

FINDING OF EMERGENCY

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY
Title 4, Division 13, Article 5 (commencing with Section 10091.1)

Finding of Emergency

Pursuant to California Public Resources Code 26009, the regulations being re-adopted herewith by the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) as emergency regulations (“Emergency Regulations”) are, by legislative mandate, deemed to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Necessity

These Emergency Regulations are necessary for the Authority to carry out its functions as the administrator of the California Hub for Energy Efficiency Financing under its Memorandum Agreement with the California Public Utilities Commission (CPUC). Specifically these Emergency Regulations will implement, interpret and make specific the Residential Energy Efficiency Loan assistance Program; one of several pilots authorized under the CPUC approved *Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs* (“Decision”).

California has adopted aggressive energy efficiency goals in its effort to reduce State greenhouse gas emissions. Lack of access to affordable financing is one of the hurdles to homeowners and business owners undertaking energy efficiency retrofit projects. Through these pilots, the CPUC seeks to develop “scalable and leveraged financing products to stimulate deeper [energy efficiency] projects than previously achieved through traditional program approaches”.¹ The pilots will offer various forms of credit enhancements (CEs) for residential properties and small businesses. The CEs are expected to provide additional security to third-party lenders, thereby attracting more capital to efficiency finance offerings and expanded consumer access to enhanced loan terms. The pilots will also include on-bill repayment (OBR) mechanisms for, which are intended to “test whether payment on the utility bill increases debt service performance across market sectors”.²

¹ Page 3 of the *Decision Implementing 2013-2014 Energy Efficiency Financing Pilot Programs*, available online at: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M077/K182/77182202.pdf>.

² Page 5 of the Decision.

Authority and Reference

Authority: Public Resources Code Section 26009. Section 26009 of the Public Resources Code authorizes the Authority to adopt emergency regulations necessary for the immediate preservation of the public peace, health, safety, or general welfare in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Reference: Public Resources Code Sections 26003(a)(3)(A), 26003(a)(8)(A), 26003(a)(6) and 26040. On September 19, 2013, the CPUC approved the Decision, and requested the Authority act as the master administrator of the California Hub for Energy Efficiency Financing (CHEEF), funded by ratepayer funds collected by 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"). CAEATFA's purpose is to advance the State's goals of reducing the levels of greenhouse gas emissions, increasing the deployment of sustainable and renewable energy sources, implementing measures that increase the efficiency of the use of energy, creating high quality employment opportunities, and lessening the State's dependence on fossil fuels. Its statute provides it the ability to provide financial assistance to various participating parties that carry-out eligible projects. In July 2014, CAEATFA received Legislative budget authority to administer the CHEEF functions, and subsequently entered into a Memorandum of Agreement with the CPUC, and a receivables contract with the IOUs.

Informative Digest

Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and authorizes the Authority to provide "financial assistance" to "participating parties" for the implementation of "projects" as those terms are defined in PRC Section 26003. 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 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.

These Emergency Regulations authorize the Authority to administer the "Residential Energy Efficiency Loan Assistance Program," pursuant to its Memorandum of Agreement with

the California Public Utilities Commission and its contract with the Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company to implement the California Hub for Energy Efficiency Financing Pilot Programs. Authority staff (“Staff”) undertook a four-month public participation process beginning in October 2014 to develop these Emergency Regulations, which included individual meetings and consultation with State agencies and interested parties, notices to interested parties, public availability, comment periods specific to preliminary drafts of proposed regulations and program structure, and public workshops. The regulations were approved by the Authority’s Board on February 18, 2015, and were subsequently submitted to the Office of Administrative Law and enacted on March 9, 2015 (OAL File Number 2015-0227-01E). Following the adoption of the emergency regulations, Staff incorporated feedback and lessons learned from the early implementation process. The revised emergency regulations were approved by CAEATFA’s Board at a publicly noticed meeting on August 18, 2015, and readopted on September 8, 2015 (OAL File No. 2015-0827-02EE).

