

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 of Agreement with the California Public Utilities Commission (“CPUC”). Specifically, these Emergency Regulations will implement, interpret and make specific the Residential Energy Efficiency Loan (“REEL”) Assistance Program, one of several pilots authorized under the CPUC-approved *Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs* (“Decision”) and other related CPUC actions.

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 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)(6), 26003(a)(8)(A) 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. CAEATFA’s statute enables it 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 support the State’s broader energy efficiency and environmental policy goals through leveraging private capital for energy retrofits. The REEL Assistance Program (“Program”) is a pilot program which targets the single-family residential market. The Program mitigates the risk of default for lenders by providing a credit enhancement in the form of a loan loss reserve (“LLR”) for enrolled loans. This protection enables participating lenders to offer more attractive financing terms to a broader group of borrowers, including financing 100% of the energy upgrade, which removes the first cost barrier for consumers.

On February 17, 2015, the CAEATFA Board approved initial regulations for the Program which were adopted and made effective through the emergency rulemaking process on March 9, 2015. CAEATFA re-adopted the Emergency Regulations twice: on September 8, 2015, and again on December 7, 2015. In February of 2016, the CAEATFA Board approved regulations under the regular rulemaking process which was completed on April 13, 2016.

Throughout early Program development and implementation CAEATFA advocated for specific changes to the pilots to broaden their relevance to the private market and to streamline operations for participants. These efforts were necessary, from CAEATFA’s perspective, to facilitate Program uptake and increase its effectiveness. In March of 2017, the CPUC issued

Decision 17-03-027 (D.17-03-027) which granted CAEATFA some additional flexibility to modify the REEL Program from previous guidance Decisions.

To incorporate the flexibility to modify the Program provided by D.17-03-027 as well as to further streamline Program operations, CAEATFA implemented a phased approach to modifying the regulations, as some amendments could be quickly enacted while others would take more time to research and develop. These efforts were necessary, from CAEATFA's perspective, to facilitate Program uptake and increase its effectiveness during the two-year pilot period. CAEATFA proposed draft emergency regulations, held a lender roundtable to solicit input, and conducted a public workshop followed by a 10-day public comment period. The CAEATFA board approved the emergency regulations on August 15, 2017, which OAL then approved (File No. 2017-0823-04E), and they took effect on September 5, 2017. The modifications broadly:

- Reduced the number of forms, certifications and other operational hurdles in the Program;
- Provided clarification on eligibility questions that had arisen during initial operations; and
- Made the credit enhancement more attractive to lenders by consolidating four utility-specific loss reserve accounts into a single, statewide account.

Upon completing additional research, CAEATFA proposed modifications during the emergency regulations re-adoption process. CAEATFA made publicly available the proposed modified emergency regulations, held stakeholder discussions soliciting input, and conducted a public workshop, followed by a 10-day public comment period. The CAEATFA board approved the re-adoption of emergency regulations with modifications on February 12, 2018, which OAL then approved (File No. 2018-0222-01EE) on March 5, 2018. The modifications in the re-adopted emergency regulations:

- Added the voluntary Credit Challenged Program to the REEL Program to incentivize lending to borrowers with lower credit scores by allowing those lenders to receive an additional loan loss reserve contribution of 20%;
- Added a list of Eligible Energy Efficiency Measures established by CAEATFA to create a statewide, streamlined, simpler list of measures;
- Added the option of using income of the census tract to determine Low-to-Moderate Income as it was found by CAEATFA impractical for participating lenders to try to ascertain family size as the sole method of determination; and
- Updated the methodology for rebalancing of accounts to allow for recapture of the original contribution made for a particular loan at the end of the fiscal year in which the loan was paid in full, as well as reducing the recapture amount.

Concurrently, CAEATFA began work on completing the Certificate of Compliance for the regular rulemaking process. On Friday, April 27, 2018, the Notice of Proposed Rulemaking was published in the California Regulatory Notice Register, and made available on CAEATFA's website along with the proposed regulation text and Initial Statement of Reasons. The 45-day public comment period ends on Monday, June 11, 2018, and a public hearing will be held on Tuesday, June 12, 2018.

In order to allow enough time to complete the Certificate of Compliance, it is necessary for a second re-adoption of the emergency regulations. The regulations in this second re-adoption are not modified in any way from the regulations in the first re-adoption (OAL File No. 2018-0222-01EE) enacted on March 5, 2018.

Statement 399 is incorporated by reference from the first re-adoption (File No. 2018-0222-01EE).

