

TITLE 4. BUSINESS REGULATIONS

NOTICE OF PROPOSED RULEMAKING

Proposed Regulatory Action

The Authority proposes to adopt Sections 8078.3-8078.7 of Title 4 of the California Code of Regulations (the “Proposed Regulations”) concerning the administration of the California Pollution Control Financing Authority’s Electric Vehicle Charging Station Financing Program (“EVCS Financing Program”). These Proposed Regulations are necessary to implement, interpret, and make specific Article 8 of the California Pollution Control Financing Authority Act (the “Act”). The Proposed Regulations have been approved by OAL on an emergency basis and this proposed rulemaking would make these changes permanent.

Authority and Reference

Authority: Sections 44520(a), 44520(b), and 44559.5(f), Health and Safety Code. Section 44520(b) of the Act authorizes the Authority to adopt regulations relating to small business financing and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.” Section 44520(a) and 44559.5(f) of the Act authorizes the Authority to adopt necessary regulations to carry out its powers and duties under this division in administering applications for financing.

Authority: Sections 44559.11(a) and 44559.11(b), Health and Safety Code. Section 44559.11(a) of the Act authorizes the Authority to receive funding from any federal or state agency whose goals may be advanced by contributing funding to the Capital Access Program. Section 44559.11(b) of the Act authorizes the Authority, when the sole source of funding is from outside the Authority, to adopt alternate regulations as necessary to accommodate the needs of the outside funding source, notwithstanding any other provision of this article.

Authority: Sections 44559.1(m) of the Health and Safety Code. Section 44559.1(m) of the Act defines small business concern as “the same meaning as in Section 632 of Title 15” of the US Code, and authorizes the Authority to further define a small business concern if the definition is provided in the regulations of Authority.

Reference: Sections 44559-44559.9 of the Health and Safety Code. These Regulations implement, interpret and make specific Sections of the Act by adopting Sections 8078.3, 8078.4, 8078.5, 8078.6, and 8078.7 of Title 4, Division 11, Article 7 of the California Code of Regulations.

Informative Digest/Policy Statement Overview

Existing law establishes the California Capital Access Program (“CalCAP”) and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that may have difficulty obtaining capital. (Health and Safety Code, § 44559)

The proposed additions to the regulations allow the Authority to include alternate provisions specific to the EVCS Financing Program within CalCAP’s existing Small Business Loan and Independent Contributor Programs. The Proposed Regulations meet several of California’s policy goals associated with reducing greenhouse gas emissions and working toward California’s goal of creating enough EVCS infrastructure to support one million zero emission vehicles (ZEVs) by 2020 and 1.5 million ZEVs by 2025.

Anticipated Benefits of the Proposed Regulations:

The broad objective of the regulations is to spur the expansion of electric vehicle infrastructure and the electric vehicle market. It is anticipated the increase in electric vehicle usage would provide a positive environmental and public health benefit, through the correlated reduction in emissions from burning fossil fuels.

Determination of Inconsistency/Incompatibility with Existing State Regulations: Pursuant to the California Code of Regulations Section 12(b), the proposed additions to the regulations rephrase existing law to provide clarity to the EVCS Financing Program’s participating financial institutions and qualified borrowers.

Government Code Section 11346.5(a)(3)(D) requires that the notice of proposed rulemaking shall include, “an evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.” CPCFA staff reviewed the California Code of Regulations and found that the only inconsistencies are those that are allowed by Health and Safety Code 44559.11(b) which authorizes the Authority to adopt regulations to establish alternate provisions as necessary to enable the authority to participate in the Electric Vehicle Charging Station Financing Program. The inconsistent but statutorily compatible regulations are as follows:

- (a) Section 8078.3(i) which establishes the size of a Qualified Business at 1,000 or fewer employees;
- (b) Section 8078.5(c) which establishes the contribution rates for the EVCS Financing Program; and
- (c) Section 8078.7 which establishes the Borrower Rebate component of the EVCS Financing Program.

The proposed sections above are designed to increase access to, and participation in, the EVCS Financing Program without impacting existing CPCFA programs. By increasing the maximum employee size of small businesses from 500 or fewer, to 1,000 or fewer employees, more businesses qualify to participate in the EVCS Financing Program. By increasing the contribution amount and establishing a borrower rebate component, CPCFA aims to increase participation via increased incentives to participate.

