment.

**10091.1(hh):** This subsection establishes the process that projects may be pre-approved at the request of a PFI or PFL prior to the enrollment of an Eligible Loan.

**10091.1(ii):** This subsection defines who is considered a “Qualified Contractor” to conduct the energy upgrades on Eligible Property for a loan to be eligible under the Program.

**10091.1(jj):** This subsection establishes the definition of a “Regional Energy Network” or “REN,” referencing CPUC authorization.

**10091.1(kk):** This subsection defines who is an eligible “Self-Installer” to conduct the energy upgrades on Eligible Property and receive a loan to finance energy saving improvements.

**10091.1(ll):** This subsection defines who is considered a “Successor Servicer” eligible to service Enrolled Loans sold by a PFI or PFL.

**10091.1(mm):** This subsection defines “Trustee” as the custodial entity that will hold or administer the Program funds on behalf of the Authority.

### 3. Necessity.

The proposed definitions, Section 10091.1(a)–(mm), are necessary to clearly establish Program eligibility criteria and define frequently used terms to avoid ambiguity and misunderstanding in administering the Program, and to achieve the goals of CAEATFA and the CPUC in establishing the REEL Program identified in the Decision. Including these definitions in regulations is necessary to delineate Program requirements beyond the information provided in the Decision and in CAEATFA’s statute. Providing a list of definitions provides clarity to interested parties and to those who could benefit from participation in the Program.

**10091.1(a), (d), (f), (g) and (h):** These provisions are necessary to clearly define the various entities that are stakeholders or participants in the Program.

**10091.1(b):** This provision is necessary in order to be certain that customers have enough information to make an informed decision about whether to install an energy improvement, based on anticipated energy savings. The requirement was established in the Decision, and is necessary to ensure that the Program is in compliance with the governing documents.

**10091.1(c):** This definition is necessary to clearly describe who is eligible to be a borrower under the Program, and to ensure compliance with the Decision.

**10091.1(e):** This provision is necessary to protect Borrower privacy by removing information that can be tied directly to a Borrower's personally identifiable information while allowing the Authority the ability to track relevant loan data.

**10091.1(i):** This definition is necessary to clearly denote which data points the IOUs consider to be confidential customer data and may not be provided to the Authority unless the IOU customer authorizes the release of such data. This definition is necessary for the Program to be consistent with the IOU's regulated data security provisions.

**10091.1(j):** This definition is necessary to clearly explain how an IOU customer authorizes the release of his/her data, by referencing the appropriate process and forms required by the IOUs.

**10091.1(k):** This provision is necessary to clearly explain the types of contractors eligible to participate in the Program and to ensure appropriate quality control over participating contractors. Contractors are an essential Program participant group. By requiring that the contractor have an active license with the CSLB, CAEATFA is cost-effectively leveraging and relying on the State's existing licensing infrastructure. Furthermore, requiring that the contractors be licensed for the work they perform ensures compliance with existing State law and is more likely to result in high-quality jobs being installed, thus maintaining customer satisfaction over the Program. This also reduces the risk of a customer not paying back the loan and thus lowers risk to the loss reserve.

**10091.1(l):** This provision is necessary to define the measures that will qualify for financing. This qualification is necessary because utility ratepayer funds, with all attendant requirements governing their use, provide the budget for the Program, in accordance with the Decision that governs the Program. The CPUC regulates the use of ratepayer funds, and one of the key elements of this regulation is the CPUC's requirement that ratepayer funds be used to support installation of EEEMs.

**10091.1(m-n):** These definitions are necessary to clarify the information required under the Itemized Invoice, and are required to assist the Authority in efficiently determining whether projects meet the requirements for enrollment under the Program.

**10091.1(o):** This provision is necessary because a finance lender is not a federally licensed depository institution that falls under strict oversight of state and federal financial regulators. It is necessary to provide additional specifications/qualifications for a finance lender, efficiently leveraging and relying upon the Department of Business Oversight's requirements for the finance lender licensing process. Eligible Finance Lenders may apply to participate in the Program provided they meet additional requirements to demonstrate that they have the financial capacity and experience to successfully provide this type of financing. It is necessary to include Finance Lenders in the Program to provide broader access to the various types of lenders that may participate in the energy efficiency retrofit market, furthering the purposes and intent of the Decision.

**10091.1 (p):** The definition is necessary to clearly denote the requirements for Eligible Financial Institutions, and leverages and relies upon the federal definition of a financial institution and its corresponding regulatory and oversight requirements.

**10091.1(q):** This provision is necessary to clearly define the requirements for financed improvements eligible for enrollment in the Program, to ensure that the Program accommodates the most common existing consumer and home retrofit practices for homeowners, and to establish quality control measures to balance both participation and risk in the Program.

**10091.1(q)(1):** This definition is necessary to accommodate the common industry practice of allowing homeowners to self-install certain types of eligible measures. It is also necessary to require that more complicated measures be installed by Qualified Contractors, both to maintain consistency with industry practices, and to better ensure high quality project installation, compliance with local building and health and safety codes, and a positive experience for Borrowers. Consultation with stakeholders suggests that quality control reduces risk to the Loan Loss Reserve because homeowner dissatisfaction is a leading reason for late or non-payment.

**10091.1(q)(2-3):** These sections are necessary to clearly denote that Eligible Improvements include both Eligible Energy Efficiency Measures designated by the IOUs and related home improvements. Clearly defining what is eligible for financing under the Program ensures consistency with the Decision and maintains the integrity of ratepayer funds designated to support electric or gas efficiency measures and related home improvements. In addition, it is necessary to preclude renewable energy projects from Eligible Improvements, to ensure consistency with the Decision and maintain the integrity of the ratepayer funds allocated to energy efficiency financing.

**10091.1(r):** This provision is necessary to define the types of financing instruments eligible for enrollment under the Program, and to specify which ones are ineligible under the Program. It was determined that the most necessary, prudent and effective use of funds under the Program would target financing instruments that would benefit most from a credit enhancement: unsecured consumer loans and retail installment contracts.

**10091.1(s):** This definition is necessary to clarify the size and type of property that can be included under the Program. The limitation to four units or fewer is consistent with industry standards and federal home loan programs, and clearly delineates the property class that this Program targets. This definition also clearly denotes that an Eligible Property must be serviced by one of the IOUs, consistent with the requirements in the Decision.

**10091.1(w-x):** These definitions are necessary to clearly define where credit enhancement funds will be kept, delineating the separate funds from each IOU during different phases of the process, both before a loan enrolled or reserved, as well as upon a reservation for .

**10091.1(y):** This definition is necessary to clearly define where credit enhancement funds will be kept on behalf of a PFI, PFL, or Successor Servicer, delineating the separate funds from each IOU.

**10091.1(z):** This definition is necessary to clearly define for stakeholders the level of Loss Reserve Contribution they are eligible to receive if they enroll loans in compliance with the Program Regulations.

**10091.1(aa):** This definition is necessary to provide a clear and transparent process under which a lender may reserve a loss reserve contribution. Stakeholders provided public comment which deemed this type of process necessary to reduce risk to the lenders, which may ultimately increase Program participation.

**10091.1(bb):** The provision and its definition is necessary to be consistent with the Decision, which required that one-third of the credit enhancement funds be targeted to low-to-moderate income households, and determined that the low-to-moderate-income definition be consistent with other State definitions, specifically that of the California Department of Housing and Community Development.

**10091.1(cc-dd):** These definitions are necessary in the regulations to clearly distinguish the difference between Eligible Finance Lenders and Eligible Financial Institutions, and those that have submitted an application and have been approved by the Authority to participate in the Program.

**10091.1(ee):** This definition is necessary to accurately maintain each PFI, PFL, and Successor Servicer's enrolled portfolio.

**10091.1(gg):** This subsection is necessary to ensure that loans are correctly identified to the various programs for tracking and reporting purposes.

**10091.1(hh):** This subsection is necessary to allow PFIs and PFLs to assure themselves that they have applied Program rules correctly prior to actually funding a loan. Such a

provision was deemed necessary after receiving public comment that it would assist in reducing risk to the PFLs and PFIs, and would encourage participation in the Program.

**10091.1(ii):** This subsection is necessary to clearly define how a home retrofit contractor can participate in the Program, enables contractors to make effective use of the Program through training, and strengthens the quality control aspect of the Program.

**10091.1(jj):** This subsection is necessary to define an additional electric or gas provider who may provide residential service and offer rebates and incentives related to energy efficiency improvements that are eligible under the Program, as required by the Decision.

**10091.1(kk):** This definition is necessary to address language in the Decision that specifically contemplates some measures being installed by homeowners, and to ensure that self-installers can be made subject to certain reporting requirements.

**10091.1(ll):** This definition is necessary to allow secondary markets to develop, and to ensure that both reporting requirements and the ability to make claims pass to successors in interest, furthering the goals and purposes of the Decision.

**10091.1(mm):** This subsection is necessary to establish the type of custodial entity that may hold or administer Program funds on behalf of the Authority, ensuring the protection of ratepayer funds.

#### 4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors, and rules and regulations for similar programs in California and other states to develop the definitions used in this section. In addition, the Authority relied on direct discussions with current and former staff from other states or programs with similar programs, with significant input from the State of Connecticut Green Bank and from former staff from Fannie Mae's energy loan program. The eligibility criteria, as defined in this regulation, were established in consultation with the California Public Utilities Commission and investor-owned utilities staff. The Authority relied upon the Decision and the following related CPUC documents (subsequently referred to collectively throughout this document as the "Proceeding") in proposing the adoption of this regulation:

- Decision 13-09-044, Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs (the "Decision"), issued September 20, 2013
- Resolution E-4680. Approve amended On Bill Repayment (OBR) tariffs for Energy Efficiency finance pilots to comply with OP 11 of D.13-09-044, issued September 11, 2014
- Administrative Law Judge's Ruling regarding Changes to Decision 13-09-044, issued July 23, 2015
- Assigned Commissioner's Ruling Extending Pilot Programs, issued August 25, 2014
- Decision 15-06-008 Modifying Decision 13-09-044, Issued June 11, 2015

- Administrative Law Judge’s Ruling Requesting Comments on Harcourt Brown & Carey Revised Recommendation Regarding Energy Efficiency Equipment Lease financing, issued July 23, 2015

The Authority relied upon the following documents and studies (subsequently referred to collectively throughout this document as the “Studies”) in proposing the adoption of this regulation:

- Accessing Secondary Markets as a Capital Source for Energy Efficiency Programs- Program Design Considerations for Policy Makers and Administrators (Lawrence Berkeley National Laboratory (“LBNL”) and U.S. Department of Energy (“DOE”) State and Local Energy Efficiency Action Network (“SEE Action”), February 2015)
- Energy Efficiency Financing Implementation Primer (DOE SEE Action, January 2014)
- Financing Energy Improvements on Utility Bills (DOE SEE Action, May 2014)
- Energy Efficiency Finance Programs-Use Case Analysis (DOE SEE Action, July 2014)
- California Energy Efficiency Finance Data Working Group Final Report (California Energy Efficiency Finance Data Working Group, December 2013)
- Getting the Biggest Bang for the Buck - Exploring the Rationales and Design Options for Energy Efficiency Financing Programs (LBNL, December 2013)
- Using Financing to Scale Up Energy Efficiency (DOE SEE Action, July 2013)
- Recommendations for Energy Efficiency Finance Pilot Programs (Harcourt Brown & Carey, October 2012)
- Interactions Between Energy Efficiency Programs Funded Under the Recovery Act and Utility funded Energy Efficiency Programs (LBNL, March 2011)
- PG&E Energy Upgrade California 2013-2014 Home Upgrade Participant Handbook, version 4.2, July 2, 2014

5. Alternatives to the Regulations Considered by the Agency and the Agency’s Reasons for Rejecting Those Alternatives.

The Authority finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation, or would be as effective as and less burdensome to affected borrowers, financial lenders, or contractors than the proposed regulation. During the emergency regulation rulemaking process, the Authority received

public comments that asked for the expansion of several definitions, which are discussed below.

**10091.1(k):** It was suggested that CAEATFA limit Eligible Contractors to those that participate in existing IOU rebate and incentive programs. In considering this alternative, CAEATFA determined that such a limited definition would hamper Program participation, and would be inconsistent with the Decision's requirement that the Program be available to all customers, regardless of whether they choose to participate in an IOU rebate or incentive program or not.

**10091.1(l):** The Authority considered a broader interpretation of measure eligibility that might allow, for example, one single list of EEEMs or a broader list of EEEMs under which all EnergyStar® measures to qualify for financing. This alternative was proposed in order to increase Program uptake among contractors and customers. The Authority was obliged to reject this alternative as required under the Decision, which limited the Eligible Energy Efficiency Measures to only those eligible under the IOU rebate and incentive programs.

**10091.1(o):** The Authority initially considered restricting participation to traditional depository institutions (Financial Institutions), but rejected this option because the Authority did not want to limit participation, but conversely desires to expand and encourage participation by a number of lending business structures. Experience in other states (such as Pennsylvania) and nationally has shown that Finance Lenders account for much of the lending volume in the residential energy efficiency finance market.