The Emergency Regulations establish the rules, process and procedures for the Residential Energy Efficiency Loan Assistance Program (the “Program”), including the eligibility and evaluative criteria loans must meet in order for Participating Financial Institutions and Participating Finance Lenders to qualify and receive a Loss Reserve Contribution. The Emergency Regulations also address the eligibility and evaluative criteria of projects and of contractors performing the installation of Eligible Improvements. These Emergency Regulations are the result of stakeholder comments obtained during public workshops and the regulation review process outlined above.

Government Code Section 11346.5(a)(3)(D) requires that the notice of emergency rulemaking include, “an evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.” The Authority’s legal counsel reviewed the California Code of Regulations and found no existing regulations dealing with this issue. Therefore, CAEATFA believes that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

Re-adoption of the Emergency Regulations: As part of the initial re-adoption of these emergency regulations, Staff incorporated the changes noted below to address lessons learned during the early implementation process. No changes have been made to the emergency regulation text since the initial re-adoption.

Edits regarding clarity and consistency are included in many sections of the amended Emergency Regulations, including specification of business days or calendar days where appropriate, and adoption of consistent certifications for signatories across program-required

forms. Changes to streamline the administrative process are also incorporated in various sections of the regulation. Additional specificity is included to clarify the process for Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers to notify the Authority in the event of a change in servicer for Enrolled Loans. In addition, program participants will be required to submit a copy of the customer's utility bill from within 60-days of submitting the loan enrollment application to the Authority.

Lastly, changes to allow for partial enrollment of a loan are included. Such changes include updates to clarify the definition of an Eligible Loan so that it includes a portion of a loan; clarify how the maximum loan amount applies to partially enrolled loans; identify the process for the quarterly loss reserve adjustment in the case where loans are partially enrolled; identify changes to the claim process to accommodate partially enrolled loans; and ensure that requested data fields include both the total loan amount and amount of the loan enrolled in the program.

Necessity. Many of the modifications proposed are necessary to establish internal consistency throughout all of the sections in this Article. The modifications to clarify the notification process for a change in servicer are necessary to ensure that program participants have clear information on what will be required for the Authority to complete this administrative transfer. The addition of a utility bill to the documents required for submission of a loan enrollment is necessary to support the Authority's ability to verify that participating borrowers meet the Program requirement of being a customer of an investor-owned utility.

Changes to incorporate the partial enrollment of a loan are necessary to make the Emergency Regulations consistent with CPUC *Decision 15-06-008 Partially Modifying Decision 13-09-044 and Resolution E-4680 Implementing Energy Efficiency Financing Pilot Programs*. Decision 15-06-008 allows loans to be partially enrolled in the off-bill energy efficiency financing pilots.³ As the Program is an off-bill finance pilot, various sections of the emergency regulations governing the Program are updated accordingly.

Modifications to Section 10091.15 were made to reflect updates to CAEATFA's contract with the Investor-Owned Utilities. As this contract governs CAEATFA's role as the manager of the Program, corresponding changes to the California Hub for Energy Efficiency Financing Disclosure are included in this section to make the language consistent with the CAEATFA-IOU contract.

³ See Conclusion of Law Number 4 on page 26 of Decision 15-06-008 Partially Modifying Decision 13-09-044 and Resolution E-4680 Implementing Energy Efficiency Financing Pilot Programs.
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M152/K787/152787673.PDF>

As noted above and pursuant to Section 26009 of the Public Resources Code, CAEATFA may undertake emergency rulemaking actions to amend and readopt the existing emergency regulations for the Program. Modifications are further detailed below as they pertain to each section of regulation.

Changes may potentially be incorporated during the regular rulemaking process. The Emergency Regulations and objectives for each section are as follows:

§10091.1. Definitions.

This section clearly defines terms commonly used throughout the regulations and Program documents. The definitions provide detail on various program requirements, including Borrowers, Eligible Property, Eligible Financial Institutions and Eligible Finance Lenders, Eligible Improvements, and the different loss reserve accounts that will be established by the Authority. The definition of Eligible Loan has been updated to allowing loans to be partially enrolled in the Program.