While these sections are inconsistent with existing regulation, they are allowed because Health and Safety Code 44559.11(b) allows CPCFA to create alternate provisions in order to participate in a program with an alternate funding source, in this instance the sole funding source is the California Energy Commission.

§ 8078.3 Definitions.

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Necessity. The proposed amendments are necessary to include definitions specific to the EVCS Financing Program.

§ 8078.4. Application by Financial Institution.

This section describes how financial institutions may apply to participate in the EVCS Financing Program.

Necessity. The proposed regulation is necessary to provide clarification on how a financial institution may participate in the EVCS Financing Program.

§ 8078.5. Loan Enrollment.

This section describes the contents of a completed application, contribution amounts, and term of the enrollment. For an application to be deemed complete the lender must submit information concerning the borrower and project, and submit a lender certification that the application meets the EVCS Financing Program’s policies and regulations. In addition the borrower must self-certify on several aspects of the project as well as provide specific requested information regarding the electric vehicle charging station equipment.

Necessity. A description of the application information is necessary to specify the application contents that must be provided in order for the Authority to evaluate whether the loan is qualified for enrollment in the EVCS Financing Program.

§ 8078.6. Loan Loss Reserve Accounts.

This section describes the establishment of loan loss reserve accounts for participating financial institutions, and guidelines governing use of funds deposited in the loan loss reserve accounts.

Necessity. A description of how loan loss reserve funds are to be utilized and managed is necessary to ensure accountability and transparency.

§ 8078.7. Borrower Rebate.

This section describes the EVCS Financing Program Rebate.

Necessity. A description of the Program rebate is necessary to identify eligibility criteria, and to define the process for EVCS Financing Program participating financial institutions and borrowers to follow to meet the rebate requirement.

Disclosure Regarding the Proposed Action

The Executive Director of the Authority has made the following determinations regarding the effect of the Proposed Regulations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500–17630: None.

Other non–discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant effect on housing costs: None.

Cost impact on a representative private person or business: The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Small Business: The proposed regulations will not have an effect on small business because the program is voluntary for any small business that seeks to apply for financial assistance in setting up electric vehicle charging stations.

Significant, statewide, adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: The Authority has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Analysis

Assessment regarding effect on jobs/businesses: The proposed regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or elimination of existing businesses within California, or significantly affect the expansion of businesses currently doing business in California.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: The broad objective of the regulations is to spur the expansion of electric vehicle infrastructure and the electric vehicle market. It is anticipated the increase in electric vehicle usage would provide a positive environmental and public health benefit, through the correlated reduction in emissions from burning fossil fuels.

Consideration of Alternatives

In accordance with Government Code Section 11346.5(a)(13) the Authority must determine that no reasonable alternative to the proposed regulations considered by the Authority or that has otherwise been identified and brought to the attention of the Authority would be more effective in carrying out the purpose for which the proposed regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Authority invites interested parties to present statements with respect to alternatives to the Proposed Regulations during the written comment period.

Agency Contact Person

Written comments, inquiries and any questions regarding the substance of the Proposed Regulations shall be submitted or directed to:

Ethan Wieser, Associate Treasury Program Officer
California Pollution Control Financing Authority
915 Capitol Mall, Room 457
Sacramento, CA 95814
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Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Authority. The written comment period on the proposed regulations ends at **5:00 p.m. on September 07, 2015**. All the comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time in order for them to be considered by the Authority.

In the event that substantial changes are made to the proposed regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified regulations for fifteen (15) calendar days after the date on which such regulations, as changed or modified are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency contact person identified in this Notice.

Availability of Initial Statement of Reasons And Text of Proposed Regulations

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall, Room 457, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this notice, the Initial Statement of Reasons and the proposed text of the Proposed Regulations. Copies of these items and all the information upon which the proposed rulemaking is based are available upon request from the Agency Contact Person designated in this Notice or at the Authority's website located at <http://www.treasurer.ca.gov/cpcfai/index.asp>.

Public Hearing

CPCFA does not intend to conduct a Public Hearing on the matter of these regulations, unless requested. Any interested person may submit a written request for a public hearing no later than 15 days prior to the close of the written comment period.