**10091.1(q):** CAEATFA considered only allowing Eligible Energy Efficiency Measures under the Program, and rejected this alternative as it would be overly narrow and limit participation, and was not consistent with standard industry practices or consumer behavior. An expanded definition of Eligible Improvements is allowed and contemplated in the Decision, as it may increase the likelihood of a homeowner taking part in an energy efficiency retrofit.

**10091.1(q)(1):** The Authority considered not allowing self-installers to install improvements, but rejected this option because it would narrow Program participation.

**10091.1(q)(3):** The Authority considered allowing renewable energy to be financed through this Program, but rejected this option because it was inconsistent with the Decision. Funds for this Program are collected from ratepayers specifically to support electric or gas efficiency measures, not renewable energy, and the CPUC does not allow such cross-subsidization.

**10091.1(r):** It was suggested that the Program support mortgage products or loans secured by the property. This alternative was rejected because mortgage products already exist today, have real estate security and do not need an additional credit enhancement.

**10091.1(y):** CAEATFA considered allowing lenders to hold their own credit enhancement funds in their individual accounts on their own balance sheets. It was determined that allowing lenders to hold their own credit enhancement funds would diminish the Authority's ability to conduct its fiduciary responsibility and oversight of ratepayer funds. For instance, direct remittance of funds to PFI/PFL/Successor Servicers was considered and was rejected to ensure claims are verified by the Authority prior to releasing funds from the reserve for reimbursement.

**10091.1(bb):** CAEATFA was asked to consider using census tract data, instead of individual borrower income data, as an indicator or substitute for Low-to-Moderate Income on a loan-by-loan basis. It was argued that relying on the census tract data would streamline the process and be less burdensome for PFIs and PFLs. In its deliberation, the Authority determined that it would be inappropriate to rely on census tract data alone, as this alternative is inconsistent with the requirements in the Decision.

**10091.1(ii):** The Authority considered simply allowing any licensed contractor to install a project, without requirement for insurance provisions or training in the Program. CAEATFA rejected this alternative on the grounds that the licensing process in and of itself is insufficient to ensure effective Program administration and address risks to the loss reserve, or potential reputational risks to the Program.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.2. ELIGIBLE FINANCIAL INSTITUTION AND ELIGIBLE FINANCE LENDER APPLICATIONS TO PARTICIPATE**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

One of the primary goals of the loan program authorized by the Decision is to “increase the volume of (energy efficiency) EE financing to attract capital providers and attract new market participants.” In order to attract capital providers to market loan products to these new market participants and increase the volume of energy efficiency financing, the role of these capital providers in the Program must be clearly set forth. This section is intended to explain the requirements for financial institutions and finance lenders to participate in the Program and enjoy its benefits.

2. Specific Purpose of the Regulation.

This section describes the process for an Eligible Financial Institution or Eligible Finance Lender to apply to participate in the Program. It identifies the information and qualifications required of a financial institution or finance lender. This includes a description of the loan product that it will provide as a result of the loan loss reserve, as well as certifications to comply with Program rules and various lender service agreement provisions. This section also establishes the timing of the Authority’s decision to permit the applicant to be a Participating Financial Institution or Participating Finance Lender. This section has been updated to require a Participating Financial Institution or Participating Finance Lender to submit a signature sheet for authorizing officials for Program administration purposes. Applicants must also acknowledge and agree that the regulations constitute a lender services agreement.

**10091.2(a)(1-5):** These subsections describe the information an interested Eligible Financial Institution or Eligible Finance Lender must submit with an application in order for it to be considered complete. This regulation requires the inclusion of contact information, such as the main Eligible Financial Institution or Eligible Finance Lender address and the lender’s contact information. In addition, the application requires lenders to include the number and locations of lending branches to better assess the geographical reach of the Eligible Financial Institution or Eligible Finance Lender and provide accurate information on which geographical areas loans are available.

**10091.2(a)(6):** As stated in this regulation, Eligible Financial Institutions and Eligible Finance Lenders applying to participate in the Program are also required to include the names of their regulatory and insuring agencies since the Authority defined an Eligible Financial Institution or Eligible Finance Lender in regulations as one that is a regulated body or a publicly owned utility.

**10091.2(a)(7-10):** Per the Decision, the Authority is required to obtain certain information from lenders applying to participate in the Program, such as detailed descriptions of the loan program, transactional activities and costs, and the mechanism by

which cost savings produced by this Program are passed on to the borrower. These sections provide detailed descriptions of the type of information that CAEATFA is requiring to review an Eligible Financial Institution's or Eligible Finance Lender's application to assist in determining eligibility.

**10091.2(a)(11-20):** These subsections outline the various certifications and acknowledgements Eligible Financial Institutions and Eligible Finance Lenders applying to participate in the Program will need to agree and comply with if accepted into the Program. These certifications are necessary regulatory provisions as they serve as a legal agreement between the Participating Financial Institution or Participating Finance Lender and the Authority. The application submitted to the Authority must be signed by an authorized person at the Eligible Financial Institution or Eligible Finance Lender.

**10091.2(b):** Establishing the time limit for the Authority to review applications provides clarity on how long it will take an applicant to hear from the Authority regarding the approval or denial of an application. It provides clarity on how long it will take an Eligible Financial Institution or Eligible Finance Lender to hear from the Authority regarding the approval or denial of an application, and provides information to the public on the appeal process for the Program.

### 3. Necessity.

A thorough description of the application information required is necessary to establish the financial institution and finance lender application process, and to provide applicants with an anticipated timeline for application review by the Authority. Specification of the information and type of documentation that will be required is necessary in order for applicants to understand Program requirements, and for Staff to ensure that sufficient information to administer the Program is collected. This specific information is also needed to provide certainty to potential PFIs and PFLs on what information is required to participate in the Program.

**10091.2(a)(1-8):** Specification of the information and type of documentation required is necessary in order for lender applicants to understand the Program requirements, and for Staff to ensure that sufficient information is available and collected to evaluate eligibility to administer the Program and appropriately communicate with participants. This information is also necessary to clarify so that lender marketing efforts may appropriately inform Borrowers of loan application requirements and the types of financing available under the Program.

**10091.2(a)(9-10):** These sections are necessary to make clear the requirement that lenders provide a benefit to borrowers as a result of participation in the Program. This benefit can take a variety of forms, such as lower interest rates or more inclusive underwriting criteria, but in order to lower risk with the loss reserve, lenders must demonstrate the manner in which they pass the benefit on to borrowers. These sections establish the specific information required for the Authority to evaluate the eligibility of a lender application.

**10091.2(a)(11-20):** The required certifications and agreements by Participating Financial Institutions and Participating Finance Lenders are necessary to meet the Program goal of helping to expand the availability of energy efficiency lending and lower the barriers to energy efficiency retrofits and financing, particularly in under-served market sectors, as a critical step to reaching the State’s goals of reduced energy consumption. The various certifications assist in ensuring that PFIs and PFLs take responsibility for understanding the Program rules and regulations, and represent themselves appropriately amongst the various stakeholders and Program participants. These provisions and certifications follow best practices for similar State programs, and also include requirements for PFLs and PFIs of the IOUs, as regulated by the CPUC, that CAEATFA is required to include under its receivables contract with the IOUs.

**10091.2(b):** This subsection is necessary to indicate the timing for the Authority’s review of a complete application. A ten-day time limit is necessary to provide sufficient time for CAEATFA to review the applications while also providing applicants a timely response. It is also necessary to specify that the Executive Director will decide whether to approve an application. The ten-day time limit and Executive Director approval of applications was determined based on CAEATFA’s experience administering other similar programs, such as the PACE Loss Reserve Program, SB 71 Sales and Use Tax Exclusion Program and the ABX1 14 Clean Energy Upgrade Financing Program. It is also necessary to include a statement regarding the Executive Director’s decision being final so that the public knows at what point they may appeal a decision regarding the approval or disapproval of an application. The proposed modification to require a signature sheet is necessary to safeguard Program transactions by requiring participants to implement internal checks and balances.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on the Decision and the rules and regulations for similar programs in California to develop application requirements. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency’s Reasons for Rejecting Those Alternatives.

The Authority finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation, or would be as effective as and less burdensome to affected borrowers, financial lenders, or contractors than the proposed regulation. During the emergency regulation rulemaking process, the Authority received public comments regarding eligible financial institutions and finance lenders, which are discussed below.

**10091.2(a)(1-8):** The Authority finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation, or would be as

effective and less burdensome to affected borrowers, financial lenders, or contractors than the proposed regulation.

**10091.2(a)(9-10):** The Authority considered requiring that lenders show the benefit to the borrowers on a loan-by-loan basis in each loan enrollment as described in Section 10091.8. Stakeholders argued that requesting this information on a loan-by-loan basis was too administratively cumbersome and burdensome. In its deliberation, CAEATFA ultimately agreed with stakeholders, and determined that it was prudent and appropriate to request this information at the time of application.

**10091.2(a)(11-20):** The Authority did not consider any alternatives to this provision.

**10091.2(b):** The Authority considered both more and fewer days for application review, but these other options were rejected upon the determination that 10 days is a reasonable balance between providing sufficient time for the Authority's due diligence and providing responsive service to applicants (the PFI/PFLs).

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

### **SECTION 10091.3. ADDITIONAL REQUIREMENTS FOR FINANCE LENDERS**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision does not outline the information required of finance lenders wishing to participate in the Program or the process for submitting an application.

2. Specific Purpose of the Regulation.

This section describes the additional application requirements for Eligible Finance Lenders interested in participating in the Program. By providing specificity on the required information, the Authority is establishing standard requirements that all finance lenders need to meet to be considered for participation in the Program. Requiring that Eligible Finance Lenders provide standardized detailed information will create uniformity in the information the Authority collects when reviewing applications from finance lenders.

**10091.3(a)(1-8):** These subsections describe the insurance coverage an Eligible Finance Lender must maintain and provide evidence of with an application in order for it to be considered complete. The insurance requirements are consistent with California Department of General Services suggested contract language.

**10091.3(b):** As stated in this regulation, finance lenders applying to participate in the Program are required to meet minimum net worth and asset holding requirements.

**10091.3(c-f):** These subsections outline the necessary experience, quality control, and regulatory oversight requirements for finance lenders to be eligible to participate in the programs.

**10091.3(g-h):** These subsections establish the representations, warranties, and covenants required of finance lenders for participation in the Program. The application submitted to the Authority must be signed by an authorized person at the finance lender, certifying the truth and accuracy of the information provided therein.

3. Necessity.

These provisions are necessary because the Decision does not outline the information required or the process for finance lenders to submit an application for consideration to participate in the Program. Eligible Finance Lender applicants are required to meet further criteria to be approved as Participating Finance Lenders in the Program due to the fact that their business structure and legal entity is regulated less stringently than federally regulated Financial Institutions, and additional requirements are necessary to ensure that Program partners operate under industry best practices, which will ultimately strengthen the Program. These requirements are necessary to establish minimum threshold requirements for these types of lenders, providing appropriate quality assurance requirements under the Program. It is necessary to clearly outline the Program requirements for lender participation and to provide applicants with clear information and expectations. These requirements establish a threshold of business insurance requirements and dollar value of companies, which are necessary to better ensure that participants have the necessary business infrastructure, track record and sophistication to be effective partners under the Program. It is also necessary to include regulatory provisions regarding the certifications and legal requirements Participating Finance Lenders will need to abide by in order to continue to participate in the Program.

**10091.3(a)(1-8):** These requirements and provisions are necessary to ensure that Participating Finance Lenders are operating under industry standards and best practices, and are consistent with insurance requirements under state contracting law, as required by the Department of General Services.

**10091.3(b):** This requirement was established as a minimum threshold to ensure that PFLs are capitalized at an appropriate size – as one indication of business stability – to be able to successfully participate in the Program. The threshold of at least \$1 million net worth was determined through research of similar programs and input from subject experts.

**10091.3(c-f):** These minimum requirements are necessary to establish standards for Participating Finance Lenders and ensure they are in good standing with California regulatory bodies. They also establish the requirement for PFL origination experience with similar loans, increasing the likelihood of successful participation in the Program.

**10091.3(g-h):** These subsections are necessary to clearly enumerate the required representations, warranties and covenants certifying the truth and accuracy of applications submitted by finance lenders for participation in the Program, representing that they are operating under best practices and industry standards for these types of lending models. These requirements are consistent with the Federal Housing Authority (FHA) and Fannie Mae practices for operating energy efficiency loan products.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on the Decision and the rules and regulations for similar programs to develop application requirements. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation, or would be as effective as and less burdensome to affected borrowers, financial lenders, or contractors than the proposed regulation. During the emergency regulation rulemaking process, the Authority received public comments regarding eligible financial institutions and finance lenders, which are discussed below.

**10091.3(a)(1-8):** The Authority did not consider any alternatives to these provisions.

**10091.3(b):** The Authority considered the alternative of not requiring a minimum level of assets. The Authority rejected this option because the Authority believes it is important to have a base measure of PFL financial stability. The level suggested is based on a national energy loan program run for over 15 years by Fannie Mae. In addition, at a stakeholder's

request, CAEATFA considered allowing a parent company, in lieu of the Finance Lender, to meet the requirements above. After consideration, CAEATFA determined that the direct Program partner, the Participating Finance Lender—and not a parent company—would be the most appropriate and prudent entity to obligate under the Program if it wished to participate.