The substantive amendments and objectives for each section of the regulations are as follow:

§10091.1: Definitions

This Section defines and describes the terms used throughout the REEL Assistance Program regulations.

§10091.1(i): “Credit-Challenged Borrower” was added as a new defined term.

The addition of this term clarifies that a borrower with a credit score below 640 is considered credit-challenged.

Necessity. The addition of this term is to define criteria for borrower eligibility in the Credit-Challenged Program, defined below and described in §10091.2(b). The CREDIT score is established at 640, to require lenders to offer credit to borrowers beyond their industry standard, and appropriately balancing it with the State’s risk.

§10091.1(j): “Credit-Challenged Program” was added as a new defined term.

The addition of this term defines an optional program through which participating lenders can receive a larger Loan Loss Reserve (“LLR”) contribution for loans to Credit-Challenged Borrowers.

Necessity. This term was added to define a new optional program which is referenced in the regulations. The reasoning for the program is described below in §10091.2(b).

§10091.1(k): “Credit Enhancement Basis” was added as a new defined term.

The addition of this term clarifies how CAEATFA calculates LLR contributions for enrolled lenders. There are no changes as to how the LLR contribution is calculated.

Necessity. This change is for clarification.

§10091.1(j): “Customer Data” was removed as a defined term.

§10091.1(k): “Customer Data Release Form” was removed as a defined term.

These subsections were struck as the Customer Data Release Form and its associated customer data were removed from the Program.

Necessity. The raw energy consumption data that borrowers consented to provide through this form was expensive to transmit and store and not valuable from a public reporting standpoint. In

order to streamline Program operations for contractors, lenders, and borrowers, as well as to reduce operational costs, the form was eliminated and the Authority and the CPUC are exploring alternate ways of information sharing.

§10091.1(m): “Eligible Contractor” was updated.

CAEATFA has refined its requirements to be an Eligible Contractor, requiring that a contractor’s license must not have been the subject of disciplinary action by the Contractors State License Board (CSLB) within the previous twelve months.

Necessity. The update serves to improve consumer protections by screening out contractors that are under active or recent discipline by the CSLB. The Authority determined that a twelve month period was a reasonable amount of time to enable an Eligible Contractor to cure any issues identified by CSLB and adopt appropriate business practices.

§10091.1(n): “Eligible Energy Efficiency Measures” or “EEEMs” was updated.

The definition establishes that measures eligible for financing under the Program are now determined by CAEATFA, as granted by CPUC Decision 17-03-026, and specified in §10091.10, rather than by the IOUs. The definition also establishes that any measure eligible for an IOU rebate or incentive program, assuming the rebate is sought, is eligible for financing under the Program.

Necessity. The EEEMs list as previously contemplated was complicated and hindered the use and growth of the Program. As authorized by CPUC Decision 17-03-026, CAEATFA will implement a simple and streamlined, statewide list of eligible measures. This is necessary to attract and retain program participants and increase efficiencies. The inclusion of measures that are eligible under an IOU rebate and incentive program is necessary to be consistent with the purpose of the Decision, and bring financing to the IOU projects.

§10091.1(o): “EEEMs ID” was updated.

The update reflects that CAEATFA, instead of the IOUs, may assign the specific numbers that correspond to an Eligible Energy Efficiency Measure.

Necessity. This definition was changed to reflect the way in which reference numbers are assigned to measures.

§10091.1(p): “EEEMs Measure Name” was updated.

The update reflects that CAEATFA, instead of the IOUs, will assign the specific names that correspond to an Eligible Energy Efficiency Measure.

Necessity. This definition was changed to accurately reflect the way in which names are assigned to measures.

§10091.1(s): “Eligible Improvements” was updated.

The update clarifies that electric upgrades may be made when an IOU provides electricity, and gas upgrades may be made when an IOU provides gas.

Necessity. As CAEATFA will now determine the list of Eligible Energy Efficiency Measures, it is necessary to reword this provision to clarify that electric upgrades may be made when an IOU provides electricity, and gas upgrades may be made when an IOU provides gas. This is required to ensure that the credit enhancement is being applied to finance measures that are anticipated to save energy specific to the fuel source provided by the IOU. This is necessary to comply with the purpose of the program.

§10091.1(t): “Eligible Loan” was updated.

The update qualifies the prohibition on refinancing. Lenders will be permitted to use non-REEL financing products to lend borrowers funds for deposits on energy efficiency equipment (which are sometimes required by contractors) and subsequently use the REEL product to pay off the deposit loan as well as the rest of the cost of installation within a three month timeframe.