Availability of Changed or Modified Text

After the written comment period ends and following a public hearing, if any is requested pursuant to Section 11346.8 of the Government Code, the Authority may adopt the Proposed Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least fifteen (15) calendar days before the Authority adopts the proposed regulations, as modified. Inquiries about and requests for copies of any changed or modified

regulations should be addressed to the Agency Contact Person identified in this Notice. The Authority will accept written comments on the modified regulations for fifteen (15) calendar days after the date on which they are made available.

Availability of Final Statement of Reasons

Upon completion, a copy of the Final Statement of Reasons may be requested from the Agency Contact Person designated in this Notice or found at the Authority's website at <http://www.treasurer.ca.gov/cpcfai/index.asp>.

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

TITLE 4, DIVISION 11, ARTICLE 7

INITIAL STATEMENT OF REASONS

Introduction

Pursuant to Section 6588.7(b)(7) of the Government Code, the regulations being adopted herewith by the California Pollution Control Financing Authority (the “Authority”) are, by legislative mandate, necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Existing law establishes the California Capital Access Program (“CalCAP”) and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that may have difficulty obtaining capital. (Health and Safety Code, § 44559)

The proposed additions to the regulations allow the Authority to include alternate provisions specific to the EVCS Financing Program within CalCAP’s existing Small Business Loan and Independent Contributor Programs. The proposed regulations meet several of California’s policy goals associated with reducing greenhouse gas emissions and working toward California’s goal of creating enough EVCS infrastructure to support one million zero emission vehicles (ZEVs) by 2020 and 1.5 million ZEVs by 2025.

Statement of Benefits

The proposed regulations provide guidelines on the Authority’s creation of a financing incentive program for the installation of electric vehicle charging stations. The expansion of electric vehicle usage is a benefit to public health and economic freedom through a reduction of dependence on foreign oil.

Section Analysis

§ 8078.3 Definitions.

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Necessity. The proposed amendments are necessary to include definitions specific to the EVCS Financing Program, and to establish the meaning of specific terms related to the program,

§ 8078.4. Application by Financial Institution.

This section describes how financial institutions may apply to participate in the EVCS Financing Program.

Necessity. The proposed regulation is necessary to provide clarification on how a financial institution may participate in the EVCS Financing Program. The content of the application has already been established in section 8071 of the regulations, but is restated in this section for clarity and continuity of the EVCS Financing Program.

§ 8078.5. Loan Enrollment.

This section describes the contents of a completed application, contribution amounts, and term of the enrollment. For an application to be deemed complete the lender must submit information concerning the borrower and project, and submit a lender certification that the application meets the EVCS Financing Program's policies and regulations. In addition the borrower must self-certify on several aspects of the project as well as provide specific requested information regarding the electric vehicle charging station equipment.

Necessity. A description of the application information is necessary to specify the application contents that must be provided in order for the Authority to evaluate whether the loan is qualified for enrollment in the EVCS Financing Program.

§ 8078.6. Loan Loss Reserve Accounts.

This section describes the establishment of loan loss reserve accounts for participating financial institutions, and guidelines governing use of funds deposited in the loan loss reserve accounts.

Necessity. A description of how loan loss reserve funds are to be utilized and managed is necessary to ensure accountability and transparency.

§ 8078.7. Borrower Rebate.

This section describes the EVCS Financing Program Rebate.

Necessity. A description of the Program rebate is necessary to identify eligibility criteria, and to define the process for EVCS Financing Program participating financial institutions and borrowers to follow to meet the rebate requirement.

Reliance

The proposed regulations are the result of collaborative effort between the Authority, the California Energy Commission, and interested parties through public workshops.

Alternatives Considered

The CPCFA Executive Director has determined that no alternatives are more effective, or as effective and less burdensome to affect persons or small businesses, than the proposed Adopted Regulations.

Mandated Technology or Equipment

The CPCFA Executive Director has determined the proposed Adopted Regulations do not mandate the use of specific technologies or equipment.

Economic Impact Statement

The CPCFA Executive Director has determined that the proposed Adopted Regulations will have no significant adverse economic impact on small businesses, other businesses directly affected, or private persons, because they do not impose any kind of restrictions or burdens on businesses or persons. Furthermore, the CPCFA Executive Director has determined that the amended regulations do not impose any additional cost or savings requiring reimbursement under Section 17500 et al of the Government Code, 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 Section 6680, 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 by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any other State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) Government Code.