**10091.3(c-f):** At a stakeholder’s request, CAEATFA considered allowing experience in administering PACE programs as a substitute for the experience above. CAEATFA conducted research on PACE programs, underwriting criteria and applicable consumer protection requirements and determined that PACE programs are substantively different from other types of lending models. CAEATFA determined it was inappropriate to substitute PACE experience for the experience requested above under the Program.

**10091.3(g-h):** The Authority did not consider any alternatives to these provisions.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state’s economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower’s investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.4. LOAN ELIGIBILITY AND MINIMUM UNDERWRITING CRITERIA**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

CPUC Decision 15-06-008 governs the overall Program structure set forth in these regulations. The Decision’s goals of expanding financing options must be balanced by the responsibility to protect ratepayer funds. Partial enrollment presents a potential conflict. The Decision does not outline specific information regarding loan underwriting

criteria, however it does provide specific guidance on project eligibility, LMI eligibility, and the 70/30 split.

## 2. Specific Purpose of the Regulation.

This section discusses the minimum financial underwriting criteria required for loans to be eligible for enrollment in the Program. This section requires that each loan enrolled is consistent with the lender's initial application, and also includes a description of eligible improvements. It establishes minimum underwriting criteria, including: \$50,000 per unit loan maximum, FICO score, debt-to-income, and interest rate cap. The section clarifies eligibility for projects that are partially enrolled in the Program. This section also makes clear that Participating Financial Institutions and Participating Finance Lenders may add additional criteria to their loan underwriting process.

**10091.4(a):** This subsection requires that Participating Financial Institutions and Participating Finance Lenders maintain consistency of loan terms and characteristics with those of the loan program described in their approved applications to participate in the Program.

**10091.4(b):** This subsection describes the eligibility requirements for loans Participating Financial Institutions and Participating Finance Lenders must comply with in order to enroll those loans under the Program, including the use of loan proceeds to fund installation of Eligible Energy Efficiency Measures on Eligible Properties, and strict limitation of the use of proceeds to fund related home improvements.

**10091.4(c-d):** These subsections establish limits on the loan amount and interest rates for Eligible Loans pursuant to the underlying property values.

**10091.4(e-f):** These subsections establish minimum requirements for borrowers in order for loans to qualify for enrollment in the Program, including their minimum FICO score and debt-to-income ratio.

**10091.4(g):** This subsection establishes that Participating Financial Institutions and Participating Finance Lenders may use financial information provided by the IOUs in making underwriting decisions for Eligible Loans.

**10091.4(h):** This subsection requires Participating Financial Institutions and Participating Finance Lenders to be responsible for all underwriting decisions and legal compliance with respect to the Eligible Loans it makes pursuant to these regulations. The Authority determined Participating Financial Institutions and Participating Finance Lenders would be the entities determining any additional underwriting criteria for their particular lending programs, as loan terms, loan amounts, and interest rates will vary according to each lender's lending practices and provide the flexibility to align with industry standards.

**10091.4(i):** This subsection sets forth the requirement that an Eligible Loan may not be enrolled in any other program substantially similar to the Program.

### 3. Necessity.

A precise enumeration of the minimum underwriting criteria required to enroll a loan establishes clear project eligibility and compliance requirements. The minimum underwriting criteria balance the goals of expanding financing options with the responsibility to protect ratepayer funds. Changes to address partial enrollment were necessary to make the regulations consistent with the policy direction offered in the Decision, which governs the overall Program structure set forth in these regulations. CPUC Decision 15-06-008 allows for the partial enrollment of loans in the Program.

**10091.4(a):** This provision is necessary to ensure that Participating Financial Institutions and Participating Finance Lenders maintain consistency of loan terms and characteristics with those of the loan program described in their approved applications to participate in the Program.

**10091.4(b)(1-2):** This provision is necessary in order to strike a balance between enabling property owners to participate in the Program by providing flexibility in the mix of energy efficiency measures and measures related to energy efficiency, and providing assurance to the Authority that the Program meets its primary goal of funding energy efficiency projects. The 70% for eligible improvements and 30% for non-eligible improvements was determined in and is governed by the Decision, and ensures that that a significant majority of the measures installed are energy efficiency measures, while also allowing enough flexibility so property owners will not be unduly restricted to these measures alone.

**10091.4(b)(1)(A):** This provision is necessary to remove risk for the lenders, allowing EEEMs to be “grandfathered” to better align with the distinct timelines associated with both home improvement projects and the loan approval process. This provides the lender additional security for lending decisions on projects and accommodates situation in which the list of eligible EEEMs changes during the project installation timeframe. Without this provision, a lender may find itself having committed a loan on an improvement that is no longer eligible; creating uncertainty for lenders and borrowers, and potentially impacting Program participation.

**10091.4(c):** This provision is necessary in order to reduce “concentration risk” for the loss reserve (in which the risk to the loss reserve is concentrated with a very small number of entities), to reduce “credit risk” to the loss reserve (in which the loss reserve may be under unacceptable risk as a result of a lack of credit quality data on borrowers), and to reduce the risk that a small number of PFIs or PFLs absorb an unacceptable amount of loss reserve funds by enrolling a small number of very large projects. The loan cap value was determined necessary after considering input on standards and ranges of various project sizes within the energy efficiency retrofit industry.

**10091.4(c)(1):** This provision is necessary to clearly denote what limits apply to partially enrolled loans, which were recently allowed under the Program pursuant to Decision 15-

06-008 Partially Modifying D.13-09-044 and Resolution E-4680, filed June 19, 2015. A \$50,000 per unit cap was determined to be sufficient to accommodate whole-house projects.

**10091.4(c)(2):** This provision is necessary to establish a reasonable cap on loans to borrowers with no FICO score, as further explained in subsection (e)(2) below. While the absence of a FICO score does not indicate a high credit risk, it does indicate an *unknown* credit risk, and CAEATFA determined a lower cap on these types of loans to be appropriate and necessary to balance and carry out of the goals of the Decision.

**10091.4(d):** This provision is necessary to establish a ceiling on interest rates, indexed to 10-year treasuries (the reference rate for 30-year fixed rate single family mortgages, U.S. Housing Agencies). This ceiling is necessary in order for the Authority to remain assured that the loss reserve funds are providing a public benefit, specifically lower interest rates. This cap provides a balance of the two goals, for the Program to both broaden access to financing and lower the cost of financing, while linking the interest rate to a market index which provides lenders with the flexibility to shift with the market as necessary.

**10091.4(e):** This provision is necessary to minimize the number of applicant rejections based on credit score while minimizing risk to the loss reserve. This provision adds additional requirements as credit scores decline, consistent with the home finance industry (similar to FHA and Fannie Mae home improvement underwriting). The accepted ranges balance current lender underwriting practices with Program goals of expanding borrower access to financing. This provision also attempts to avoid rejecting applicants that do not have sufficient credit history to establish a credit score (e.g., recent immigrants) and provides lenders with an alternative approach to underwriting.

**10091.4(f):** Similar to the FICO score requirement, this provision establishes minimum underwriting requirements for lenders seeking to enroll loans in the Program. A debt-to-income (DTI) limit of 55% was arrived at to balance lender risk with Program goals of expanding borrower access to financing. This provision is necessary in order to reduce risk to the loss reserve funds.

**10091.4(g):** This Program element is described and required by the Decision. This provision is necessary in order to enable PFIs and PFLs to expand the underwriting criteria that they use to qualify borrowers beyond traditional measures of underwriting such as the FICO score. This provision is also consistent with U.S. housing industry exploration of alternative underwriting criteria for applicants that have not have a credit history sufficient to establish a credit score; and under the Program design will test whether bill payment history is a useful alternative to traditional underwriting criteria.

**10091.4(h):** This provision is necessary to clearly denote that the underwriting criteria established in the regulations are minimum criteria, and that lenders may overlay additional criteria consistent with their existing business models and products.

**10091.4(i):** This provision is necessary to prevent a lender from submitting loans to multiple programs (“double dipping”) and to better ensure the protection of ratepayer funds.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation, in addition to statutory requirements.

5. Alternatives to the Regulations Considered by the Agency and the Agency’s Reasons for Rejecting Those Alternatives.

The Authority finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected business entities than the proposed regulation.

**10091.4(b)(1):** In considering “other related costs such as installation, permitting, and legally required improvements” as allowed in the 70%, the Authority considered restricting Program regulations to include only eligible efficiency measures, but rejected that alternative because experience from other government-sponsored programs has demonstrated that it is important to enable flexibility (e.g. installation of wall insulation may require asbestos removal or complying with other building standards by law).

**10091.4(b)(1)(A):** The Authority considered rejecting projects with discontinued EEEMs, but stakeholders provided input that this would place the risk associated with changing EEEMs on the lenders who had no control over the changes, and could ultimately hinder lender participation in the Program.

**10091.4(b)(2):** In considering “other related costs such as installation, permitting, and legally required improvements” as allowed in the 70%, the Authority considered restricting Program regulations to include only eligible efficiency measures, but rejected that alternative because experience from other government-sponsored programs has demonstrated that it is important to enable flexibility (e.g. installation of wall insulation may require asbestos removal or complying with other building standards by law).

**10091.4(c):** The Authority considered establishing smaller per-enrolled loan limits of \$25,000, but chose a higher limit to better accommodate comprehensive projects and their associated costs as a result of stakeholder feedback that a low limit would unnecessarily reduce Program uptake.

**10091.4(d):** The Authority considered establishing a specific fixed rate, in regulation, but rejected that alternative because it would not allow for adjustments as interest rates fluctuated over time. In addition, the Authority considered a higher rate cap of 10-year treasuries plus 1,000 basis points, but rejected that higher rate because the Authority believed that this 1,000 basis point spread above 10-year treasuries was too large and would not demonstrate a public benefit from the loss reserve. In addition, some

stakeholders expressed their belief that the interest rate cap was too high and asserted that there should be a lower cap (e.g. 5-6% fixed rate) that might provide a still larger benefit for borrowers. CAEATFA rejected this alternative to allow Program flexibility and address the multiple goals of the decision, specifically to get new lending actors into the market place, provide lower cost financing, provide broader access to financing, and to assist in targeting 1/3 of the credit enhancement funds to low-and-moderate income borrowers, which have a higher propensity have higher borrower costs.

**10091.4(e):** The Authority considered using a higher base FICO score (640 for example), but rejected this alternative because the Authority felt it was important to develop a Program that was consistent with the limits other lenders had been using in similar programs in California for their energy efficiency lending programs. In addition, the Authority initially required a minimum FICO score for all borrowers, but added the flexibility to allow loans to borrowers with no FICO scores as a result of stakeholder input targeted towards lending to various underserved markets, specifically new immigrants who may not have a credit history.

**10091.4(f):** The Authority considered establishing a 50% debt-to-income ratio maximum but decided a 55% ratio would provide a better balance of risk to the LLR against greater approval rates and higher loan volumes, and is consistent with a similar energy efficiency loan program in New York State.

**10091.4(h):** CAEATFA considered establishing a single Program-wide loan product with inflexible Program-wide criteria, but ultimately rejected this alternative for its inconsistency with the direction and guidance of the Decision, which states the goal of the pilots is to encourage multiple new participants and products into the energy efficiency lending industry in California.

**10091.4(i):** The Authority did not consider any alternatives to this provision.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy

upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.5. CONTRACTOR QUALIFICATION AND MANAGEMENT**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision points to quality assurance and quality control as important elements to ensure that all improvements financed by the Program meet quality assurance standards for lenders and customers, recommending that the Authority either adopt such standards based on existing utility rebate programs, or include quality assurance measures within Program rules.

2. Specific Purpose of the Regulation.

This section describes the requirements for energy efficiency retrofit contractor participation in the Program. Qualified Contractors will be required to have an active license with the California Contractors State License Board for the work they perform under the Program. They must also hold and maintain one million dollars in commercial general liability insurance throughout their participation in the Program, as well as complete training on Program rules and procedures given by the Authority or its agents, the IOUs, or the Center for Sustainable Energy. The section includes the process and noticing requirements for suspending Qualified Contractors from participating in the Program if their licenses become inactive or if they fail to comply with Program requirements. The proposed regulations also create a framework for suspended contractors to appeal their suspension to the Authority. Changes to this section were made to add a certification to the Qualified Contractor application for consistency with those required on other forms for the Program.

**10091.5(a-c):** These subsections set forth the information and certifications to be submitted in an application to the Authority for participation in the Program as a Qualified Contractor. An Eligible Contractor must also complete required Program training.

**10091.5(d-e):** These subsections indicate the timing for the Authority's review of a complete application from an Eligible Contractor, and establish the result that Qualified Contractors will be added to a list accessible on the Internet.

**10091.5(f-g):** These subsections establish the annual random selection of a sample of Qualified Contractors to be audited for compliance with the requirements set forth in the Regulations, and indicates the procedures for suspension and appeal should an audit reveal noncompliance.