Necessity. Lenders wanted to offer borrowers financing for down payments on energy equipment, prior to receiving a REEL loan. Program requirements had to be changed to allow for this. Three months allows sufficient time for the REEL financing process to be completed while ensuring that financing is for new energy efficiency projects with REEL, not for refinancing previous projects completed outside the program.

§10091.1(u): “Eligible Property” was updated.

This definition was updated to clarify that mobile and manufactured homes qualify as eligible properties provided that the foundation is permanent and site-built.

Necessity. This change was made to clarify that manufactured and mobile homes are eligible for the program as long as they are truly dwellings, not vehicles.

§10091.1(cc): “Low-to-Moderate Income” or “LMI” was updated.

This update makes two changes to how lenders determine whether a Borrower qualifies as LMI. First, if lenders use the borrower’s income, CAEATFA establishes that the lenders may assume that households are comprised of four persons but must include spousal income, if applicable, in income calculations. Second, the update adds an additional option for lenders to qualify Borrowers as LMI, which is to compare the income of the Borrower’s census tract to the income of the County, Metropolitan Area or State.

Necessity. CAEATFA had previously defined LMI by referring to the California Department of Housing & Community Development’s (“HCD”) annual publication on household income limits and family size. The definition of LMI is important not just for reporting purposes, but also to assist in targeting program assistance and providing a 20% Loan Loss Reserve (“LLR”) contribution (as opposed to 11%) to the Lender’s LLR account for LMI borrowers.

Discussion with lenders revealed that standard industry practices preclude lenders from identifying spousal or household incomes when there is a single loan applicant, which was initially contemplated by CAEATFA to ensure accurate reporting and compliance. CAEATFA proceeded to clarify the household income methodology in case future Participating Lenders are able to ascertain household income. In addition, CAEATFA established an alternative method for Participation Lenders to establish a consistent and accurate way to determine Borrower’s

LMI status under their industry practices. For the second methodology, lenders determine if a borrower is LMI by using the income of the census tract as a proxy. LMI will be defined as a tract with an Area Median Income (AMI) no greater than 120% of the Metropolitan Area, County or State AMI. This is consistent with HCD's definition of Moderate Income. These modifications were necessary to more effectively target credit enhancement funds to low and moderate income borrowers, and to accurately report on program activity and impact. Lenders will need to inform CAEATFA which methodology they used to make their LMI determination to ensure data is reported accurately.

§10091.1(dd): "Qualified Contractor" was renamed as "Participating Contractor."
This update was for clarification.

Necessity. This change was made because "Participating Contractor" has a clearer meaning for Program users than the previous term.

§10091.1(ii): "IOU Program Holding Account" was renamed as "Program Holding Account."
CPUC Decision 13-03-027 allowed CAEATFA to combine credit enhancement funds from the four IOUs to fund single, statewide LLR accounts for enrolled lenders. The renaming of these accounts reflect the fact that the Program Holding and Reservation Accounts will now combine funds from each of the IOUs.

Necessity. These changes were made to reflect changes to the Credit Enhancement structure for the Program.

§10091.1(kk): "IOU Program Reservation Account" was renamed as "Program Reservation Account."

CPUC Decision 13-03-027 allowed CAEATFA to combine credit enhancement funds from the four IOUs to fund single, statewide LLR accounts for enrolled lenders. The renaming of these accounts reflect the fact that the Program Holding and Reservation Accounts will now combine funds from each of the IOUs.

Necessity. These changes were made to reflect changes to the credit enhancement structure for the Program.

§10091.1(mm): "REEL Borrower Form" was added as a defined term.

The addition of this term clarifies the name of a Program form that obtains borrower certifications about energy efficiency projects.

Necessity. This change is for clarification.

§10091.1(oo): "Self-Installer" was updated.

A change was made to the Self-Installer definition to clarify that a Self-Installer can install Eligible Improvements in addition to certain EEEMs.

Necessity. The REEL Program provides borrowers with the flexibility to use 30% of financing for home improvements that are non-energy efficiency measures, like water efficient landscaping

or painting. During the course of Program implementation, lenders encountered borrowers who wanted to do this additional work themselves and use the proceeds of the loan to purchase supplies. This is necessary to consistently implement the program.

§10091.1(qq): “Title 20” was added as a new defined term.

§10091.1(rr): “Title 24” was added as a new defined term.

The minimum efficiency specifications that CAEATFA set for the EEEMs list rely on Title 20 (appliance standards) and Title 24 (building code) of the California Code of Regulations.