Necessity. The proposed definitions are necessary to establish program eligibility criteria and define frequently used terms to avoid ambiguity and misunderstanding in administering the Program. The update to the Eligible Loan definition is necessary to make the regulations consistent with the policy direction offered in CPUC Decision 15-06-008, which governs the overall program structure set forth in these regulations.

Edits were made to §10091.1 (n) and §10091.1 (n)(1) to comply with CPUC Decision 15-06-008, which allows for the partial enrollment of loans in the program. CPUC Decision 15-06-008 governs the overall program structure set forth in these regulations.

§10092.2. Eligible Financial Institution and Eligible Finance Lender Applications to Participate

This section describes the process for a financial institution or 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.

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 the program requirements, and for Staff to ensure that sufficient information to administer the Program is collected. The required certifications and agreements by a Participating Financial Institutions and Participating Finance Lenders are necessary to meet the directive that the Program help 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 proposed modification to require a signature sheet is necessary to safeguard program transactions by requiring participants to implement internal checks and balances.

Edits were made to §10091.2 (b) to require a signature sheet from lenders to facilitate program implementation and to assure the appropriate use of program funds by providing a means by which the Authority can determine whether the persons executing the application are authorized to do so.

§10091.3. Additional Requirements for Finance Lenders

This section describes the additional requirements that finance lenders operating under a Finance Lender License through the California Department of Business Oversight will need to meet to be approved as a Participating Finance Lender in the Program. These provisions include additional insurance requirements, description of quality control procedures, and various certifications and representations. Clarifying edits were made on insurance requirements.

Necessity. Finance lenders are common actors in the financial marketplace that are subject to different regulatory oversight than banks, credit unions, and community development financial institutions. To expand the availability of financing for energy efficiency (EE) projects and attract other types of lenders with extensive industry experience, the Program created a path for these lenders to apply to participate in the Program. Specification of the information and type of documentation that will be required is necessary in order for applicants to understand the program participation requirements for finance lenders, and for Staff to ensure that sufficient information to administer the Program is collected. The required certifications and agreements by a Participating Finance Lender are necessary to meet the directive that the Program help 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. Participating Finance Lenders are required to meet requirements for net worth, due experience originating loans for home improvement, processes for quality assurance and quality control, and other steps in order to meet necessary standards.

Edits were made to §10091.3 (a)(4) to clarify that the 10 days being referred to are business days. Edits were made to §10091.3 (a)(5) to clarify the insurance requirements for Finance Lenders participating in the Program. Clarifying edits were made to §10091.3 (h) to allow for better consistency with the other forms and documents required by the Program regulations.

§10091.4. Loan Eligibility and Minimum Underwriting Criteria

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.

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

Clarifying edits were made to §10091.4 (c)(1) and §10091.4 (c)(2) to comply with CPUC Decision 15-06-008, which allows for the partial enrollment of loans in the program. CPUC Decision 15-06-008 governs the overall program structure set forth in these regulations.

§10091.5. Contractor Qualification and Management

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.

Necessity. A description of the requirements for contractor enrollment and continued participation in the Program is necessary to provide applicants with an understanding of the necessary information and process for enrolling in the Program and completing projects in compliance with Program requirements. In addition, this section is necessary to provide transparency regarding the circumstances under which a Qualified Contractor may be suspended from participation in the Program. A description of the process for a suspended contractor to appeal to the Board is necessary to ensure due process.

Edits were made to §10091.5 (c) to allow for better consistency with the other forms and documents required by the Program regulations.

§10091.6. Establishment and Funding of Loss Reserve Accounts

This section describes the process through which Loss Reserve Accounts are established and funded. Such accounts shall be held by the Program Trustee for each Participating Financial Institution, Participating Finance Lender, and Successor Servicer, and will be funded with Loss Reserve Contributions from IOU-Program Holding Accounts and IOU-Program Reservation Accounts upon enrollment of Eligible Loans. 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 section also clarifies the funding and quarterly adjustment processes for partially enrolled loans.