3. Necessity.

This provision is necessary to require participating contractors to be uniformly trained in the process and requirements of the Program. Contractors will perform most functions associated with the Program unsupervised so it is important that the process and requirements are clear to all parties at the outset of their participation.

**10091.5(a)(1-4):** This information is necessary for CAEATFA to clearly know the name of the contractor and the participant that it will be working with, providing information necessary for communication with participants as well as the information necessary for Borrowers to know how to contract a Qualified Contractor, and the type of work they are licensed to perform.

**10091.5(a)(5):** This provision is necessary to provide documentary evidence of the occurrence of the contractor training to verify compliance with Program requirements and ensure effective Program administration.

**10091.5(a)(6-7):** These provisions are necessary to ensure that contractors are in good standing and agree to comply with Program rules and requirements.

**10091.5(a)(8):** This provision is necessary as a way to assure that any contractors installing energy efficiency equipment have adopted industry best practices and have enough resources and business history to maintain basic insurance. Further, this provision adopts insurance requirements consistent with the residential contracting industry and other loan programs, such as the national energy loan program run by Fannie Mae from 1996-2012. These requirements are necessary to better ensure that CAEATFA will have strong partners under the Program.

**10091.5(a)(9):** This provision is required for CAEATFA to have the ability to audit contractors if needed, to conduct oversight to ensure that contractors and projects comply with the rules of the Program, incorporate lessons learned as needed, and for CAEATFA to fulfill its fiduciary duties under the Program and protect ratepayer dollars.

**10091.5(a)(10-12):** This provision is necessary to prevent contractors from claiming representative or agency status with the IOUs or CAEATFA. Contractors might otherwise attempt to mislead customers to augment their credibility through claims of affiliation with high name recognition institutions and entities. Experience with previous IOU financing programs demonstrated the importance of this provision. In addition, these provisions are required and necessary to clearly denote the responsibilities, acknowledgements, and corresponding liability of the Eligible Contractors and the work they perform. These provisions are necessary to appropriately denote responsibilities between the various parties.

**10091.5(a):** This provision is necessary to clearly denote responsibilities between the various parties and prevent the contractor from taking any action that would misrepresent

the role of the IOU and CAEATFA. They clearly denotes the roles and responsibilities amongst the various stakeholders and participants under the Program.

**10091.5(b):** The provision is necessary to ensure that the individual signing the application has the appropriate role and authority to represent the business entity. The inclusion of this provision may help avoid misrepresentation.

**10091.5(c):** This provision is necessary to avoid misrepresentation under the application.

**10091.5(d):** This provision is necessary to denote a clear process for contractor application review. This subsection is necessary to indicate the timing for the Authority's review of a complete application. A ten-day time limit is necessary to provide sufficient time for CAEATFA to review the applications while also providing applicants a timely response. This time period was determined based on CAEATFA's experience in other programs. It is also necessary to include a statement regarding the Authority's decision being final so that the public knows at what point contractors may appeal a decision regarding the approval or disapproval of an application.

**10091.5(e):** This provision is necessary to encourage project volume by assisting all parties with the ability to identify Qualified Contractors. This provision is also necessary to provide the Program implementers (the Contractor Manager, Authority staff, PFIs and PFLs) with an up-to-date and centralized list of all Qualified Contractors in order to verify project applications are installed by Qualified Contractors.

**10091.5(f):** This provision is necessary to establish the Authority's ability to audit Qualified Contractors if needed, to conduct oversight to ensure that Qualified Contractors and projects comply with the rules of the Program, to incorporate lessons learned as needed, and for CAEATFA to fulfill its fiduciary duties under the Program and protect ratepayer dollars.

**10091.5(g):** This provision is necessary to provide a process by which non-compliant Qualified Contractors can be removed from Program participation. This provision is consistent with other energy efficiency financing programs and necessary to ensure Program quality assurance and quality control.

**10091.5(g)(1-3):** It is necessary to establish these details and time periods to ensure that contractors are clearly informed of the processes for disciplining or removing a Qualified Contractor that is not acting in compliance with Program regulations. The specific time periods described are necessary to provide the Qualified Contractor with a clear and timely process and deliberation period, while also providing CAEATFA with a reasonable amount of time to conduct its internal research and communications. The provision to allow a Qualified Contractor to appeal the Executive Director's decisions is necessary to provide an adequate due process for the Program participants.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities and local governments, to develop the contractor qualification and management standards required in this section. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority considered eliminating the need for training but noted that experience from other lending programs (particularly those in Pennsylvania, Michigan and with Fannie Mae) had demonstrated the importance of having contractor base well trained in the process and procedures of the Program, available to present the finance program options to customers. Lack of a well-trained contractor base would lead to a poor customer experience and likely dissatisfaction with the Program.

A contemplated deeper review of a contractor, with more detailed contractor reviews, such as contractor credit score, contractor references was rejected due to concern that contractors would choose not to sign up for the Program if enrollment requirements were too onerous. Additionally, administrative burden in carrying out the detailed review seemed to outweigh the likely benefit.

**10091.5(a)(5):** The Authority considered allowing contractors to self-report but rejected this option as it would be inconsistent with rigorous risk management approach taken in this Program.

**10091.5(a)(8):** The Authority considered lower insurance amounts, or the option of not requiring insurance, but rejected these alternatives as an insufficient practice and inconsistent with the rigorous risk management approach taken with this Program.

**10091.5(a)(13)(C):** The Authority considered the alternative of not including this provision. However, experience with the IOUs' existing rebate and incentive programs demonstrated that, absent this or similar provisions, some contractors may inform customers that the contractors' estimate of energy savings was backed by an IOU.

**10091.5(e):** The Authority considered the option of not having a list of qualified contractors due to the difficulties in maintaining a comprehensive list. The Authority rejected that option and decided to devote resources to educating and training contractors and then to the quality assurance and quality control of Qualified Contractors.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.6. ESTABLISHMENT AND FUNDING OF LOSS RESERVE ACCOUNTS**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision calls for the use of a 'credit enhancement' strategy in the pilot programs, and denoted that a loan loss reserve is preferred for the Single Family Loan Program, but did not specify the structure of credit enhancements recommended to incentivize lending in support of residential energy efficiency improvements.

2. Specific Purpose of the Regulation.

**10091.6(a):** This subsection describes the purpose of the Loss Reserve Accounts and the process through which they are established. Such accounts shall be held by the Program Trustee for each Participating Financial Institution, Participating Finance Lender, and Successor Servicer.

**10091.6(b):** This subsection describes the process through which Loss Reserve Accounts are funded with Loss Reserve Contributions from IOU-Program Holding Accounts and IOU-Program Reservation Accounts upon enrollment of Eligible Loans.

**10091.6(c):** This subsection describes the process through which, on a quarterly basis, the Authority will review the balance of each Loss Reserve Account and may make adjustments to the funding to reflect reductions in the outstanding principal of Enrolled Loans corresponding with that Loss Reserve Account. The subsection also clarifies the funding and quarterly adjustment processes for partially enrolled loans.

3. Necessity.

This provision is necessary to establish separate loss reserve accounts for benefit of each utility and then for each PFI and PFL as loans are originated. This provision is also necessary to prevent the co-mingling of loss reserve funds each IOUS, for individual lenders (to give PFI/PFL/successor servicer assurance that funds have been set-aside), to increase the rigor of the accounting practices for the loss reserve process by allowing periodic reconciliation of account and cash balances and to periodically rebalance the funds in each account based on unpaid principal balance.

**10091.6(a)(2):** This provision is necessary to clearly denote where the loss reserves will be held, and to define the circumstances under which the Authority will approve a claim on the Reserve.

**10091.6(b):** This provision is necessary in order to define that the Authority will allocate loss reserve contributions to PFIs or PFLs at the time the Authority approves loan enrollment applications, on a loan-by-loan basis.

**10091.6(b)(1):** This provision is necessary to allow PFIs and PFLs to reserve funds for loans that will be originated in the future by acquiring a funding commitment from the Authority. Without this provision, PFIs and PFLs would always be unsure as to whether or not the Authority has sufficient resources to fund its loans and would be unlikely to participate in the Program.

**10091.6(c):** This provision is necessary to prevent excess funds in a PFI's or PFL's loss reserve. This objective will be accomplished by periodically rebalancing the fund to the principal balance of the enrolled loans, and is consistent with the requirements outlined in the Decisions which is designed to limit the loss reserve.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority considered having a single fund for all IOUs, but rejected that alternative because the funds of an individual IOU cannot be used to subsidize a different IOU. In addition, co-mingling funds set aside for specified parties, would not be consistent with good accounting practices and would cause excess funds to reside in numerous accounts.

The Authority also considered having the credit enhancement funds remitted directly to the PFI/PFL/successor servicer instead of to the Authority's Trustee. The Authority rejected this option because the Authority felt it was important to maintain control over reserve funds until the Authority has verified a claim on the reserve is valid.

**10091.6(b):** The Authority considered providing lenders with a pool of credit enhancement funds at the time the PFIs or PFLs enrolled in the Program. The Authority determined that such a model could have a negative impact on the flow of credit enhancement, specifically under the circumstance if some lenders had high enrollment and others had low enrollment, leading to a mismatch of activity and available funds. The Authority determined that a loan-by-loan basis was the most pragmatic approach.

**10091.6(b)(1):** The Authority did not initially recognize the need for a pre-approval or reservation process; however, during the course of Program development stakeholders noted that such a process would provide lenders with more surety on both project scope and availability of funds. The recommendation was reasonable and appropriate, and CAEATFA developed the reservation and pre-approval process as described in these regulations.

**10091.6(c):** The Authority considered not performing periodic rebalances but rejected that option as it could unnecessarily overfund reserve accounts, and was inconsistent with the Decision.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## SECTION 10091.7. OPTIONAL LOSS RESERVE RESERVATION AND PROJECT PRE-APPROVAL

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision does not specify the structure of credit enhancement reservation.

2. Specific Purpose of the Regulation.

This section provides Participating Financial Institutions and Participating Finance Lenders the option to get loans pre-approved, which will be helpful in confirming Eligible Improvements, and/or the availability of funds for Loss Reserve Contributions.

**10091.7(a):** This subsection describes the information required and the process through which a Participating Financial Institution or Participating Finance Lender may make a Loss Reserve Reservation based upon the loan amount that will be made for a specific, upcoming project.

**10091.7(b):** This subsection describes the process through which a Participating Financial Institution or Participating Finance Lender may also request a Project Pre-Approval to ensure that the proposed project will meet Program requirements, including submission of information to verify that the proposed contractor is a Qualified Contractor and that the proposed improvements are Eligible Improvements.

**10091.7(c-f):** These subsections describe the process and timing of Authority review of a Loss Reserve Reservation and/or Project Pre-Approval request, notification of approval and reservation or denial, and funding of an approved reservation.

**10091.7(g-i):** These subsections describe the process by which a Loss Reserve Reservation and/or Project Pre-Approval may expire, be granted extension, or be partially or fully refunded at loan enrollment or rejection

3. Necessity.

The description of the process, required information, and timeframe for Loss Reserve Reservations and Project Pre-Approvals is necessary to ensure that Participating Financial Institutions and Participating Finance Lenders understand the full scope of processes included in Program participation. These provisions were implemented to address stakeholder concerns about the complexity of energy efficiency retrofit programs, the length of time larger projects may take to be completed, and provide more surety to the Program participants. In addition, because the amount of Program funding is limited, Participating Financial Institutions and Participating Finance Lenders may opt to use these processes to ensure that funds will be available upon loan enrollment.

**10091.7(a):** This provision is necessary to avoid the PFI or PFL from taking the risk that loss reserve funds may have been available at the time of a customer's loan application and the initial underwriting, but are not available at the time of loan enrollment. This provision also lists the data that must accompany a request for a loss reserve reservation, which is necessary because the Authority needs detailed information to determine loss reserve amounts, the IOU account from which to transfer loss reserve funds, and similar other data, prior to setting aside loss reserve funds.

**10091.7(a)(4):** Consistent with the Decision, the Authority set aside funds, pursuant to the Authority's goal of meeting the needs of Low-to-Moderate income (LMI) households, for a special, larger loss reserve for such households. The Authority requires certification from the PFI or PFL that the borrower meets the definition of LMI prior to setting aside these funds.

**10091.7(b):** This provision is necessary to allow lenders to confirm prior to funding a loan that the loan will be eligible for a loss reserve based on its project scope. This provision is necessary to remove uncertainty from the lenders process, and ultimately increase participation in the Program.

**10091.7(b)(1-6):** The information, as submitted by the lender, is necessary to allow the Authority to determine if the loan is eligible. The utility account numbers and names are required to ensure that the borrower is an eligible borrower. Account numbers are also required so that the Authority can ultimately provide them to the IOUs, and so that the CPUC can evaluate the success of the Program. The list of Eligible Improvements is necessary to ensure that the measures installed appear on the IOU's list of eligible energy efficiency measures. The name of the contractor is necessary to ensure that the contractor is a Qualified Contractor, has taken the Program training and meets the Program requirements. The signed CISR form is required in the loan package and is necessary to accommodate the IOUs' data confidentiality. The CHEEF disclosure is required by the Authority to ensure Borrowers know that their data will be shared.