Necessity. These new terms are for clarification and specify the requirement for participants of the Program to follow current appliance and building codes, as CAEATFA intends for the minimum efficiency specifications of the EEEMs list to be current with the most recent versions of Title 20 and Title 24 as they are updated.

§10091.2. Eligible Financial Institution and Eligible Finance Lender Applications to Participate.

This Section outlines the processes by which an Eligible Financial Institution or Eligible Finance Lender applies to become a Participating Financial Institution (“PFI”) or Participating Finance Lender (“PFL”), describing the information it must provide in its application and responsibilities under the Program. Throughout this document, we use the term “lender” to refer to either PFIs or PFLs.

§10091.2(a)(3-17): Information provided by lenders at the time of application.

Requirements for lenders’ applications to the Program were updated to require provision of loan officer contact information to CAEATFA one time at enrollment in the Program, as opposed to CAEATFA obtaining contact information upon each loan enrollment. Language was updated to reflect changes in requirements for and the name of Program forms.

Necessity. Obtaining contact information for loan officers and staff once up-front instead of repeatedly with each individual loan reduces the amount of work for lenders and is necessary to gain efficiencies and make participation in the program more attractive. The references to specific fees were removed as CAEATFA wishes the lender to disclose all fees, which is necessary to ensure transparency.

§10091.2(a)(18)(C-D): IOUs as third party beneficiaries and lender indemnifications.

The subsection providing that IOUs may pursue their rights against PFIs/PFLs was removed. Other language was updated to bring the Regulations into accord with the CAEATFA-IOU contract.

Necessity. Language stating that the IOUs may pursue rights against lenders was open-ended and caused concern for lenders regarding the circumstances under which the IOUs might choose to take action. CAEATFA worked with the IOU attorneys to strike the problematic flow-down provision from the CAEATFA-IOU contract, and to clarify, separately, that the IOUs are express beneficiaries of the lender’s indemnity. The Regulations were changed to reflect this and other language adjustments from the CAEATFA-IOU contract.

§10091.2(a)(20-21): Lender certifications provided upon application to the Program. Certifications that lenders previously provided at the time of each loan enrollment were incorporated into the lender's application to the Program. The certification regarding Eligible Loans was amended to clarify that these loans are for Eligible Improvements at Eligible Properties.

Necessity. The change to require loan officer contact information and lender certifications of loan eligibility upon application to the Program eliminates the requirement to provide individual certifications and contact information for every loan, thus eliminating the need for lenders to provide an additional form. This reduces staff work and streamlines the loan enrollment and pre-approval process.

§10091.2(b): Instructions for PFIs or PFLs who wish to participate in the Credit-Challenged Program.

The added provision requires lenders who wish to participate in the Credit-Challenged Program to describe in detail the loan product they propose to offer and the additional benefits to Credit-Challenged Borrowers that will result from their access to an increased Loan Loss Reserve Contribution.

Necessity. CAEATFA is introducing a new aspect of the Program to incentivize lenders to offer better financing terms to borrowers with low credit scores (as described in *§10091.8(l)*). Part of the intent of the REEL Program as authorized by the CPUC is to provide attractive financing to underserved homeowners. Borrowers with low credit scores are frequently denied credit or offered credit with very high interest rates. Early REEL implementation has shown that the Program is tending to serve borrowers with credit scores of 660 and above, hence the need for an added incentive to serve those with scores from 580 (the current Program minimum) to 640. CAEATFA already requires lenders to describe their proposed loan program and benefits to borrowers as they are receiving a credit enhancement for all enrolled loans. This provision prompts the lenders to describe how receipt of an additional incentive through the Credit-Challenged Program would benefit borrowers and is necessary for the Authority to evaluate if a Lender qualifies for the Credit-Challenged Program.

§10091.2(d): Participating PFIs or PFLs responsible for updating Program information.

A new subsection was added to make clear that the Authority must approve changes to a lender's product offering and that it is the responsibility of lenders to update the Authority with any changes in contact information or entity status.

Necessity. The new subsection on PFI/PFL reporting requirements was added to make explicit that CAEATFA must approve changes to their product offering. CAEATFA needs to ensure that ratepayers will continue to benefit from the lender's use of a credit enhancement, providing necessary oversight of ratepayer funds.

§10091.4. Loan Eligibility and Minimum Underwriting Criteria

This Section lays out the criteria a loan must meet to be eligible under the Program. It was designed to safeguard the use of ratepayer funds while maintaining the intent of the pilots to allow lenders the flexibility to broaden access to financing to a wider set of borrowers while mitigating risk.

§10091.4(e)(1): Verification of Borrower's income.

