

**TITLE 4, DIVISION 13, ARTICLE 6
OF THE CALIFORNIA CODE OF REGULATIONS**

NOTICE OF PROPOSED RULEMAKING

The California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”), organized and operating pursuant to Division 16 (commencing with section 26000) of the California Public Resources Code (the “Act”)—pursuant to the authority vested in it by the Public Resources Code Section 26009 to promulgate regulations and Public Resources Code Section 26011 to provide financial assistance to a participating party, and acting pursuant to the Memorandum of Agreement (“MOA”) between the Authority and the California Public Utilities Commission (“CPUC”) which sets forth the policies and procedures for establishment of a series of ratepayer-funded pilot programs as authorized and described in the initial CPUC-approved Decision 13-09-044, Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs issued September 19, 2013 and modified through Decision 15-06-008, Decision 15-12-002, Decision 17-03-026, and Decision 21.08.006—proposes to amend the GoGreen Home Energy Financing Program (known publicly as the “GoGreen Home Program” and referred to as the “Program” in this document) regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing regarding the regulations is scheduled from 10:00 AM until 11:30 AM or until business is concluded on Thursday, July 14, 2022. To register to participate for the public hearing via webinar, click the link below:

https://us02web.zoom.us/webinar/register/WN_-o40drjBQKy0DDSTD6915g

Any additional public hearings will be publicized on the Authority’s Listserv and on the Authority’s website located at

<https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/index.asp>.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representatives may submit written comments relevant to the regulations to the Authority. **The written comment period on the regulations ends on Thursday July 14, 2022.** Public comments may be submitted during the public workshop. All comments must be submitted in writing to cheef@treasurer.ca.gov by July 14, 2022 in order for them to be considered by the Authority.

In the event that substantial changes are made to the 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, Division 1, Chapter 1, Article 2, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to cheef@treasurer.ca.gov.

AUTHORITY AND REFERENCE

Authority: Public Resources Code Section 26006 and 26009. Section 26006 and 26009 of the Public Resources Code authorizes the Authority to adopt necessary regulations relating to its authority established by the Act, and Public Resources Code 26011 establishes the authority to provide financial assistance to a participating party.

Reference: Public Resources Code Sections 26002, 26002.5, 26003(a)(3)(A), 26003(a)(6), 26003(a)(7)(A), 26003(a)(8)(A), 26011 and 26040. On September 19, 2013, the CPUC approved Decision 13-09-044, 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”). The Authority’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. The Authority’s statute enables it to provide financial assistance to various participating parties that carry out eligible projects. In July 2014, the Authority received initial 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 to implement the CHEEF.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and authorizes the Authority to provide “financial assistance” to “participating parties” for the implementation of “projects” as those terms are defined in Public Resources Code Section 26003. A Memorandum of Agreement between the Authority and the CPUC sets forth the policies and procedures for establishment of a series of ratepayer-funded pilot programs as authorized and described in the CPUC-approved Decisions.

Decision 13.09.044 established the California Hub for Energy Efficient Financing (“CHEEF”) to be administered by the Authority. The Authority was authorized to develop and implement a number of energy efficiency financing programs. These programs were intended to attract a greater amount of private capital to the energy efficiency retrofit market by reducing risk to finance companies; broadening the availability of financing to individuals and businesses who might not have been able to access it otherwise; and addressing the upfront cost barrier to energy efficiency retrofit projects.

GoGreen Home launched in 2016 as a pilot program and, throughout early development and implementation, the Authority advocated to the CPUC for specific changes to Decisions

regarding the CHEEF programs to broaden their relevance to the private market and streamline operations for participants. These efforts were necessary, from the Authority's perspective, to facilitate more energy efficiency projects and allow the Program to assist more customers. In March 2017, the CPUC issued Decision 17-03-026, which granted the Authority some additional flexibility to amend GoGreen Home from previous CPUC guidance. Leveraging this flexibility, the Authority implemented amendments through an emergency rulemaking process that began in 2017 and ended with a certificate of compliance in September 2018. In April 2020, the CPUC issued Resolution E-5072, which approved GoGreen Home's transition from a pilot program to a full program and provided funding for the Authority to facilitate scaling, including streamlining operations for lenders, making planned technology improvements, and continuing with education and outreach efforts.

In April 2021, the CAEATFA Board approved emergency regulations to modify the GoGreen Home program to allow for important operational improvements such as moving to electronic data collection to support high-volume lending, incorporate participant and stakeholder feedback and suggestions, and implement lessons learned since the last regulations modifications in 2018. These modifications establish new eligible financing products and a new role for "Channel Partners" to assist lenders, institute new processes on the incorporation of non-IOU funding to expand the Program, clarify and add Eligible Energy Efficiency Measures ("EEEMs") to the Program, and create a streamlined Microloan pathway for loans less than \$5,000. The authorization of the emergency regulation was recommended by Staff to allow for adequate time for the regular rulemaking process while soliciting stakeholder input from participating contractors and lenders as well as other implementation partners regarding areas for programmatic improvement and streamlining.

As part of the emergency rulemaking, the Authority made publicly available the proposed modified emergency regulations, held stakeholder discussions soliciting feedback, and conducted a virtual public workshop on March 12, 2021 followed by a 7-day public comment period. The changes were approved by the OAL and took effect on May 24, 2021 (OAL File No. 2021-0513-01E) with subsequent approval by OAL for readoption, with additional modifications, on March 23rd, 2022 (OAL File No. 2022-0307-01E) following another public workshop and comment period in January 2022. The emergency regulations will be submitted for a second readoption in May 2022 in order to grant enough time to complete the regular rulemaking process.