Necessity. This section is necessary to inform Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers of the account structure for holding Program funding, which may impact their business operations as they relate to evaluating portfolio risk for Enrolled Loans. The process describing how Loss Reserve Accounts may be adjusted on a

quarterly basis is necessary to provide transparency regarding the adjustment in funding levels for the Loss Reserve Accounts that will be available and may impact a Participating Financial Institution, Participating Finance Lender, or Successor Servicer's business operations as they relate to evaluating portfolio risk for Enrolled Loans. Changes to address partial enrollment are necessary to make the regulations consistent with the policy direction offered in CPUC Decision 15-06-008, which governs the overall program structure set forth in these regulations.

Clarifying edits were made to §10091.6 (c)(1) to comply with CPUC Decision 15-06-008, which allows for the partial enrollment of loans in the program. CPUC Decision 15-06-008 governs the overall program structure set forth in these regulations.

§10091.7. Optional Loss Reserve Reservation and Project Pre-Approval

The 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. It identifies the specific information needed to approve an optional Loss Reserve Reservation or Project Pre-Approval, and also identifies the time frames for processing such requests. The section describes 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. The Participating Financial Institution or Participating Finance Lender may also request a Project Pre-Approval to ensure that the proposed project will meet Program requirements; the Project Pre-Approval request includes information to verify that the proposed contractor is a Qualified Contractor and that the proposed improvements are Eligible Improvements. 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.

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 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.

Clarifying edits were made to §10091.7 (a)(4) to denote that the term "Low to Moderate Income" is a defined term. Edits were made to §10091.7 (a)(8) and §10091.7 (b)(6) to allow for better consistency with the other forms and documents required by the Program regulations.

Clarifying edits were made to §10091.7 (g)(1) to specify that the days being referenced in this section are calendar days. Clarifying edits were made to §10091.7 (g)(2) and §10091.7 (g)(3) to allow for streamlined processes and consistency with the Reservation and Pre-Approval processes laid forth in the Program regulations.

§10091.8. Loan Enrollment

This section outlines the documentation and certifications that are required to be submitted to the Authority to enable CAEATFA to determine that a loan meets the eligibility criteria and may be enrolled in the Program, and to determine the appropriate Loss Reserve Contribution to be deposited into the Loss Reserve Account on behalf of the Participating Financial Institution or Participating Finance Lender. While the terms and conditions of Eligible Loans are determined by the regulations and solely by agreement between each Participating Financial Institution, or Participating Finance Lender, and its Borrowers, the specific documents required to qualify a loan for enrollment in the Program must be completed by the Borrower or Self-Installer, the Qualified Contractor(s) or Self-Installer performing the energy efficiency work paid for by the loan, and by the Participating Financial Institution or Participating Finance Lender. Edits were made to this section to better incorporate the Loan Loss Reservation and the Project Pre-Approval processes, to prevent the same form being submitted multiple times. An edit was made to require that a recent utility bill from each IOU providing service to the Eligible Property be submitted in the loan enrollment package to streamline the loan enrollment process. Edits were made to the Certificate of Completion to require that the Contractor's CSLB License Number appear on the form.

Necessity. This section is necessary to establish the process for Participating Finance Lenders and Participating Financial Institutions to enroll an Eligible Loan in the Program. The required documentation and certifications to enroll a loan in the Program provide the necessary information and data on the Eligible Loan, the Borrower, and the scope of the Eligible Improvements to ensure that projects financed by the Program meet all eligibility requirements identified in various sections of the regulations. The information required at loan enrollment includes a loan enrollment application, project completion certifications required of the contractor and borrower, a detailed project scope with costs, a recent customer utility bill for verifying Borrower eligibility, and various disclosures and releases. This information is necessary for the Authority to determine each loan's eligibility and ensure program compliance.