The income verification requirement was modified to apply in cases where borrowers with scores below 640 receive loans greater than \$20,000.

Necessity. The change was necessary to strike a balance between ensuring that consumers have the means to repay the financing they acquire and streamlining the Program to better reflect, and create operational efficiencies with, the underwriting process for higher volume lenders.

§10091.6. Establishment and Funding of Loss Reserve Accounts

This Section explains the process by which each lenders' LLR Accounts are established and funded under the Program by CAEATFA's contracted Trustee Bank.

§10091.6(a) and (b): Set-up of LLR accounts and funding upon loan enrollment.

Edits were made to facilitate the consolidation of LLR accounts for lenders from four separate accounts to one statewide account.

Necessity. Moving from individual IOU loss reserve accounts to statewide accounts makes the Program more attractive to lenders and more efficient to implement. The statewide accounts are much more valuable to lenders as they can use contributions received for any loan enrolled in the Program to cover claims in the event of a default, regardless of where, geographically, that default occurs. This change does not affect the amount of funds contributed to LLR accounts; it only affects the structure of those accounts. This modification is necessary to increase the attractiveness of participating in the program and gain efficiencies in implementation.

§10091.6(c): Rebalancing of accounts.

This change revises the methodology of rebalancing Loss Reserve Accounts. The frequency of the rebalancing is changed from quarterly to annually. Additionally, CAEATFA will recapture funds only for loans that have been fully paid off. Finally, CAEATFA makes an allowance if a Lender has made a claim during the fiscal year when calculating the amount to recapture and will deduct the claim amount from the recapture amount.

Necessity. The move from quarterly to annual rebalancing reduces the administrative burden for Program staff and Lenders by reducing the amount of hours both parties must dedicate to reconciling adjustments to the LLR accounts. The methodology is consistent with the original guidance Decision, D. 13-08-044, which requires recapture for paid-off loans. Reducing the recapture amount by any claims during the fiscal year also reflects the intention of the Loss Reserve Accounts to serve as portfolio insurance for the lenders; well-performing loans help

provide a financial cushion that mitigates the risk of a default. The modification was necessary to increase the attractiveness of the program and create efficiencies in implementation.

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

This Section lays out an optional reservation and project pre-approval process for lenders. Project pre-approval allows lenders to submit a proposed project to the Authority prior to closing the loan and receive assurance that the project meets the eligibility requirements of the Program. Loss reserve funds are then set aside for the loan's future enrollment in the Program.

§10091.7(a)-(b): Lender certifications upon Reservation and Pre-Approval submission.

Revisions to this Section remove certifications from Pre-Approvals as those certifications will now be provided only once, upon the lender's enrollment in the Program.

Necessity. This change is necessary to streamline Pre-Approval submissions and allows for the elimination of a cumbersome form.

§10091.7(a)(4): Indication of Borrower as Low-to-Moderate Income.

This update requires the PFI or PFL to report which of the two acceptable methodologies were used to determine borrower as Low-to-Moderate income. This change is consistent with the changes made to §10091.1(cc).

Necessity. For the Authority's program analysis and reporting purposes, it is necessary to know which methodology was used in determining a Borrower as Low-to-Moderate Income to ensure that data is being represented accurately.

§10091.7(b)(5) Utility Bill requirements.

The requirement that lenders submit a utility bill for the borrower was changed from a bill that is current within 60 days of loan enrollment to within 60 days of loan approval.

Necessity. This change is necessary to improve lenders' interactions with their customers as they do not have to obtain updated utility bills in cases where projects take several weeks to complete.

§10091.7(a)(10), (b)(4-7), (c)(2) Other updates consistent with Program changes discussed above.

Language was also updated to reflect the removal of the Customer Data Release Form from the Program and to support the consolidation of the lenders' LLR accounts into statewide accounts.

Necessity. These updates are necessary for consistency, specifically to bring the Pre-Approval section in line with Program wide changes: removal of the Customer Data Release Form (necessary to streamline the program) and the move to a single, statewide LLR account for each lender (discussed above in §10091.6.).

§10091.8. Loan Enrollment

This Section describes all of the documentation and data required for a loan to be enrolled into the Program, the Authority's timeframe for reviewing the loan, and LLR contributions for the loan. The Section covers documentation provided by the contractor, borrower and lender, though lenders are responsible for compiling and submitting the package. Changes to this Section are grouped below into four subcategories: Program Requirements, Program Forms, Clarifications, and Loan Loss Reserve Contributions.

Program Requirements:

§10091.8(c)-(d): List of documents for loan enrollment.