The creation or elimination of jobs within California: The adoption of sections 8078.3-8078.7 of the CPCFA Regulations are not expected to have a direct impact on the creation or elimination of jobs within the State of California, due to the limited amount of funding available to a broad number of businesses.

The creation of new businesses or the elimination of existing businesses within the State of California: The proposed language in sections 8078.3-8078.7 of the CPCFA Regulations are not expected to have a direct impact on the creating of new businesses or the elimination of new businesses.

The expansion of businesses currently doing business within the State of California: The adoption of sections 8078.3-8078.7 of the CPCFA Regulations are expected to have a positive impact on the expansion of businesses in the electric vehicle infrastructure marketplace currently doing business within the State of California. The program is designed to increase the access to capital for small businesses for the installation of electric vehicle charging stations in California.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: The broad objective of the regulations is to spur the expansion of electric vehicle infrastructure and the electric vehicle market. It is anticipated the increase in electric vehicle usage would provide a positive environmental and public health benefit, through the correlated reduction in emissions from burning fossil fuels

PROPOSED TEXT OF REGULATIONS

Title 4. Business Regulations Division 11. California Pollution Control Financing Authority Article 7. Capital Access Program for Small Businesses

8078.3. Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the Electric Vehicle Charging Station Financing Program.

- (a) “Borrower Rebate” means a payment made to a Borrower from the Participating Financial Institution’s Loan Loss Reserve Account upon a valid claim made pursuant to Section 8078.7.
- (b) “CEC” and “Energy Commission” means the California Energy Commission.
- (c) “Disadvantaged Communities” means the top twenty five (25) percent of communities that are disproportionately affected by environmental pollution and socioeconomic characteristics as described by CalEnviroScreen 2.0 Tool¹.
- (d) “Electric Vehicle Charging Station” or “EVCS” means an element in an infrastructure that supplies electric energy for the recharging of plug-in electric vehicles.
- (e) “EVCS supply equipment” means equipment which meets the minimum technical requirements set by the Energy Commission as follows:
 - (1) Direct current fast chargers shall utilize:
 - (A) Either the CHAdeMO standard, or SAE combination standard, or a combination of both; and
 - (B) An open standard protocol for purposes of network interoperability.
 - (2) Level 2 charging equipment shall utilize:
 - (A) The SAE J1772 standard; and
 - (B) An open standard protocol for purposes of network interoperability.
 - (3) Open standard protocol is waived for medium- and heavy-duty EVCS supply equipment.
- (f) “Eligible Project Costs” means the amount to pay for acquisitions and services necessary and allocable to the installation and operation of one or more EVCSs in the State of California as allowed by the Energy Commission, specifically:
 - (1) The design and development of EVCS in locations accessible to either the Borrower’s employees, the Borrower’s tenants if in an Multi-Unit Dwelling (MUD), or the public generally;
 - (2) The acquisition of EVCS supply equipment, electric panel or grid improvements, materials and supplies (including conduit and construction materials), signage, and hardware and software necessary and allocable for fully operational charging station(s);
 - (3) Labor necessary and allocable to install fully operational charging station(s); and

¹ <http://www.oehha.ca.gov/ej/ces2.html>

- (4) The costs for operating, servicing and maintaining the EVCS during the term of the loan, if the Borrower's primary business is not EVCS installation, operation or manufacturing.
- (g) "Multi-Unit Dwelling" or "MUD" means a classification of housing where multiple housing units are contained within one building or multiple buildings within a complex or community. Common types of MUDs include duplexes, townhomes, and apartments, mobile homes and manufactured-home parks.
- (h) "Program" means the Electric Vehicle Charging Station Financing Program established pursuant to the Interagency Agreement between the Authority and the Energy Commission. Where the term "Program" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(p).
- (i) "Qualified Business" means any entity eligible under section Health and Safety Code section 44559.1(i) and (m) that together with its affiliates has 1,000 or fewer employees, and that is not dominant in its field of operation. Where the term "Qualified Business" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(r).
- (j) "Qualified Loan" means a loan or a portion of a loan made by a Participating Financial Institution to a Qualified Business where the loan proceeds are for Eligible Project Costs for the installation and operation of one or more EVCS. "Qualified Loan" does not include any of the following:
- (1) A loan for the construction or purchase of residential housing;
 - (2) A loan to finance Passive Real Estate Ownership;
 - (3) A loan for the refinancing of debt already held by the Participating Financial Institution other than a prior Qualified Loan enrolled under the Program, except to the extent of any increase in the outstanding balance;
 - (4) Any loan, the proceeds of which will be used to install EVCS at any of the facilities described in Section 8070(s)(4)(A);
 - (5) Any loan or portion thereof to the extent the same loan or portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program; and
 - (6) Any loan where the total amount or value of loans enrolled in the Program by the Borrower exceeds \$500,000.