**10091.7(c)(2):** This provision is necessary to ensure the loss reserve contributions are segregated appropriately for each IOU, at this stage the funds are reserved, and at a later time there will be a reconciliation and the final project reserve will be funded for the appropriate IOU.

**10091.7(d):** This provision is necessary to clearly outline the process and time period under which a pre-approval and reservation will take place. The time period of five business days will provide lenders with a timely response, and the Authority will have adequate time to review the information provided. This time period was established based on the Authority's experience in other programs and its understanding of the scope of work.

**10091.7(e):** This provision is necessary to establish the process under which a PFI or PFL can respond to a rejected project pre-approval and to provide the lender with the flexibility to continue its request for a reservation if it chooses. This provision is

necessary to accommodate various real world scenarios under the Program, and describes the specific time periods for the Authority to conduct a timely review. The time periods were established based on the Authority's experience with other programs and its understanding of the scope of work.

**10091.7(f):** This provision is necessary to inform the lender of the process and steps that the Authority will take to transfer loss reserve reservations to a specific Program reservation account.

**10091.7(g)(1):** This provision is necessary to provide the PFI/PFL with enough time to review and fund a project after receiving a reservation approval, but to prevent a PFI/PFL from over-reserving loss reserve funds (thus preventing other PFI/PFLs from accessing reserve funds). It is also necessary to clearly denote how and where reservation funds will be transferred out of the IOU reservation account if they are not used.

**10091.7(g)(2):** This provision is necessary to inform participants of the process and sequence of crediting funds to the various accounts if a reservation is not fully utilized.

**10091.7(g)(4):** This provision is necessary to prevent funds for a project, which turned out to be ineligible, from remaining in the PFI's or PFL's reserve reservation account.

**10091.7(h):** This provision is necessary to explain that while the Authority might pre-approve a Loss Reserve Reservation or a Project Pre-Approval, the ultimate and final encumbrance of those funds will require the final enrollment to be consistent with all Program rules and regulations.

**10091.7(i):** This provision is necessary to establish clear expectations and information that reservations expire after 180 days with an extension of 60 days.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation, or would be as effective as and less burdensome to affected borrowers, financial lenders, or contractors than the proposed regulation. During the emergency regulation rulemaking process, the Authority received public comments regarding eligible financial institutions and finance lenders, which are discussed below.

**10091.7(a):** The Authority considered not providing for a reservation request, but decided that a PFI or PFL would not participate in a program under which the PFI and PFL assumed the risk that funds would not be available at time of enrollment, if those funds had appeared to be available at the time of loan application.

**10091.7(a):** The information submitted by the lender is necessary to allow the Authority to determine if a loan is eligible. This information also enables the Authority to transfer funds from the appropriate IOU account, based on the IOU that serves that customer.

**10091.7(a)(4):** The Authority considered requiring that the PFI or PFL indicate the income of the borrower. This information would have been used for the Authority to verify on a loan by loan basis, prior to enrollment, that the loan was eligible for the LMI reserve. Stakeholder feedback from financial institutions indicated significant discomfort with the idea of providing specific borrower income information to the Authority. As a result, the Authority determined that it could meet its programmatic needs through a simple certification from a PFI or PFL that a borrower qualified as LMI. This certification is subject to possible audit by the Authority at a later date.

**10091.7(b):** The Authority considered not providing project pre-approval but rejected that option because the Authority wanted to give lenders the option to get a pre-approval to give them comfort that the project would indeed get approved before they devoted significant resources to the application.

**10091.7(e):** The Authority considered both greater and fewer days but five (5) days was considered an appropriate balance to provide sufficient time to administer the Program and to meet the needs of the applicant.

**10091.7(g)(1):** The Authority considered the alternative of using shorter or longer time periods, but elected to use the 180-day period with a 60-day extension because the Authority felt it represented a balance, providing enough time to PFI/PFLs to approve and fund a project, while not allowing so much time that a PFI/PFL could unduly hold on to un-used reserve funds.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of

contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.8. LOAN ENROLLMENT**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision does not specify details of the loan enrollment process.

2. Specific Purpose of the Regulation.

This section describes the process for a PFI or PFL to enroll an Eligible Loan into the Program, once that loan is closed. The required documents a PFI or PFL must submit to the Authority as part of a loan enrollment package are enumerated and described, for a project completed by either a Qualified Contractor or a Self-Installer. The Authority will collect these documents for each Enrolled Loan in order to collect information on the Borrowers' credit quality, loan terms, and types of Eligible Improvements installed. This information is necessary to determine eligibility, the impact and public benefits of the Program.

**10091.8(a):** This subsection provides that Participating Financial Institutions and Participating Finance Lenders are responsible for determining the terms and conditions of the loans, including interest rates and fees.

**10091.8(b-c):** These subsections outline the process, various documents and requirements for a Participating Financial Institution or Participating Finance Lender to enroll a loan into the Program.

**10091.8(d):** This subsection outlines the process and requirements for a Participating Financial Institution or Participating Finance Lender to enroll a loan for a project completed by a Self-Installer into the Program.

**10091.8(e):** This subsection describes the Loan Enrollment Application and the information required from the lenders to ensure compliance with the Program requirement.

**10091.8(f):** This subsection describes the information the Qualified Contractor that completes the project is required to include on the Certificate of Completion form. It also requires the Qualified Contractor to make certain certifications regarding their compliance with areas such as all applicable California building standards, the collection of permits and approvals, and certification they have all the required licenses to perform the work. It also requires the Borrower to certify the work has been completed to his or

her satisfaction and grants permission to the lender and contractor to share information about the project with the Authority.

**10091.8(g):** This subsection describes the information that is required on the Itemized Invoice to ensure that the project is in compliance with the Program regulations.

**10091.8(h):** This subsection describes the information the Self-Installer that completes the project is required to include on the Self-Installer Project Submission form.

**10091.8(i):** This subsection provides that the Participating Financial Institution or Participating Finance Lender will submit information to the Authority as presented by the Borrower and/or the Qualified Contractor. This subsection intends to indemnify the PFI/PFL in the event the information they obtain from the Borrower and/or Qualified Contractor is inaccurate or false.

**10091.8(j):** This section provides a process under which a lender may complete a loan enrollment package, if it is found to be incomplete.

**10091.8(k):** This subsection describes the timing of the loan enrollment process. Once the Authority receives the required documentation from the Participating Financial Institution or Participating Finance Lender, the Authority staff will have ten business days to review the documentation and the Executive Director must notify the PFI/PFL within that timeframe whether the loan met the Program requirements and if it was enrolled in the Program. Upon enrollment of a Qualified Loan in the Program, the Authority will transfer the designated Loss Reserve Contribution into the Loss Reserve Account held on behalf of the PFI/PFL by the Program Trustee.

**10091.8(k):** This subsection described how CAEATFA will calculate the value of the Loss Reserve Contribution, denotes the values for a standard loan and loans to LMI Borrowers, describes how a Borrowers participating in an IOU rebate or incentive program will affect the Loss Reserve Contribution to better ensure the effective use of ratepayer funds as required by the Decision, and clarifies how the value of the Loss Reserve Contribution will be attributed from the appropriate IOU accounts based on the EEEMs and information provided in the itemized invoice.

**10091.8(m):** This subsection sets forth a requirement that without regard to the term of the loan, the term of enrollment in the Program must not exceed fifteen years. This provision is intended to establish expectations for how long a loan can be enrolled in the Program and a PFI or PFL may receive financial assistance.

**10091.8(n):** This subsection describes the way whereby the Authority may reduce the Enrolled Loan amount to bring it into compliance with Program requirements, should the loan inadvertently not meet Program guidelines.

### 3. Necessity.

This regulation is necessary to provide the detailed requirements on the documentation for a loan to be enrolled in the Program. It also establishes guidelines for the process of enrolling loans in the Program, and standardizes the data Participating Financial Institutions, Participating Finance Lenders and Qualified Contractors are required to submit to the Authority for the evaluation of a loan. The subsections also require the various parties involved – Participating Financial Institutions, Participating Finance Lenders, Qualified Contractors, and Borrowers – to make certain certifications in order to be able to have a loan qualified for enrollment in the Program. Prescribing the type of information the Authority will collect will assist with Program uniformity and the aggregation of data consistently reported for all projects benefiting from the credit enhancement.

**10091.8(a):** This provision is necessary to avoid stipulating loan terms for lenders that may have different approaches to a financing opportunity. This provision will also avoid locking-in loan terms that are typically adjusted with market conditions.

**10091.8(b):** This provision is necessary to clearly require that loans be closed and finalized before enrolling them in the Program. The requirement ensures that loan terms and less likely to change after enrollment, and will provide the Authority with the most accurate information it can receive to facilitate effective Program management.

**10091.8(c-k):** These provision are necessary for the Authority to collect the relevant data from the various parties participating in the Program to ensure and verify regulatory compliance, to avoid receiving inconsistent data sets or non-uniform data formatting, which prevent the Authority from compiling, managing, analyzing and distributing data to interested parties at the lowest cost. These provision are also necessary in order for the Authority to create a standard process to collect all forms that the Authority or that participating IOUs require as part of the enrollment process. In addition, because the Authority is providing a credit enhancement for these financing transactions it is important that the Authority have access to comprehensive loan level data.

**10091.8(c)(1):** This provision is necessary for the Authority to obtain loan and borrower information from the Lender.

**10091.8(c)(2):** This provision is necessary for the Authority to obtain project information and certifications from the Contractor and Borrower.

**10091.8(c)(3):** This provision is necessary in order for for the IOUs to be able to release customer data to the Program.

**10091.8(c)(4):** as required by the CHEEF to ensure Borrowers are given notice that their personal information and Program data may be shared.

**10091.8(c)(5):** This provision is necessary to confirm the eligible improvements are EEEMs and provide the cost of the EEEMs. This data provides the Authority with the necessary information to evaluate and attribute credit enhancement funds and ensure appropriate use of ratepayer funds.

**10091.8(c)(6):** A copy of the utility bill is necessary to clearly illustrate that a borrower is customer of an IOU, and will assist in preventing and fraud, and ensure compliance with the Decision.

**10091.8(d)(1):** This provision is necessary for the Authority to obtain loan and borrower information from the Lender.

**10091.8(d)(2):** This document is necessary in order for borrowers who have installed their own equipment to make the appropriate certifications, equivalent to what a contractor would otherwise do.

**10091.8(d)(3):** This provision is necessary in order for the IOUs to be able to release customer data to the Program.

**10091.8(d)(4):** as required by the CHEEF to ensure Borrowers are given notice that their personal information may be shared.

**10091.8(d)(6-7):** These provisions are necessary to confirm the eligible improvements are EEEMs and provide the cost of the EEEMs. This data provides the Authority with the necessary information to evaluate and attribute credit enhancement funds and ensure compliance with the Program regulations.

**10091.8(e):** This provision is necessary to clearly denote the information and certifications required of the lender, in its submittal of a loan application. The information is required to enable the Authority to accurately assess whether the loan and underwriting criteria are consistent with Program requirements and the lender's application, and to collect data on the loans to evaluate loan performance. In addition, the Authority is requesting additional loan servicing information, which is necessary to enable it to provide accurate reports to the PUC, IOUs and the legislature.

**10091.8(f)(1):** These provisions are necessary to ensure that the project is installed by a Qualified Contractor, and that the Contractor complied with appropriate safety and installation requirements of the Program, and requires information to assist the Authority in collecting information necessary to ensure Program compliance and effectively administer the Program.

**10091.8(f)(1)(B):** This provision is required and is necessary to comply with the Decision direction that the Credit Enhancement be net of any rebates or incentives, to avoid any cross- or over- subsidization among the various ratepayer programs. This provision is necessary in order for IOUs to be able to associate a financed project with a rebate for that project.

**10091.8(f)(1)(F):** This provision is necessary in order for IOUs to be able to associate installation dates with a project.

**10091.8(f)(1)(G):** This provision is necessary to associate permit numbers with projects and conduct quality assurance as may be necessary.

**10091.8(f)(1)(I):** This provision is necessary to ensure quality assurance and safety for specific measures that require a Combustion Appliance Safety or Combustion Appliance Zone (CAS or CAZ) test.

**10091.8(f)(1)(K):** This provision is necessary in order to collect data from borrowers about how they heard about the Program. CSE, the, entity given the responsibility of marketing the Program by the Decision, requested that the Authority collect this information. This information will allow the Authority to incorporate lessons learned and incorporate existing market practices.

**10091.8(f)(2):** These provisions are necessary to ensure consistency with Program rules and insert best practices from other programs. These provisions will act as deterrents to fraud and abuse and provide a baseline of information that can be audited at a later date.

**10091.8(f)(3):** These provisions are necessary to incorporate Borrower certifications and representations that the project is complete, and the Borrower has complied with Program rules that apply to them.. It also authorizes the provision of information under the Program and includes best practice requirements of on-site audits as necessary.