Language referencing that a project completed in whole or in part by a Participating Contractor or Self-Installer was added and requirements for modeling documentation was removed. We clarify that any time a Participating Contractor is completing a project, the lender needs to submit a Certificate of Completion for each Participating Contractor. For any project that has a Self-Installer component, the lender needs to submit a self-installer form.

Necessity. Due to early marketing successes, the Program has experienced borrowers hiring multiple participating contractors to work on completely separate aspects of the project, such as air sealing and windows. Also, lenders have encountered situations in which a borrower wanted to hire a contractor for part of the project, but complete a portion themselves as a Self-Installer. The updates to this section are necessary to adapt to this activity under the Program. References to modeling documentation were removed as modeling is no longer applicable to measure installation.

§10091.8(c)(5): Requirement for current utility bill(s).

This was amended to change the requirement of current utility bills from within 60 days of the loan application to with 60 days of the PFI/PFL's loan approval.

Necessity. Changing the requirement for current utility bills to be current at the time of lender approval prevents lenders from having to obtain additional copies of the utility bill from borrowers, improving the process for both parties. This change is necessary to create efficiencies and streamline program participation.

§10091.8(e)(2): Loan enrollment application data.

Loan officer's business name and e-mail address were removed as required data points.

Necessity. This modification is necessary to incorporate CAEATFA decision to collect lender's contact information at the time the lender applies to participate in the Program. This modification is necessary to create efficiencies in program implementation.

§10091.8(e)(13): Loan enrollment application data.

Specifying which of the two acceptable methodologies were used to determine Low-to-Moderate income was added.

Necessity. CAEATFA needs to understand the methodology used to perform accurate analysis and reporting as to whom the Program is serving.

§10091.8(e)(27), (28), (29): Certifications from Lender.

Loan certifications were removed from loan enrollment requirements.

Necessity: Lenders' applications to the Program were changed to collect certifications up front so that the loan enrollment process could be streamlined for lenders.

§10091.8(e)(27): Loan enrollment application data.

The Loan Enrollment application was updated for lenders to state whether the project had a self-installer component and/or more than one participating contractor was added.

Necessity: As described above in *§10091.8(c)-(d)*, the Program is enrolling more loans for projects that include both a Self-Installer and a Participating Contractor completing work or multiple Participating Contractors. Including this data point helps CAEATFA track that all required forms for the project have been submitted and the types of projects enrolled.

§10091.8(e)(28): Loan enrollment application data.

The census tract of Borrower was added as a required data point.

Necessity. This is needed so that CAEATFA can conduct analysis as to whom the Program is serving and accommodate the modification to allow lenders to determine LMI eligibility by looking at the income of a Borrower's census tract.

§10091.8(f): Contractor and Borrower Certifications of Completion.

Requirements for the Contractor's certifications were updated to allow Natural Gas Appliance Testing (NGAT), a test that PG&E requires for many of its residential programs, to satisfy safety test requirements under the Program. Other data points related to the safety testing qualifications were updated. Borrower's certifications were updated to reflect the fact that the Program requires borrowers and/or contractors to obtain permits for work completed, but those permits may still be in process at the time of Loan Enrollment. A slight adjustment was made to language certifying that the use of proceeds is for Eligible Improvements to reflect that borrowers likely have not yet received loan proceeds at the time they complete their certifications.

Necessity. Allowing for the NGAT to be used in safety testing brings the Program in line with standard industry practices. Adjustments to the Borrower's certifications recognizes the reality that borrowers are still in the process of securing permits when they sign their certifications and, additionally, that they likely have not yet received funds from the lender at the time they sign their certifications.

§10091.8(l): LLR determination and contributions.

Language was updated to reflect the consolidation of IOU jurisdictional LLR accounts into one statewide LLR account for lenders. Language was also updated to use the new defined term, "Credit Enhancement Basis," to describe the LLR calculation.

Necessity. The need for statewide LLR accounts is discussed in §10091.6. The use of the new defined term, “Credit Enhancement Basis,” clarifies how CAEATFA calculates the LLR contributions for enrolled lenders. These modifications are required for consistency and clarity.

Program Forms

§10091.8(c): List of documents for loan enrollment.

The Customer Data Release Form was removed as a requirement at loan enrollment.

Necessity. The Customer Data Release Form was removed in the interest of streamlining the Program for all parties, this form creates an operational burden while yielding little data of value. CAEATFA and the CPUC have determined that data on customer energy usage can be gathered through other channels.

§10091.8(g): Itemized Invoice.