Where the term "Qualified Loan" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(s).

- (k) "Trustee" means a bank or trust company, or the State Treasurer, chosen by CPCFA from time to time to hold or administer some or all of the Program Accounts.

Note: Authority cited: Sections 44520, 44559.5(f), and 44559.11(b), Division 27, Health and Safety Code. Reference: Sections 44559.1, 44559.3, 44559.5, and 44559.11, Division 27, Health and Safety Code.

8078.4 Application by Financial Institution.

Financial Institutions shall follow the procedures set forth in Section 8071 in making application to become Participating Financial Institutions in the Electric Vehicle Charging Station Financing Program.

Note: Authority cited: Sections 44520, 44559.5(f), and 44559.11(b), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

8078.5 Loan Enrollment.

(a) A Participating Financial Institution may enroll all or any portion of a Qualified Loan by submitting an EVCS Loan Enrollment Application which shall include the following information:

- (1) The official business name of the Borrower, including a D/B/A if any, and the business address.
- (2) The name and title of the individual(s) responsible for signing for the Qualified Loan on behalf of the Borrower.
- (3) Brief description of the Borrower's business and regular activities, either the SIC Code(s) or the NAICS Code(s) applicable to such business, and the amount of its annual revenues over the last three years.
- (4) Brief summary of the intended use of the proceeds of the Qualified Loan consistent with uses permitted as Eligible Project Costs.
- (5) Location(s) of the project(s) to be installed.
- (6) Amount of the Qualified Loan being enrolled (and indication if less than the full amount of the Qualified Loan is being enrolled) and the Participating Financial Institution loan number.
- (7) Type of the Qualified Loan (e.g., secured, unsecured, term loan).
- (8) Date of the Qualified Loan.
- (9) Interest rate applicable to the Qualified Loan.
- (10) Term or maturity date of the Qualified Loan.
- (11) Whether the loan is for the installation of EVCS in a Disadvantaged Community.
- (12) Whether the loan is for the installation of EVCS at a Multi-Unit Dwelling.
- (13) Number of persons currently employed by the Borrower, and number of jobs expected to be created and retained by the Qualified Loan.
- (14) The Participating Financial Institution's certification that the loan is a Qualified Loan, and that the business receiving the Qualified Loan is a Qualified Business.
- (15) The Participating Financial Institution's certification that, upon request of the Executive Director, the Participating Financial Institution will provide information from the financial records of the Borrower, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.
- (16) The certification that the Participating Financial Institution has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable interest in the Contribution.
- (17) The Participating Financial Institution's certification that the total amount of loans enrolled by the Borrower in the Program does not exceed \$500,000.
- (18) The Participating Financial Institution's certification that the Borrower has secured or made application for all applicable licenses or permits needed to install and operate the EVCS.

(19) Acknowledgment that the lending activities of the Participating Financial Institution are subject to any applicable safety and soundness standards as set forth in applicable lending regulations.

(20) The Participating Financial Institution shall be authorized to base the information requested by subsections (14) and (19) above upon representations made to it by the Borrower; provided that no such Borrower representation may be relied upon if it is known to be false by the lending officer(s) at the Participating Financial Institution who are directly involved in the negotiation of the Qualified Loan.

(21) Certification from the Participating Financial Institution that it has not, and will not, enroll the same loan or portion thereof in any other government program substantially similar to the Program.