Editorial changes were made to §10091.8 (b) to clarify the process involved in enrolling a loan. Clarifying edits were made to §10091.8 (c)(3) and §10091.8 (d)(3) to allow for streamlined processes and consistency with the Reservation and Pre-Approval processes laid forth in the

Program regulations. Edits were made to §10091.8 (c)(6) and §10091.8 (d)(7) to require a utility bill be submitted for loan enrollment, which will allow for a more streamlined review of loan enrollment and borrower eligibility, as well as allow for assuring appropriate use of program funds, as applicants are required to be customers of an investor-owned utility. Clarifying edits were made to §10091.7 (a)(4) to denote that the term “Low to Moderate Income” is a defined term. Clarifying edits were made to §10091.8 (e)(15) to comply with CPUC Decision 15-06-008, which allows for the partial enrollment of loans in the program. CPUC Decision 15-06-008 governs the overall program structure set forth in these regulations. Edits were made to §10091.8 (e)(20), §10091.8 (e)(21), §10091.8 (e)(22), and §10091.8 (e)(23) to require a signature sheet from lenders to facilitate program implementation and to assure the appropriate use of program funds by providing a means by which the Authority can determine whether the persons executing the application are authorized to do so. Edits were made to §10091.8 (f)(1)(F), §10091.8 (f)(2)(G), §10091.8 (f)(3)(I), and §10091.8 (g)(2)(F) to allow for better consistency with the other forms and documents required by the Program regulations.

§10091.9. Claims

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.

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.

Edits were made to §10091.9 (a), §10091.9 (b), §10091.9 (c) for clarity regarding the types of days, business or calendar, involved in the processes described in these sections. Clarifying edits were made to §10091.9 (a)(1), §10091.9 (b), §10091.9 (c)(4), and §10091.9 (c)(5) to comply with CPUC Decision 15-06-008, which allows for the partial enrollment of loans in the program. CPUC Decision 15-06-008 governs the overall program structure set forth in these regulations. Edits were made to §10091.9 (c)(8) and §10091.9 (c)(15) to allow for information on recoveries to be captured in a manner that enables the requirements in §10091.9 (d) to be met in a more streamlined manner. Edits were made to §10091.9 (c)(16) to allow for better consistency with the other forms and documents required by the Program regulations. Edits were made to §10091.9 (d) to clarify the process and procedures to better reflect the account structure under the Program. Edits were made to §10091.9 (f)(2) to clarify a reference to a relevant section to make the process involved in a claims approval more clear.

§10091.10. Project Requirements

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.

Necessity. This section is necessary to establish threshold project requirements; and establishes a third-party field verification process for those Borrower's/loans that don't participate in an IOU rebate or incentive program. A thorough description of quality assurance requirements and processes is necessary to establish basic project eligibility and to provide financial institutions, finance lenders, contractors, and Borrowers with a description of the types of certifications, testing, and project verification required for a loan to be enrolled. The description of the field verification process is necessary to provide transparency for Program participants and identify the extent to which their involvement in such verifications may be required.

Edits were made to §10091.10 (g) to extend the timeframe within which a field verification must occur to one year after the Eligible Loan is enrolled in the Program to ensure that the Authority can secure the resources necessary to conduct such verifications for program implementation.

§10091.11. Reporting

This section outlines the information that Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers will be required to submit in monthly reports to the Authority. The reports will include information regarding each Enrolled Loan under the Program. Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers will also be required to report annually on any material changes to information or certifications provided in the initial application to participate or indicating that all statements made in the application remain materially unchanged, and to update any expiring documents required under Program guidelines. This section also 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. In addition, the section 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. Edits were made to incorporate the concept of partially enrolling a loan in the Program and to require that the date of any charge-offs be included in monthly reports.

Necessity. These reports to the Authority are necessary to ensure the ongoing compliance of Enrolled Loans by Participating Financial Institutions, Participating Finance Lenders, and Successor Servicers. The reporting requirements are necessary to ensure appropriate program administration and will provide data required in the Authority's reports to the California Public Utilities Commission and investor-owned utilities pursuant to its contracts with those entities. The reported information and notification requirements will also support Staff's evaluation of the effectiveness of the Program, and will assist with Program administrative planning and operations.