New language was added to provide for collection of additional data points: indication of whether a measure is new or a replacement, indication of whether the installation resulted in a fuel switch for the measure, and indication of whether the project added square footage to the house.

Necessity. The Itemized Invoice was updated as the Authority and the CPUC determined that the data points were necessary for Program evaluation and determination of energy savings.

§10091.8(h): Self-Installer Form.

The Self-Installer Form was updated to reflect the fact that the determination for which a measure is available for self-installation is now outlined in §10091.10(c) of these regulations, instead of determined by the IOUs. Also, The Self-Installer Form certification was updated to clarify that a Self-Installer may install non-EEEMs, additional related home improvements (as mentioned above in §10091.1(oo)) and that the financing was used to pay for either EEEMs or, additional related home improvements.

Necessity. The Self-Installer Form was updated to reflect the provision of the Regulations that now governs measures available for Self-Installation. Borrowers were requesting to install additional measures and this clarifies that borrowers wishing to self-install non-EEEM home improvements are able to do so. These modifications are necessary for consistency in program implementation.

Clarifications

General changes to support electronic data transfer.

Language was added throughout the Section to specify that data points will be provided “in a form approved by the Authority” to clarify that lenders have flexibility in providing data by electronic means.

Necessity. Updates to the regulations were necessary to allow for ease in data transfer and to ensure the program could support standard industry practices.

§10091.8(l): Loan Loss Reserve terminology.

Language was updated to reflect the consolidation of IOU jurisdictional LLR accounts into one, statewide LLR account for lenders, to use the new defined term, “Credit Enhancement Basis,” and to describe the LLR calculation.

Necessity. Changes were made to incorporate the new defined term and to reflect the new, consolidated, statewide LLR account which are necessary to ensure consistent and streamlined program implementation.

Loan Loss Reserve Contributions

§10091.8(l): Loan Loss Reserve Contribution Rate.

The section was updated to include a 20% Loan Loss Reserve contribution for loans made to Credit-Challenged Borrowers, where the lender is participating in the Credit-Challenged Program, as described in §10091.2(b).

Necessity. The addition of a 20% LLR contribution for borrowers in the Credit-Challenged Program provides an incentive for lenders to improve financing terms for Credit-Challenged Borrowers, as described in §10091.2(b). Because some loans may be made to a borrower who is both LMI and Credit-Challenged, CAEATFA is clarifying that the Loss Reserve Contribution is not cumulative and will be a maximum of 20%, which is necessary to ensure that ratepayer funds are leveraged appropriately and prudently.

§10091.9. Claims

This Section specifies the process for making a claim reimbursement when a lender charges off an Enrolled Loan.

General changes to reflect the consolidation of LLR accounts.

Language was updated to reflect the consolidation of IOU jurisdictional LLR accounts into single, statewide LLR accounts for lenders. Claims will now be paid out from the lender’s single LLR account, rather than proportionally by the corresponding IOU LLR account.

Necessity. As discussed above, the consolidation of LLR accounts provides lenders with a much more valuable credit enhancement to further incentivize participation in the Program, and the language in this Section needed to be updated for consistency with the new account structure.

§10091.10. Project Requirements

This Section describes measure and project eligibility for the Program, safety testing requirements and the Authority’s field verifications and inspections of projects.

§10091.10(b): Removal of specific Finance-Only project requirements.

Language describing IOU eligibility requirements is no longer applicable and was struck.

Necessity. This Section had previously specified that Finance-Only projects (those not receiving an IOU rebate or incentive) still had to follow the IOU's requirements for self-installation, bundling of measures and modeling. Most of this language is no longer applicable since D.17-03-027 allowed the Authority to remove bundling and modeling requirements. While the phrasing in this Section that required Finance-Only projects to obtain a permit is still accurate, the permitting requirement is captured elsewhere in the regulations and so was also struck.

§10091.10(c-d): Criteria for projects available for self-installation.

This Section describes the criteria by which measures are deemed to be eligible for self-installation and thus do not require installation by a Participating Contractor. With a few exceptions, measures must be electric and fall into one of several select categories of appliances. This section was updated to include "Dishwashers" and "portable air purifier or air cleaner" to the list measures eligible for self-install as CAEATFA is adding both measures to the list of EEEMs. "Cooking Products and Food Service Equipment" was removed from the measure list as there are no EEEMs offered that fit into this category.

Necessity. As the Authority is now the entity to determine which measures are eligible for installation without a contractor, the determining criteria for self-installation eligibility is specified. These criteria restrict self-installation to measures which are simple enough that:

1. installation does not pose a safety hazard to the occupants of the residence, and
2. there is low risk that improper installation will result in reduced energy savings.