**10091.8(g):** The information required under the itemized invoice is necessary for the authority to determine that the installed measures are Eligible Energy Efficiency Measures appropriate to the IOU territory within which the project was installed. The specific costs of these measures, and description of the other improvements, are necessary for the Authority to determine the appropriate allocation of the credit enhancement amongst the participating IOUS. In addition, the notation of whether Distributed Generation is included is necessary to insure compliance with the Decision, and the prohibition on the use of rate payer funds to subsidize loans supporting distributed generation. All of these required data fields are necessary to ensure appropriate oversight and compliance with the Program, and requirements of Decision.

**10091.8(g)(1-2):** These provisions are necessary to ensure consistency with Program rules and insert best practices from other programs. These provisions will act as deterrents to fraud and abuse and provide a baseline of information that can be audited at a later date.

**10091.8 (h):** These provisions are necessary to collect the required information from Self-Installers related to their projects that will enable the Authority to assess eligibility and compliance with the Program Regulations, and included certifications specific to Self-Installers under the Program. These provisions are necessary to accommodate Self-

Installers under the Program, and ensure appropriate data and certification to enable CAEATFA to effectively administer the Program.

**10091.8(i):** The Program relies on various data points and certifications from a number of participants: the Borrower, the Qualified Contractor and the lender, at various points during project installation and loan origination. The lender collects these Program documents and accumulates them into its loan application package. Given these various participants, it is necessary for the PFIs and PFLs to be able to rely on certifications by the Borrower, Self-Installer and Qualified Contractor.

**10091.8(j):** This provision is necessary to provide the lender opportunity to bring a loan enrollment package into compliance if the Authority finds it to be incomplete. This flexibility is necessary to encourage lenders to participate in the Program.

**10091.8(k):** This process and timeline are necessary to make clear the time period under which a loan enrollment would be made, and balances the PFI/PFLs need for a timely response with the administrative time the Authority needs to conduct its review and due diligence. The 10-day period was determined to be appropriate given the Authority's understanding of the scope of work and experience with similar programs.

**10091.8(l):** This provision is necessary to establish the level of the credit enhancement for different borrowers and a process for calculating the per-loan loss reserve, causing the reserve account to be funded and notifying the lender of the reserve funding. The Authority determined it would establish two levels of credit enhancement, one for a standard borrower and one for a low-to-moderate income borrower. These different levels were necessary to address the increased risk to lenders associated with expanding their underwriting terms to low-to-moderate income borrowers, and to operationalize the CPUC intent in the Decision to target 1/3 of the credit enhancement funds to these borrowers.

**10091.8(l)(1)(D):** This provision above is necessary to clearly denote how the Authority will attribute the credit enhancements between participating IOUs in the situation in which a Borrower is served by two IOUs, one providing gas utility services and one providing electric utility services. The Authority determined that the most effective method was to split the credit enhancement according the cost of the EEEM, and based on whether the EEEM provides either electric or gas savings. In addition, this section is necessary to denote how the credit enhancement will be attributed for EEEMs that provide both gas and electric savings. Clarification of how the Authority will allocate the credit enhancement is necessary to ensure a transparent and prudent use of ratepayer funds.

**10091.8(m):** This provision is necessary to limit the maximum time period under which a loan can be covered by a loss reserve. The 15-year period was determined to be appropriate given the Authority's experience with similar programs.

**10091.8(n):** This provision is necessary to provide a remedy for inadvertent non-compliance.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation, or would be as effective as and less burdensome to affected borrowers, financial lenders, or contractors than the proposed regulation. During the emergency regulation rulemaking process, the Authority received public comments regarding eligible financial institutions and finance lenders, which are discussed below.

**10091.8(a):** The Authority considered stipulating the loan terms but rejected this option to allow PFIs and PFLs to respond to market conditions and to remove what stakeholders informed the Authority could be a significant barrier to PFI/PFL uptake of the Program.

**10091.8(g):** The Authority considered a number of alternatives to the itemized invoice, including requiring less information and detail, to potentially allowing Qualified Contractors to submit copies of the invoices they use in their normal course of business – as long as the relevant details and required information are included. After much deliberation, the Authority determined that one standardized invoice is necessary under the Program. The standardization will ensure that the appropriate information is included, and expedite the loan approval process. The Authority has not been able to identify a better alternative that more appropriately balances the variety of policy and programmatic goals in a more effective manner.

**10091.8(i):** The credit enhancement for standard borrowers was initially proposed at 10% of the loan value, which was determined based on the Authority's experience with energy efficiency financing programs, research on similar programs, and specific knowledge of the complexity of these specific pilots. During the course of Program development, the Authority was required to decrease the amount of credit enhancement to the loan value net of any potential IOU rebate or incentive value of an IOU program that a Borrower/IOU Customer could potentially choose to participate in, as required by the Decision. As noted above, Borrowers/IOU customers are not required to participate in an IOU rebate or incentive program, but the credit enhancement must be calculated with its potential inclusion pursuant to the Decision, which created an uncertain environment for PFIs and PFLs. To address this uncertainty and unknown, the Authority increased the

standard credit enhancement to 11% percent and determined that an increase in the LMI credit enhancement was not necessary.

**10091.8(l)(1)(D):** The Authority considered allocating the credit enhancement based on the anticipated energy savings of the EEEMs, instead of the cost, as initially required by the Decision. The Authority and its IOU stakeholders determined this methodology was too complex and could not be effectively or simply streamlined.

**10091.8(m):** The Authority initially considered a maximum loan term of ten (10) years, and received public comment that the term was too short for all projects, particularly those loans targeted to low-to-moderate income borrowers which would benefit from longer terms and lower monthly payments.

**10091.8(n):** The Authority considered rejecting the enrollment of these loans without any ability to remedy inadvertent non-compliance, but determined it would be too restrictive for the Program and provide an inappropriate level of uncertainty for PFIs and PFLs.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.9. CLAIMS**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision does not specify the details of the claim request and remittance process.

## 2. Specific Purpose of the Regulation.

This section describes the process whereby a Participating Financial Institution, Participating Finance Lender, or Successor Servicer may claim, and if approved, receive reimbursement for a loss from an Enrolled Loan arising as a result of a Borrower's default and the Participating Financial Institution, Participating Finance Lender, or Successor Servicer's ultimate charge-off of a loan. Required documentation and claim limits are defined, as is the procedure for repayment of amounts recovered in excess of the Participating Financial Institution, Participating Finance Lender, or Successor Servicer's actual loss on an Enrolled Loan. The section also makes clear distinctions for how claim payments for partially enrolled loans will be processed. Additional data points are added to the claim application to distinguish the total loan amount from the enrolled loan amount.

**10091.9(a-b):** These subsections provide guidance to a PFI, PFL, or Successor Servicer in the event it charges off an Enrolled Loan and elects to seek reimbursement for the loss from the Authority. A PFI, PFL, or Successor Servicer must notify the Authority within 60 calendar days after it has charged off all or part of an Enrolled Loan as a result of a default by the Borrower. The PFI, PFL, or Successor Servicer may defer making a claim for reimbursement for up to 180 calendar days from the date of the charge-off, but still must inform the Authority of the charge-off within 60 calendar days. This regulation establishes a standardized process to seek reimbursements for charge-offs, so that PFIs, PFLs, and Successor Servicers will have a consistent method of soliciting funds from the Loss Reserve Accounts.

**10091.9(c):** This regulation establishes specific information and documentation a PFI, PFL, or Successor Servicer is required to submit to the Authority to be considered for a reimbursement of a charged-off loan. To make a claim, the PFI, PFL, or Successor Servicer must submit information on the Qualified Loan, such as: the amount and enrollment date of the Qualified Loan; date and amount of the charge-off; and certification that the charge-off was made in a manner consistent with the PFI's, PFL's, or Successor Servicer's usual business methods. A PFI, PFL, or Successor Servicer is also required to provide a statement if claims concerning the Qualified Loan are also made with other government programs substantially similar to the Program, including amounts of reimbursements anticipated or received.

**10091.9(d):** A PFI, PFL, or Successor Servicer is authorized to make a claim for reimbursement of its loss from an Enrolled Loan prior to the liquidation of collateral, or realization on personal or other financial guarantees or from other sources. However, claim reimbursements from all sources cannot exceed the PFI, PFL, or Successor Servicer's loss on the Enrolled Loan, except when reasonable out-of-pocket expenses are claimed.

**10091.9(e-f):** These subsections describe the process and timing of Authority review of a reimbursement claim, notification of approval or denial, and disbursement of funds for reimbursement of an approved claim.

### 3. Necessity.

This section is necessary to establish a process for Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers to draw upon their earned reserve as authorized under the Program. A detailed description of the timing and requirements of reimbursement claims is necessary to ensure consistency and conformity of claim processing. This section provides the clear procedures for a Participating Financial Institution, Participating Finance Lender, or Successor Servicer to make a claim. Changes to the data points collected will support CAEATFA's ability to ensure that claims payments are calculated with consideration of partial enrollment as well as any recoveries made.

**10091.9(a):** This provision is necessary to denote the specific level of credit enhancement available to PFIs, PFLs or Successor Servicers if they experience a loss under the Program. The level of 90% was determined to establish a meaningful and substantial loss reimbursement amount, while also requiring the lender to absorb a material portion of the loss, thus providing the lender with an incentive to originate and service loans according to industry best practices.

**10091.9(b):** This provision is necessary to notify the Authority of an impending claim filing, to limit the time period under which a lender can file a claim and to establish the data elements that must accompany a claim, which will provide the Authority with the necessary information to administer the Program and manager the loss reserve. This provision was established based on the Authority's experience with similar programs.

**10091.9(c):** These provisions are necessary to clearly denote the information and process that a lender must undertake to submit a claim for reimbursement to the Authority. The data and certification requested were determined to be necessary to ensure appropriate administration of the credit enhancements and loss reserves, and to ensure Program compliance and safeguard ratepayer funds. The time periods are necessary to ensure that claims are processed in a timely and reasonable fashion, and will allow the Authority to evaluate and process claims within an appropriate time period.

**10091.9(d):** This provision is necessary to clearly denote that a PFI, PFL or Successor Servicer cannot receive more than 90% of the outstanding principal balance of the loan amount through the claim process, and to ensure that ratepayer funds are used prudently by requiring that recovered funds be returned or reimbursed to the Authority.

**10091.9(e):** These provisions and time periods are necessary to reasonably balance the lender's processing capacity and the Authority's need to process claims in a timely fashion to limit outstanding liability.

**10091.9(f):** These provisions are necessary to ensure that claims are processed in a timely and reasonable fashion, and to allow the Authority an appropriate time period to evaluate and process the claims.

**10091.9(f)(1):** This provision is necessary to avoid drawing down the lender's loss during the first year while the lender is building loan volume and the reserve.

**10091.9(f)(2):** This provision is necessary to establish the Authority's actions and appropriate procedures when the exception above does not apply.

**10091.9(f)(3):** This provision is necessary to confirm claim payment limitations for loss reserve contributions that are split between two utilities and ensure appropriate payment by the various participating IOUs.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation, or would be as effective and less burdensome to affected borrowers, financial lenders, or contractors than the proposed regulation. During the emergency regulation rulemaking process, the Authority received public comments regarding eligible financial institutions and finance lenders, which are discussed below.

**10091.9(a):** While there are numerous alternative loss share formulas, this percentage is consistent with FHA's standard loss insurance coverage and based on CAEATFA experience in administering a similar program and its knowledge and understanding of the complexity of this Program

**10091.9(f)(1):** Taking no action was considered but lenders that did not build enrolled loan volume quickly would risk zeroing out the loss reserve with an early default. It was determined this provision was necessary to encourage participation in the Program, and to support the additional risk that lenders have in the early phase of the Program when there is low loan activity and their earned loss reserve would inherently be too low to accommodate a claim. The Authority considered pre-funding a lender loan loss reserve with a one-time amount of \$10,000 to address the risk to lenders as they ramp up their activity under the Program. After much deliberation and consideration, it was determined that funding the first claim in the first year was a simpler and more effective process.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.10. PROJECT REQUIREMENTS**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision does not specify the detailed requirements funded projects must meet to be approved as eligible for Enrolled Loans in the Program.

2. Specific Purpose of the Regulation.

This section describes the quality assurance requirements necessary for projects to be funded by loans that will be enrolled in the Program. Specifically, the section describes a Qualified Contractor's requirement to ensure that all permits and approvals for the project were obtained, and to provide the Borrower with a Bill Impact Estimate. The Program also requires that Combustion Appliance Safety or Combustion Appliance Zone testing be completed in certain circumstances; this section identifies those circumstances and the specifications around the types of contractors that may perform the test. This section also outlines the process for and scope of field verifications of installed measures to ensure compliance with Program requirements, which varies depending on the scope of the Project and whether the Eligible Improvements were installed by a Qualified Contractor or a Self-Installer. Edits were made to extend the length of time during which the Authority may conduct field verifications at an Eligible Property from 180 days to one year.

**10091.10(a):** This subsection establishes that Eligible Improvements financed by the Program must meet quality assurance requirements to be outlined in this section.

**10091.10(b-d):** These subsections describe the project requirements for Self-Installers and Qualified Contractors.

**10091.10(e):** This subsection establishes the requirement that a Bill Impact Estimate be provided by the Qualified Contractor to the Borrower.