Edits were made to §10091.11 (a) and §10091.11 (d) to require monthly reporting from lenders to provide up to date information and data on program implementation to ensure the prudent use of program funds. Changes were made to §10091.11 (a)(1)(C) to comply with CPUC Decision 15-06-008, which allows for the partial enrollment of loans in the program. CPUC Decision 15-06-008 governs the overall program structure set forth in these regulations. Edits were made to §10091.11 (a)(1)(F) were made to clarify and streamline the process by which a

lender notifies the Authority of a charge-off. Edits were made to §10091.11 (d) for clarity regarding the term “Enrolled Loan”. Clarifying edits were made to §10091.11 (e) to make the process by which the lender must notify the Authority of a change in servicers of an Enrolled Loans. Clarifying edits were made to §10091.11 (f) to specify that the days being referred to in this section are calendar days.

§10091.12. Sale of Enrolled Loans

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.

Necessity. 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. 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. The notification requirements will assist with Program administrative planning and operations.

Clarifying edits were made to §10091.12 (b)(1) and §10091.12 (b)(2) to make the process by which the servicing of an Enrolled Loan is transferred to a Successor Servicer more clear. Edits

were made to §10091.12 (c)(12) to allow for better consistency with the other forms and documents required by the Program regulations.

§10091.13. Termination and Withdrawal

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, Participating Finance Lender, 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.

Necessity. A thorough description of Participating Financial Institution, Participating Finance Lender, or Successor Servicer withdrawal and termination options is necessary to convey the full process for participating in the Program. This section also provides transparency in the event that the participation of a Participating Financial Institution, Participating Finance Lender, or Successor Servicer is terminated in the Program by the Authority.

Edits were made to §10091.13 (a)(1) and §10091.13 (a)(2) to clarify the process for withdrawing from the program and for program implementation purposes. Clarifying edits were made to §10091.13 (b) to specify which accounts are being referred to in this section. Edits were made to §10091.13 (c)(4) to clarify section references. Edits were made to §10091.13 (c)(5) and §10091.13 (c)(7)(A) for program implementation and to clarify the requirements regarding reporting. Editorial changes were made to §10091.13 (c)(7)(B).

§10091.14. Reports of Regulatory Agencies

This section establishes that the Executive Director may seek information directly from any federal or state agency concerning any Participating Financial Institution, Participating Finance Lender, Successor Servicer, or Qualified Contractor participating in the Program.

Necessity. Access to regulatory reports and information is necessary for the Authority to ensure appropriate Program administration and Program participants' compliance with the Program requirements.

§10091.15. California Hub for Energy Efficiency Financing Privacy Rights Disclosure

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.

Necessity. This form provides notice to Borrowers that personally identifying information may be collected with each loan enrolled in the Program. The form also provides Borrowers with information as to how that information may be used. Collection of the Borrower data is necessary to ensure appropriate Program administration, performance, and to comply with reporting requirements contained in the Authority's contracts with the CPUC and the IOUs.

Clarifying changes were made in §10091.15 to reflect that not all of the data points listed may be collected under the program and to make the language consistent with amendments made to the Authority's contract with the investor-owned utilities. This contract governs the Authority's implementation of the programs.

Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters are prescribed by statute applicable to the Authority or any specific regulation or class of regulations pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulation or to the Authority.

Mandate on Local Agencies or School Districts

The Executive Director of the Authority has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts (pursuant to Government Code Section 11346.5(a)(5)).

Fiscal Impact

The Executive Director of the Authority has determined that the Emergency Regulations do not impose any additional mandated cost or savings requiring reimbursement under Section 17500 et. seq. of the Government Code, or any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Sections 6601-6616, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required. There will be no cost or savings to any State Agency or effect on Federal funding to the State.

###