§10091.10(f):

This subsection referring to Combustion Appliance Safety or Combustion Appliance Zone test requirements was updated to *§10091.10(h)* and was reconfigured to describe required Safety Testing and include NGAT testing or another industry standard safety test as an acceptable form of test.

Necessity. As discussed above, allowing for the NGAT to be used in safety testing brings the Program in line with standard industry practices. Subsequent to the launch of the REEL program, CAEATFA learned that NGAT was a method of safety testing widely used by PG&E. This change makes allowance for the inclusion of NGAT as well as for any other standard safety testing that may be unknown to staff or becomes newly adopted within the industry. These changes are necessary to incorporate standard industry practices into the program and increase its effectiveness.

§10091.10(j): Multiple contractor projects and safety tests.

This update clarifies that if the measures installed by multiple contractors together trigger the Safety Test requirement, the contractor that installed the triggering measure must arrange the test.

Necessity. The REEL Program has safety test requirements that are triggered when particular EEEMs are installed on a project with three or more EEEMs, per *§10091.10(h)*. The Program

has seen project applications in which more than one Participating Contractor takes part without any single contractor acting as the “General Contractor” for the project. Therefore, CAEATFA finds it necessary to define responsibility for arranging the Safety Test.

§10091.10(o): Eligible Energy Efficiency Measures (EEEMs) Table.

This new sub-section provides a list of EEEMs for the Program and instructs participants that if there is a difference in Title 24 requirements and the EEEMs table, Title 24 supersedes the EEEMs table.

Necessity. CPUC Decision 17-03-026 gave CAEATFA, instead of the IOUs, authority over the list of eligible measures for the Program. D. 17-03-026 also allowed financing of to-code measures through the Program. One statewide list is necessary to reduce complexity and streamline the program, which will increase program participation. CAEATFA decided that publishing the list in the Regulations was the most effective way to allow for public engagement and comment on the list of EEEMs, following a lengthy stakeholder engagement and deliberative process. In that process, CAEATFA consulted home energy retrofit contractors participating in the Program, California Energy Commission, IOU Program staff, and several energy efficiency industry experts.

In creating the list of Eligible Measures, CAEATFA considered: measures identified by the IOUs as energy saving measures, measures that are widely accepted to save energy in a variety of contexts, and common home appliances expected to have demand under the Program. For the most part, CAEATFA is allowing the financing of measures to-code, in line with the policy direction of AB 802. The vast majority of California homes are not up to current building code standard and there are energy savings to be realized when these customers take on a retrofit to bring their home up to current building code. Where there are prudent reasons to mandate a higher level of minimum efficiency specifications, we do so. For example, Energy Star represents a higher-than-code standard for appliances that are widely available on the market. Additionally, some measures, like mini-split systems, are readily available above-code at reasonable prices.

§ 10091.15. California Hub for Energy Efficiency Financing Disclosure

This Section describes the CHEEF Disclosure Form which advises the borrower of their privacy rights under the CHEEF. It informs the borrower that certain information may be shared with the utility companies and other state or federal agencies.

Phone number, release of phone number and address.

The disclosure was updated to ask for a contact phone number and explain that the borrower may be contacted by phone or address by CAEATFA or the information may be provided to the CPUC’s Program Evaluation team to invite borrowers to participate in surveys for Program evaluation. Grammatical and clarifying changes were made.

Necessity. Through outreach to borrowers, CAEATFA, the CPUC, and those acting on their behalf can gather data on the effectiveness of REEL’s approach to energy efficiency. Surveys and site-visits, where agreed to, are necessary for the CPUC’s evaluation of the Program.

Information which may be shared.

This Section was updated to strike a reference to “usernames and passwords.” The Section was also updated to include “Energy savings data from your project.” The sentence regarding customer energy usage data was updated from “The information will be combined...” to “The information may be combined...” to reflect the possibility that not every borrower’s energy usage data will be combined with their loan data.

Necessity. Changes to the references to username and password reflect updates to the CAEATFA-IOU contract. The change to the disclosure was to make it more transparent that data that is ultimately shared (and derived from consumption data) may be energy savings data. CAEATFA is working with the CPUC to determine the value of sharing energy consumption (usage) data versus switching to sharing energy savings data and whether the data will ultimately be combined with loan related data.

General edits

An edit was made to clarify execution of the form to allow for future electronic transfer.

Necessity. The update was made as electronic transfer of data is more attractive to many Program Participants and consistent with standard industry practices.

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.

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