(22) The submittal of a completed Borrower's Eligibility Criteria and Self-Certification form in which the Borrower certifies to the following:

(A) That it satisfies the definitions in Sections 8078.3(e), 8078.3(f), 8078.3(i), and 8078.3(j) of the EVCS Financing Program Regulations;

(B) The EVCS installation is compliant with Section 8078.3(c) or 8078.3(g) of the EVCS Program Regulations, if applicable;

(C) The EVCS installation is located within the boundaries of the State of California;

(D) The Borrower has legal control of the EVCS installation site for a term that is equal to or greater than the length of the enrolled loan, and assumes financial liability of the loan;

(E) The Borrower agrees to allow the participating financial institution to provide information from financial records of the Borrower upon request of the Executive Director of CPCFA;

(F) The Borrower has no legal, beneficial, or equitable interest in the matching contribution;

(G) If the EVCS installation financed through this Program is a part of a larger construction project carried out by the Borrower, the enrolled amount of the loan in this Program is the portion of costs of the total project as reasonably allocated to the installation and operation of the EVCS, as documented by the master contractor and/or installer of the EVCS;

(H) The Borrower has secured or made application for all applicable licenses or permits needed to install and operate the EVCS to be procured with the Qualified Loan;

(I) The Borrower agrees to allow California Energy Commission staff or its designee to inspect the EVCS and EVCS installation site;

(J) The Borrower acknowledges awareness of potential regulations from the California Department of Food and Agriculture, Division of Measurement Standards, governing the retail sale of electricity from EVCS. Once effective, installed EVCS may be required to adhere to adopted regulation requirements; and

(K) The Borrower is aware of the Borrower Rebate if it complies with Section 8078.7 of the EVCS Financing Regulations.

(23) Certification from the Participating Financial Institution that it has provided the Borrower CPCFA's Privacy Notice for the EVCS Financing Program, which provides the notice required under the California Information Practices Act (CIPA) (Civil Code section 1798.17). The Privacy Notice for the EVCS Financing Program informs the Borrower that personal information protected by the CIPA may be disclosed under the following circumstances:

(A) To consultants, auditors or contractors retained by the CPCFA where disclosure is required to fulfill CalCAP program requirements and subject to a nondisclosure agreement;

(B) To another governmental entity where required by state or federal law; or

(C) As otherwise required by law.

Information related to this loan not including personally identifying information may be disclosed to the California Energy Commission for statistical reporting.

(b) Upon enrollment of a Qualified Loan, CPCFA shall direct the Trustee to transfer a Contribution for deposit in the Participating Financial Institution's established Loan Loss Reserve Account, and the Trustee shall notify the Participating Financial Institution of the transfer.

(c) The Contribution for each Qualified Loan shall be calculated as follows:

(1) All Qualified Loans shall receive a Contribution in the amount of 20 percent of the enrolled loan amount.

(2) All Qualified Loans that support installation of Electric Vehicle Charging Stations in Disadvantaged Communities or in a Multi-Unit Dwelling shall receive an additional Contribution in the amount of 10 percent of the enrolled loan amount (total Contribution of 30 percent).

(d) Without regard to the terms of the loan, the term of enrollment in the Program shall not exceed forty-eight (48) months from the date of first disbursement of the Qualified Loan.

Note: Authority cited: Sections 44520, 44559.5(f), and 44559.11(b), Division 27, Health and Safety Code. Reference: Sections 44559.2, 44559.4, and 44559.11 Division 27, Health and Safety Code.

8078.6 Loan Loss Reserve Accounts

(a) Upon the Executive Director's acceptance of an application by a Participating Financial Institution, CPCFA shall establish a Loan Loss Reserve Trust Account for that Participating Financial Institution for the following purposes:

(1) To receive all Contributions deposited from the EVCS Financing Program;

(2) To pay claims in accordance with the Claim for Reimbursement Section 8074; and

(3) To pay Borrower Rebates in accordance with Section 8078.7.

(b) All moneys in a Loan Loss Reserve Account are property of the Authority held in trust to be used only for the valid and lawful purposes of the Program as provided in the Interagency Agreement with the Energy Commission and these regulations. Interest or income earned on moneys credited to the Loan Loss Reserve Account shall be deemed to be part of the Loan Loss Reserve Account. The Executive Director shall be authorized to withdraw from the Loan Loss Reserve Trust Account all interest and income that has been credited to the Loan Loss Reserve Account. The Executive Director shall be authorized to withdraw contributions improperly deposited in a Loan Loss Reserve Account. The Executive Director shall be

authorized to direct that funds be withdrawn from Loan Loss Reserve Accounts to fund qualifying Borrower Rebates.