**10091.10(f):** This subsection establishes the requirements for combustion appliance safety testing to be performed after project completion for specific types of projects.

**10091.10(g-j):** These subsections describe the process and requirements for field verifications to be performed on projects, as well as the potential actions to be taken by the Authority in cases of non-compliance.

3. Necessity.

This provision is necessary to clearly define the applicable quality assurance standards that projects must meet in order for the loans to be eligible to be enrolled in the Program. All improvements installed through the Program must meet quality assurance standards, including contractor certifications and independent third-party inspections of projects that require safety considerations, to help ensure project performance and consumer protection, and to be consistent with IOU practices. As noted above, the Decision allows for Borrowers to participate in an IOU rebate incentive program, or not. The IOU rebate and incentive programs rely on pre-existing project requirement and quality assurance standards that energy efficiency stakeholders are already familiar with. However, it is necessary for the Authority to determine a quality assurance standard for projects that are not participating in an IOU and rebate or incentive program. The quality assurance requirements for such non-rebated/incentivized projects in this regulation are consistent with and mirror the existing IOU standard industry practices. They also advance the State's energy policy goals of achieving energy conservation and reduction while also promoting and advancing the generation of alternative energy sources.

**10091.10(a):** This provision is necessary to ensure that all projects financed by an Eligible Loan are required to meet the Program's quality assurance requirements.

**10091.10(b):** The provision is necessary to make the financing Program consistent with the IOU program and leverage the IOU program's existing rules, and to provide clarification on the requirements specific to Self-Installers.

**10091.10(c):** This provision is necessary to limit contractor performance liability by requiring that contractors be approved as "authorized" prior to beginning work on any project. Requiring that a contractor be approved as a Qualified Contractor before the work is performed ensures that the contractor be trained on the rules of the Program and strengthens the Program's quality assurance measures.

**10091.10(d):** This provision is necessary to leverage local government building requirements and require them as part of the Program's project quality assurance

measures. This provision ensures that quality control measures comply with local government's rules and regulations, and assists the Authority in avoiding redundancy to other state-wide project and building code requirements.

**10091.10(e):** The provision is necessary to be consistent with the requirements of the PUC's decision to ensure that Contractors provide a bill impact estimate to Borrowers/IOU customers, to educate them on the potential energy efficiency cost savings. This was deemed necessary because the borrower is choosing to take on a long-term financial commitment and to the extent they are motivated to do so by the prospect of energy savings, an estimate of savings should be provided. While other parties could provide an estimate, the contractor is on the project location, is familiar with the equipment being installed and is therefore well positioned to provide the estimate.

**10091.10(f):** This provision is necessary in order to protect home occupants' safety when combustion equipment (such as a furnace) is installed at the same time as equipment that increases a home's air sealing decreases its air flow,. The tests listed above will mitigate that risk. The Program's project requirements that trigger a CAZ test are consistent with the IOU standards and processes, which ensure that this Program is not more burdensome than their existing programs and infrastructure.

**10091.10(g):** This provision is necessary to notify contractors and Borrowers that the Authority may conduct field verifications on projects, to assist in quality control under the Program. The provision also serves as a method to dissuade the consumer, contractor and/or PFI/PFLs from using Program funds for non-eligible purposes.

**10091.10(h):** This provision is necessary to provide a Borrower with an adequate time period to prepare for an on-site field verification visit. A 10-day period reflects California IOU industry standards for on-site inspections.

**10091.10(i):** These provisions are necessary to clearly denote what specific percentage of the various types of projects that will be subject to an on-site field verification. This information is necessary to inform the Contractors of the Program's rules and procedures, and mirror the existing requirements of the various IOU incentive and rebate programs. These requirements are consistent with the IOUs existing practices, which is necessary to ensure the Program is not more or less burdensome and leverages their expertise and lessons learned from years of experience in the energy efficiency industry.

**10091.10(j):** This provision is necessary to clearly identify that there will be consequences for fraud under the Program. In addition, the specific consequences for mistakes or fraud by the Qualified Contractor or Self-Installer are not delineated, to provide the Authority with appropriate flexibility to reasonable address issues on a case-by-case basis. The provision to notify other government agencies and entities is necessary for the Authority to be able to take appropriate action and share information with its partners under the Program.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority determined at an early stage, based on direction from the CPUC, that it would allow a project that had not passed through an IOU rebate/incentive program to qualify for financing under the Program. This decision necessarily entailed establishing a quality assurance program for such projects, since the projects would not have passed through the IOU quality assurance program. As a result, the Authority did not give serious consideration to the alternative of proceeding without a quality assurance program.

**10091.10(b):** The Authority initially contemplated not allowing self-installers into the Program, and then expanded the Program rules to allow self-installers, recognizing and determining that they are an important market segment in encouraging energy efficiency improvements.

**10091.10(c):** The Authority chose to not allow the risk and complexity of allowing contractors to begin work prior to their receiving a “qualified” status.

**10091.10(e):** The Authority considered having no requirement but energy savings is a central benefit to energy efficiency and the borrower should be informed about the potential results of the installation as required by the Decision.

**10091.10(f):** The Authority did not consider other alternatives because these tests are consistent with California combustion safety practices and the IOU's requirements.

**10091.10(g):** The Authority explored best practices from other energy efficiency loan programs and the existing IOU rebate and incentive programs and understands that some third-party verifications are beneficial in reducing fraud.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.11. REPORTING**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

While the Decision established reporting requirements for the CHEEF and the IOUs, requirements for reports by participants were not specified.

2. Specific Purpose of the Regulation.

This section describes reports that will be required from Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers periodically or upon any material changes to information or certifications provided in the initial application to participate in the Program

**10091.11(a):** This subsection outlines the information that Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers will be required to submit in monthly reports to the Authority regarding each Enrolled Loan under the Program, and the timing of such reports.

**10091.11(b):** This subsection describes the information Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers will be required to report annually to the Authority and informing the Authority of any material changes to their original application. .

**10091.11(c):** This subsection describes the regulatory sanctions Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers will be required to report to the Authority, and the timeframe within which such actions must be reported.

**10091.11(d):** This subsection incorporates a process for and timeframe during which a Participating Financial Institution, Participating Finance Lender, or Successor Servicer must notify the Authority of any changes in loan terms for Enrolled Loans.

**10091.11(e):** This subsection specifies that a PFI or PFL must report any change in servicing of Enrolled Loans to the Authority at least ten (10) business days prior to the change occurring.

**10091.11(f):** This subsection specifies the timeframe during which a Participating Financial Institution, Participating Finance Lender, or Successor Servicer must notify the Authority of charge-off of an Enrolled Loan.

3. Necessity.

The reporting of this information is necessary for several reasons. First, notifying the Authority of the status of outstanding Enrolled Loans on a regular basis will allow the Authority to be informed on performance of the loans enrolled in the Program, including repayments of loans and any delinquencies or charge-offs, which will enable it to effectively manage the various loss reserves. The collected information is necessary to enable the Authority to aggregate information on loan performance and reconcile Program Trustee statements with a PFI's, PFL's or Successor Servicer's activity. This provision was also included because the Authority needs loan-level detail on the Program once per month. The proposed timing for the monthly report is consistent with the reporting cycle for the finance industry, and will assist in the management of ratepayer funds.

**10091.11(a):** This provision is necessary to identify the information, process, and timing required for PFLs, PFIs, and Successor Servicers in its monthly reports. These data points and monthly reporting are necessary for the Authority to adequately administer the Program, provide timely data to the public as required under the Decision, be notified on loan performance and appropriately reconcile accounts.

**10091.11(b):** This provision is necessary to identify the process under which the PFLs, PFIs and Successor Servicers inform the Authority of any material changes to their initial application, ensuring long-term Program compliance and communication. This provision is necessary to adequately balance a lenders need to have flexibility and potentially modify its business practices with the Authorities need to appropriately monitor and have complete information on its partners' activities and practices under the Program.

**10091.11(c):** This provision is necessary to obligate the PFIs, PFLs, and Successor Servicers to inform the authority of any risks to their ability to carry out their business, and ensure that the Authority is working with reliable program partners. It will be necessary for CAEATFA to evaluate the information provided on a case-by-case basis, to ensure its working with partners in good standing with their regulators.

**10091.11(d):** This provision is necessary to identify the process under which a PFI, PFL or Successor Servicer notifies the Authority of modifications to loan terms, and clearly denotes the maximum length of time that a loan can be enrolled in the Program. It is necessary to provide the PFI, PFL and Successor Servicer with the flexibility to modify loan terms in accordance with their standard business practices, while simultaneously

ensuring that the length of time for administering the Program is not too burdensome on the overall administration costs of the Authority or the ratepayers.

**10091.11(e):** This provision is necessary to denote the process and timing under which a PFI or PFL changes its servicer of an enrolled loan, providing them with the flexibility to do so in a way that mirrors their existing business practices. This provision is structured to allow sufficient time for a change in servicer while also accommodating the Authority's ability to administer the Program.

**10091.11(f):** This provision is necessary to clearly denote the process under which a PFI, PFL, or Successor Servicer notifies the Authority of a charge-off. The 60-day period adequately balances the PFI, PFL, Successor Servicer and the Authority's business processes. This time period was determined by the Authority in its experience administering similar programs.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority initially considered requiring quarterly reports but upon additional deliberation chose to require monthly reporting as it appears to be common with most government-supported financing programs and will ease the administrative burden for the Authority in administering the Program. In addition, this information is readily available from PFIs, PFLs and Successor Servicers, and is not overly burdensome.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased

economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.12. SALE OF ENROLLED LOANS**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision established goals to attract capital providers and new market participants. Previous California programs have not included secondary markets, and inclusion of these investors is anticipated to expand the energy financing sector. Details of the transfer of rights and obligations to the secondary market were not set forth in the Decision.

2. Specific Purpose of the Regulation.

This section describes the circumstances under which Participating Financial Institutions and Participating Finance Lenders may assign their rights to the Loss Reserve Contributions for Enrolled Loans to investors who have purchased Enrolled Loans. The Participating Financial Institution or Participating Finance Lender will still be required to submit quarterly reports on the status of its enrolled portfolio and submit any claims on behalf of its investors. In addition, this section describes the required information and process for an Eligible Financial Institution or Eligible Finance Lender to enroll as a "Successor Servicer" and assume the responsibilities for reporting and submitting claims to CAEATFA for previously Enrolled Loans. The section also describes notification processes that Program participants must comply with in the event an Enrolled Loan is sold and the Loss Reserve Contribution for that loan is to be assigned to a Successor Servicer. Edits have been made to require that after a Successor Servicer has agreed to assume servicing for Enrolled Loans prior to the transfer of the Enrolled Loan, the new servicer shall notify the Authority that it agrees to assume the reporting obligations for the Enrolled Loans.

**10091.12(a-b):** These subsections describe the assignment of rights and responsibilities from PFIs or PFLs to approved Successor Servicers purchasing Enrolled Loans.

**10091.12(c):** This subsection describes required information an Eligible Financial Institution or Eligible Finance Lender must submit with an application to serve as a Successor Servicer in order for it to be considered complete. This regulation requires the inclusion of contact information, names of the regulatory and insuring agencies, various certifications and acknowledgements Successor Servicers applying to purchase Enrolled Loans will need to agree and comply with if approved. These certifications are necessary regulatory provisions as they serve as a legal agreement between the Successor Servicer and the Authority. The application submitted to the Authority must be signed by an authorized person at the financial institution.

**10091.12(d):** Establishing the time limit for the Authority to review applications provides clarity on how long it will take an applicant to hear from the Authority regarding the approval or denial of an application. It provides clarity on how long it will take a financial institution to hear from the Authority regarding the approval or denial of an application.

3. Necessity.

This regulation is necessary to clarify rights the Authority is willingly providing to the Participating Financial Institution or Participating Finance Lender and how the Authority is addressing the situation when a defaulted Borrower repays a charged-off loan in whole or in part.

In addition this provision was included because both PFIs and PFLs typically earn fees from originating and servicing loans but frequently sell loans to investors as a source of funds for additional lending. It is necessary for the Authority to allow the sale of these loans to accommodate PFI and PFLs existing business practices and continue to encourage energy efficiency financing.

This section is required to clearly identify the circumstances and procedures under which Participating Financial Institutions and Participating Finance Lenders may collaterally assign access to loss reserve funds available through the Program. This provision enables the credit enhancements to travel to the secondary market, to both accommodate a standard practice in the financial industry and expand access to the Program. It also enumerates the responsibilities of the new servicer and their role in participating in the Program.

**10091.12(a):** These provisions are necessary to clearly denote that the rights to the loss reserve can transfer with the sale of the loans, which the Authority believes will increase the activity of the Program. By allowing lenders to sell loans, a secondary market is encouraged which we believe will lead to increased lending and capital and improve the attractiveness of energy efficiency financing.

**10091.12(b):** These provisions are necessary to accommodate the various financing business models, provide clear timeframes for notifications on reporting and sale of loans, and the process under which loss reserves can be transferred to new program partners. The time periods were established and deemed reasonable based on the Authority's experience in similar programs.

