

**State of California
Office of Administrative Law**

In re:
California Pollution Control Financing
Authority

Regulatory Action:

Title 04, California Code of Regulations

Adopt sections: 8078.3, 8078.4, 8078.5,
8078.6, 8078.7

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**

**Government Code Sections 11349.1 and
11349.S(d)**

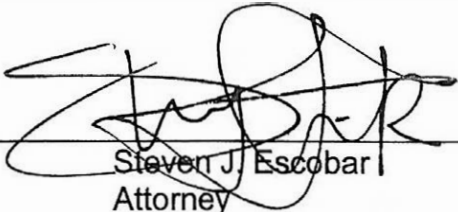
OAL Matter Number: 2015-0921-01C

**OAL Matter Type: Certificate of Compliance
(C)**

This Certificate of Compliance by the California Pollution Control Financing Authority ("CPCFA") makes permanent the prior emergency rulemaking action (OAL File No. 2015-0319-03E) that adopted five sections in title 4 of the California Code of Regulations. The Electric Vehicle Charging Station Financing Program (the "EVCS Financing Program") was established through an interagency agreement between CPCFA and the California Energy Commission (the "Commission"). The regulations adopted through the emergency rulemaking and made permanent through this Certificate of Compliance concern the establishment and implementation of the EVCS Financing Program.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: November 2, 2015



Steven J. Escobar
Attorney

For: DEBRA M. CORNEZ
Director

Original: Renee Webster-Hawkins
Copy: Ethan Wieser



STD. 400 (REV. 01-2013)

OAL FILE NUMBER 2015-0714-01	REGULATORY ACTION NUMBER 0/S-CA dl-0/GI	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

NOTICE AGENCY WITH RULEMAKING AUTHORITY California Pollution Control Financing Authority	REGULATIONS 15 SEP 21 P 12 OFFICE OF ADMINISTRATIVE LAW
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ENDORSED • FILED
in the office of the Secretary of State
of the State of California

NOV. 02 2015.

JS:so Pt-1

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1 SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2 REOPEN PUBLICATION DATE
NOTICE TYPE Notice re Proposed Regulatory Action <input type="radio"/> Other <input type="radio"/>	AGENCY CONTACT PERSON 14	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="radio"/> Approved/Submitted <input type="radio"/> Approved/Modified <input type="radio"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 0/1, a0 <	PUI-70	JS 7 6

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a SUBJECT OF REGULATION(S) CPCFA - Electric Vehicle Charging Station Financing Program	1b ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-0319-03E
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Include title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT Title 4 Division 11, Article 7, Sections 8078.3, 8078.4, 8078.5, 8078.6, & 8078.7
	AMEND
	REPEAL 4

3. TYPE OF FILING

<input type="radio"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="radio"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="radio"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="radio"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§ 11349.3, 11349.4)	<input type="radio"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="radio"/> File & Print	<input type="radio"/> Print Only
<input type="radio"/> Emergency (Gov. Code, §11346.1 (b))		<input type="radio"/> Other (Specify) _____	

4. A 11 BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, § 100 and Gov. Code §11347.1)

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5 EFFECTIVE DATE OF CHANGES (Gov. Code §§ 11343.4, 11346.1(d); Cal. Code Regs. title 1, §100)	<input checked="" type="radio"/> Effective on filing with Secretary of State	<input type="radio"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="radio"/> Changes Without Regulatory Effect	<input type="radio"/> Effective other (Spt/City)
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6 CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify) _____

7 CONTACT PERSON Ethan Wieser	TELEPHONE NUMBER (916) 651-3712	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) ethan.wieser@treasurer.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 9/21/2015
TYPED NAME AND TITLE OF SIGNATORY Renee Webster-Hawkins, Executive Director	

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ENDORSED APP OVEU

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Office of Administrative Law

107-20-11-07-2015

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
 - (8) An open standard protocol for purposes of network interoperability.
 - (2) Level 2 charging equipment shall utilize:
 - (A) The SAE J1772 standard; and
 - (8) 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).
- U) "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), Health and Safety Code. Reference: Sections 44559.1, 44559.3, 44559.5 and 44559.11, 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), Health and Safety Code. Reference: Section 44559.2, 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 (18) 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 8078.30) of the EVCS Financing Program Regulations;

(B) The EVCS installation is compliant with Section 8078.3(c) or 8078.3(9) 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), Health and Safety Code. Reference: Sections 44559.2, 44559.4, and 44559.11 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), Health and Safety Code. Reference: Section 44559.3, 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), Health and Safety Code. Reference: Sections 44559.3, and 44559.11, Health and Safety Code.