(c) Moneys in a Participating Financing Institution's Loan Loss Reserve Account shall not exceed the outstanding principal of its enrolled loans. From time to time, the Executive Director may withdraw from the Loan Loss Reserve Account all Loan Loss Reserve contributions that exceed the amount of outstanding principal.

(d) If any Loan Loss Reserve Account is held at a Participating Financial Institution, the Participating Financing Institution shall provide monthly statements to CPCFA no later than the 15th of each month reporting all Loan Loss Reserve Account activity, and beginning and ending balances. In addition, the Participating Financial Institution shall provide information to CPCFA regarding the status of enrolled loans, claims and recoveries upon request.

(e) The Participating Financial Institution shall provide reports on the quarterly basis to CPCFA no later than the 15 days after the end of the quarter, listing all enrolled loans which are in default whether or not the Participating Financial Institution has filed a claim with CPCFA. The quarters end on March 31, June 30, September 30, and December 31.

Note: Authority cited: Sections 44520, 44559.5(f), and 44559.11(b), Division 27, Health and Safety Code. Reference: Section 44559.3, Division 27, Health and Safety Code.

8078.7. Borrower Rebate

(a) A Borrower shall be eligible for a Borrower Rebate of fifty (50) percent of the Contribution if the following conditions are met:

(1) The Borrower provides the Participating Financial Institution with a copy of an Electric Vehicle Charging Station Certificate of Commissioning relative to the EVCS financed;

(2) The Borrower has no more than one 30-day late payment on the Qualified Loan;

(3) The Qualified Loan has been paid off or forty-eight months have elapsed from the date of first disbursement of the Qualified Loan, whichever is sooner; and

(4) The Borrower certifies that any outstanding balance of the loan repaid at the time of application for the Borrower Rebate was not refinanced into another credit structure with any Participating Financial Institution.

(b) A Participating Financial Institution shall make the request for a Borrower Rebate as specified in subdivision (c) of this section to CPCFA within 90 calendar days after the conditions in subdivision (a) of this section have been satisfied.

(c) To make a request for a Borrower Rebate, the Participating Financial Institution shall submit a Request for Borrower Rebate form to CPCFA which shall include the following information:

(1) Name of the Participating Financial Institution.

(2) Name, address and telephone number of contact person for the Participating Financial Institution.

(3) Name, telephone number and address of the Qualified Business requesting the Borrower Rebate.

(4) Amount, date of first disbursement of the Qualified Loan and loan number.

(5) Amount of Contribution.

(6) Amount of Borrower Rebate.

(7) Date Borrower qualified for Borrower Rebate.

(8) Participating Financial Institution certification of other evidence that the conditions in subdivision (a) of this section have been satisfied.

(d) CPCFA shall authorize the payment of a Borrower Rebate within 30 calendar days of receipt of a completed request for Borrower Rebate; provided, however, that the Executive Director shall be authorized to reject a request for Borrower Rebate if he or she determines that the certifications provided by the Participating Financial Institution and Borrower at the time of enrolling the Qualified Loan were false or unsubstantiated. CPCFA shall be authorized, upon providing written notice to the Participating Financial Institution, to defer payment of a Borrower Rebate up to an additional 30 calendar days if CPCFA requires more information in order to validate the payment of the Borrower Rebate.

(e) Upon approval of a claim for Borrower Rebate, CPCFA shall instruct the Trustee to withdraw the appropriate amount from the Loan Loss Reserve Account and disburse the Borrower Rebate to the Borrower.

(f) CPCFA may, in its sole determination, authorize a Borrower Rebate upon independent verification that the Borrower has satisfied the requirements of subdivision (a) of this section in the event the Participating Financial Institution is unable or unwilling to supply the documentation needed for Borrower Rebate authorization.

Note: Authority cited: Sections 44520, 44559.5(f), and 44559.11(b), Division 27, Health and Safety Code. Reference: Sections 44559.3, and 44559.11, Division 27, Health and Safety Code.