**1009.12(c):** A thorough description of the application information required is necessary to clarify the Successor Servicer application process, and to provide applicants with an anticipated timeline for application review by the Authority. Specification of the information and type of documentation required is necessary for applicants to understand the process and requirements, and for Staff to ensure sufficient information is collected to administer the Program. In addition, the certifications are necessary for each entity to

understand their responsibilities and limitations under the Program. The notification requirements will assist with Program administrative planning and operations.

**10091.12(d):** These provisions are necessary to provide a process for the Successor Servicer to participate in the Program. The information for a Successor Servicer is similar to the data required of PFIs and PFLs in the Program, and was determined based on the Authority's experience in its administration of a similar program.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority did not rely upon any technical, theoretical, or empirical studies in proposing the adoption of this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority considered disallowing loan sales but was concerned that doing so would eliminate the participation of finance companies, which do not have a source of permanent funds and would limit the participation of "depositories" (banks and credit unions that receive deposits), many of which prefer to sell loans.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## SECTION 10091.13. TERMINATION AND WITHDRAWAL

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

The Decision does not specify the circumstances under which a Participating Financial Institution, Participating Finance Lender, or Successor Servicer may withdraw from the Program, nor the conditions under which they are subject to termination from participation.

2. Specific Purpose of the Regulation.

This section describes the circumstances and process under which a Participating Financial Institution, Participating Finance Lender, or Successor Servicer may elect to withdraw or be required to terminate its participation under the Program. The section also discusses noticing methods for such terminations and withdrawals, and the circumstances under which the Executive Director of the Authority may terminate a Participating Financial Institution's, Participating Finance Lender's, or Successor Servicer's ability to enroll new loans in the Program. In the event of a termination or a withdrawal, this section outlines the continued loss reserve coverage of previously Enrolled Loans. Loans enrolled prior to any termination that have not been repaid will continue to be secured by the Loss Reserve Account. Edits have been made to clarify the reporting obligations of the lender under different scenarios and the circumstances under which a lender may be terminated from the Program.

**10091.13 (a-b):** These subsections give Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers the option to choose to waive any further interest in the Loss Reserve Account or to stop enrolling any further loans under the Program while obtaining the ability to have access to the Loss Reserve Account to secure all Enrolled Loans enrolled prior to the notice to withdraw from future participation. This regulation intends to outline what will happen to the balance of available funds at the time of termination.

**10091.13(c):** This subsection describes the reasons for the Authority to terminate participation of a Participating Financial Institution, Participating Finance Lender or Successor Servicer in the Program, including if it: enters a cease and desist order; fails to abide by the Program regulations; fails to enroll any Qualified Loan for a period of one year; or provides false or misleading information. The regulation establishes conditions for disqualification in the Program for Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers.

3. Necessity.

**10091.13(a-b):** This provision is necessary because organizations will typically not accept the commitment to join a program from which they cannot withdraw. This regulation is necessary so that Participating Financial Institutions, Participating Finance

Lenders, and Successor Servicers understand the reasons that could cause termination of their participation in the Program. By having these provisions in regulation, the Authority may prevent any disagreements with the Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers on the Authority's expectations and requirements for ongoing participation. The time periods were determined necessary as an appropriate balance imposed upon the administrative burden between PFL, PFI, Successor Servicer and the Authority.

**10091.13(c):** The Provisions above are necessary to clearly denote the situations and procedures under which the Authority has the authority to terminate a relationship with a PFI, PFL, or Successor Servicer. This provision was deemed necessary to ensure that a PFI, PFL or Successor Servicer enrolled in the Program actively uses the Program and meets its obligations under the Program. Continued engagement between the Authority and an inactive or non-compliant program partner would add unnecessary costs and administrative burden on the Authority. The time periods were determined to be necessary and reasonable to appropriately administer the Program and safeguard ratepayer dollars.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

The Authority did not consider implementing a program from which a participant could not withdraw a feasible option. The Authority did not consider any other alternatives for conditions that would cause a Participating Financial Institution, Participating Finance Lender or Successor Servicer to be terminated from future participation in the Program, as it is standard practice in other publicly administered programs that a participating entity that fails to comply with Program regulations would be automatically considered for disqualification from future access to public funds. Furthermore, participating lenders should have the ability to withdraw from the Program if they are no longer interested or available to enroll loans.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

**SECTION 10091.14. REPORTS OF REGULATORY AGENCIES**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

This section establishes that the Executive Director of the Authority shall be authorized to seek information directly from any federal or state regulatory agency concerning any PFI, PFL, Successor Servicer, or Qualified Contractor participating in the Program so that interested parties have a clear understanding of the level of transparency and scrutiny that is required to participate.

2. Specific Purpose of the Regulation.

The regulation establishes the regulatory sources from which the Executive Director of the Authority is authorized to seek and collect information regarding any PFI, PFL, Successor Servicer, or Qualified Contractor participating in the Program.

3. Necessity.

As a state agency and as the steward of the ratepayer funds allocated for this Program, the Authority is responsible of ensuring Participating Financial Institutions and Participating Finance Lenders are acting in good faith with their lending practices and are following the law. Since the Authority will provide financial assistance, in the form of a loan loss reserve, to PFIs, PFLs, and Successor Servicers, it is necessary that the regulations include a provision that would allow the Authority to request information regarding its partners – including Qualified Contractors – at any time during its participation in the Program. Establishing this authority to seek information from regulatory agencies is necessary for the Authority to further evaluate the strength and business practices of its program partners by relying on third party information, and strengthen its ability to avoid working with bad actors.

Establishing this authority to seek information from regulatory agencies is necessary for several reasons. First, this will allow the Authority to be informed on performance of the lenders and contractors participating in the Program. The information is necessary to

collect to enable the Authority to aggregate information on loan performance, and reconcile Program Trustee statements with a PFI's/PFL's/Successor Servicer's activity.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority did not rely upon any technical, theoretical, or empirical studies in proposing the adoption of this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

There are no alternatives to this regulation that the Authority considered as it believes it has the right to request additional information of any Participating Financial Institution or Participating Finance Lender while they are participating in the Program since they are receiving public assistance in the form of a loan loss reserve.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **SECTION 10091.15. CALIFORNIA HUB FOR ENERGY EFFICIENCY FINANCING PRIVACY RIGHTS DISCLOSURE**

1. Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.

State and federal laws protect the individual's right to privacy regarding personal information. As a result of Borrower participation in the Program, the Authority may come into possession of personal information which will be maintained for the life of the loan. The information will be combined with energy usage information provided by the Borrower's utility provider, and may be released to other state agencies and the federal government pursuant to interagency agreements or if required by law.

2. Specific Purpose of the Regulation.

This section sets forth the text of a form which describes the Borrower's privacy rights under the Program. The regulations require that each Participating Financial Institution or Participating Finance Lender must submit with each loan to be enrolled a copy of the Disclosure signed by the Borrower. The document discloses that the Authority may come into possession of a series of data points, which are set forth in the Authority's contract with the investor-owned utilities. Data will be made available to the public in an anonymized form and aggregated with information from other loan participants to protect the Borrower's privacy rights while still making both loan and energy efficiency project performance available to the public. The information collected will also help to ensure accurate reporting that will assist with Program administrative planning and operations. Edits were made to the CHEEF Disclosure to reflect changes in the CAEATFA-IOU Contract.

3. Necessity.

This disclosure is necessary to ensure the Authority's compliance with state law regarding the collection and release of personal information.

4. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents.

The Authority relied on experts from both the public and private sectors and rules and regulations for similar programs in California, particularly those administered by the utilities or local governments, to develop this regulation. The Authority relied upon the Proceeding and the Studies in proposing the adoption of this regulation.

5. Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

There are no alternatives to this regulation that the Authority considered as it believes it is obligated to provide this disclosure to all Borrower's under the Program, and collect the necessary data as required and envisioned under the Decision.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. Program participation is voluntary.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

The Authority has determined that there will be no significant adverse economic impact on any California businesses. Participation in the Program is voluntary, and in fact, the Authority finds that the proposed regulation may have a positive effect on businesses of contractors who perform the work. The proposed regulation may also have a positive effect on the state's economy and environment generally as a result of the increased economic activity and energy conservation as a result of Borrower's investment in energy upgrades to their homes. Studies have cited the need for lower-cost financing as a barrier to for homeowners to invest in energy upgrades.

## **ECONOMIC IMPACT ASSESSMENT**

### **Creation or Elimination of Jobs within the State of California**

The regulations are designed to establish the Program structure and provisions and the type and level of financial assistance Participating Financial Institutions, Participating Finance Lenders and Successor Servicers may obtain if accepted to participate in the Program. These regulations will be carried out by existing staff, participation in the Program is voluntary, and these regulations do not place a burden on businesses within California, therefore these regulations do not affect the ability to create or eliminate jobs within the state of California.

The Authority finds that the proposed regulation will have a positive effect on the state's economy and environment generally as a result of the anticipated increased economic activity and energy conservation as a result of Borrower investments in energy upgrades to their homes. Studies have cited the need for lower cost financing as a main impediment to increasing the number of homeowners investing in energy upgrades, therefore, the Authority finds there would be increased economic activity for certain businesses who manufacture energy efficiency measures, and of contractors who conduct energy efficiency retrofits.

The Authority finds that this regulation may have a positive impact in the creation of jobs within California, particularly those commonly referred to as "green jobs," and may help expand the number of employers currently doing business within the state, particularly energy efficiency retrofit contractor companies. The Authority has not estimated the number of direct and indirect

green jobs that may be created as a result of this Program. The Authority also finds that this regulation may have a positive benefit to the health and welfare of California residents and the state's environment since energy improvements to residential properties will assist in energy conservation and the reduction of greenhouse gas emissions.

### **Creation of New or Elimination of Existing Businesses Within the State of California**

The regulations are designed to establish the Program structure and provisions and the type and level of financial assistance Participating Financial Institutions, Participating Finance Lenders and Successor Servicers may obtain if accepted to participate in the Program. These regulations will be carried out by existing staff and do not place a burden on businesses within California, therefore no new businesses in California will be created or existing businesses eliminated. In addition, participation in the Program is voluntary.

Studies have cited the need for lower cost financing as a main impediment to increasing the number of homeowners investing in energy upgrades, therefore, the Authority finds there would be increased economic activity for certain businesses of contractors who conduct energy efficiency retrofits thus potentially expanding existing businesses.

### **Expansion of Businesses or Elimination of Existing Businesses Within the State of California**

The regulations are designed to establish the Program structure and provisions and the type and level of financial assistance Participating Financial Institutions, Participating Finance Lenders and Successor Servicers may obtain if accepted to participate in the Program. These regulations will be carried out by existing staff and do not place a burden on businesses within California, therefore no existing businesses in California will be expanded or eliminated.

Studies have cited the need for lower cost financing as a main impediment to increasing the number of homeowners investing in energy upgrades, therefore, the Authority finds there would be increased economic activity for certain businesses of contractors who conduct energy efficiency retrofits , thus potentially expanding existing businesses.

### **Benefits of the Regulations**

The regulations are designed to establish the Program structure and provisions and the type and level of financial assistance Participating Financial Institutions, Participating Finance Lenders and Successor Servicers may obtain if accepted to participate in the Program, as well as requirements for Qualified Contractors. The regulations may benefit the state's environment and the fiscal health by incentivizing lenders to make loans and offer new products to their customers who wish to make an energy efficiency investment.

California has developed several aggressive energy generation goals (such as to double the energy efficiency savings in electricity and natural gas final end uses of retail customers through energy efficiency and conservation, increasing energy efficiency by 50% by 2030)) as well as goals for energy reduction and conservation. A series of legislation passed in recent years,

including Assembly Bill 32 (Nuñez, Chapter 488, Statutes of 2006), Assembly Bill 758 (Skinner, Chapter 470, Statutes of 2009), and Senate Bill 350 (De León, Chapter 547, Statutes of 2015), has addressed various energy efficiency issues and provided direction for establishing ambitious energy goals for the state.

In 2008 the California Public Utilities Commission adopted the California Long-Term Energy Efficiency Strategic Plan (“Strategic Plan”), which set forth a statewide roadmap to maximize the achievement of cost-effective energy efficiency in California’s electricity and natural gas sectors from 2009 through 2020 and beyond. While the single family residential sector is not restricted by lack of financial products, two of the main barriers to achieving the energy efficiency goals laid out by the Strategic Plan are the high interest rates associated with that financing and the fact that many of the financing products currently available are difficult to access.

The purpose of the Residential Energy Efficiency Loan Assistance Program is to provide credit enhancement support for financial institutions and finance lenders making loans to finance energy efficiency improvements on residential property. Through the use of credit enhancements, it is the intent of the Decision to reduce overall costs to the property owners making these improvements. The goals of the Program are to attract a greater amount of private capital to the energy efficiency retrofit market by reducing risk to lenders, to broaden the availability of financing to individuals who might not have been able to access it otherwise, and to address the upfront cost barrier to energy efficiency retrofit projects.

The Program is designed to increase borrower access to financing and encourage an uptake in energy efficiency retrofits by offering an incentive to Participating Financial Institutions and Participating Finance Lenders that will help the State to reach its energy efficiency and climate goals.