The proposed regulations associated with this Notice seek to make permanent most of the emergency modifications through the Certificate of Compliance regular rulemaking process.

Anticipated Benefits of the Proposed Action:

The benefits of this regulatory action will be to owners and renters of residential properties, including single-family homes, condominiums, townhouses, and apartments, as well as participating lenders and the hundreds of enrolled contractors who complete the upgrades. The addition of the ability to incorporate non-IOU Public Purpose Funding is intended to reduce complexity and increase Program access to more Californians by expanding the types of measures for which lenders can receive a credit enhancement. This furthers the State's goals of reducing energy consumption and greenhouse gases. Changes and additions to the list of

Eligible Energy Efficiency Measures are intended to provide more options for the types of energy saving installations that can be financed through the Program, helping borrowers save more energy. The addition of new financing products and participant roles, and changes to loan and project submission requirements and reporting are intended to create a better lender experience in order to attract more lenders who can in turn reach more borrowers and drive new levels of program uptake.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

Government Code Section 11346.5(a)(3)(D) requires that the notice of proposed rulemaking include, “[an] evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.” The Authority’s Staff reviewed the California Code of Regulations and found no existing regulations with which there might be inconsistency or incompatibility. Therefore, the Authority believes that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Executive Director of the Authority has made the following determinations regarding the effect of the 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 which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

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

Significant effect on housing costs: None.

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 the 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. Participation in the program is voluntary, and, in fact, the Authority finds that the proposed regulation may have a positive effect on the businesses of participating GoGreen Home contractors and California-based lenders.

Effect on Small Business: The Authority has made the determination that the proposed regulations will not have an adverse impact on small businesses in California. Participation is voluntary and designed to offer access to attractive financing for energy efficiency measures. The Authority believes that any effect on small businesses would be positive, particularly for contractor businesses installing energy efficient upgrades.

Cost Impacts on 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.

RESULTS OF ECONOMIC IMPACT ANALYSIS

The Authority finds that the regulations will have a positive effect on the state's economy and environment generally because of the anticipated increased economic activity, energy conservation and reduction of greenhouse gas emissions due to investments in energy upgrades. Studies have cited the need for lower cost financing as a main impediment to increasing the number of energy efficiency upgrades; therefore, the Authority finds there would be increased economic activity for certain businesses who manufacture energy efficiency measures and for the contractors who conduct energy efficiency retrofits, as well as for the California-based lenders who process and provide the loans. Additionally, participants that make energy efficiency upgrades are likely to experience energy savings and may be able to apply those savings toward other economically beneficial activities.

Creation or Elimination of California Jobs:

The Authority finds that the regulations may have a positive impact on the creation of jobs within California, such as the manufacturers of energy efficiency measures benefitting from increased demand, and energy efficiency retrofit contractor companies who perform installations. The Authority has not estimated the number of direct and indirect green jobs that may be created as a result of this Program as participation is voluntary.

Creation or Elimination of Existing Businesses within the State of California:

As the regulations provide a credit enhancement to finance companies offering credit to California residents, the elimination of businesses is improbable. The regulations are unlikely to significantly affect the creation of new businesses within the State of California.

Expansion or Elimination of Existing Businesses Within the State of California:

The Authority finds there could be increased economic activity for certain businesses of project developers and contractors who conduct energy efficiency retrofits, thus potentially expanding existing businesses.

Benefits of the Regulations to The Health and Welfare of California Residents, Worker Safety, and The State's Environment:

The goal of the Program is to increase access to financing for California residents to invest in energy efficient upgrades, thus reducing greenhouse gas emissions and helping meet California's ambitious environmental goals. The Program does not directly affect worker safety.

SUMMARY OF PROPOSED CHANGES AND ADDITIONS

Section 10091.1. Definitions.

This section defines terms commonly used throughout the regulations and Program documents.

This section is being updated to facilitate the proposed changes to the regulations; definitions have been added, deleted, or amended in order to establish or refine terms commonly used throughout the Program.

Section 10091.2. Eligible Financial Institutions and Eligible Finance Lender Applications to Participate.

This section outlines the processes by which an Eligible Financial Institution (“EFI”) or Eligible Finance Lender (“EFL”) applies to become a Participating Financial Institution (“PFI”) or Participating Finance Lender (“PFL”) by describing the information it must provide to and responsibilities under GoGreen Home.

This section has been extensively reorganized to improve readability and reduce confusion (e.g. new subsections for describing the proposed loan programs, underwriting criteria, certifications, acknowledgements, and agreements) as well as modified to obtain additional needed information and remove or streamline the capture of unnecessary information, in order to evaluate applicants.

Section 10091.3. Additional Requirements for Finance Lenders.

This section outlines additional requirements for an Eligible Finance Lender (“EFL”) to include in the application to become a Participating Finance Lender (“PFL”).

This section has also been extensively reorganized to improve readability (e.g., new subsections for demonstrating the EFL’s experience and key operations, and making representations, warranties, and covenants to the Authority). Amendments were also made to align the regulations with current industry practice regarding insurance, and to facilitate participation of newer entrants into the energy efficiency financing space while ensuring company qualifications, and consumer protections.

Section 10091.4. Channel Partner.

This new section establishes a new participant role called a Channel Partner. It was added in order to accommodate additional types of lender business models not previously allowable in GoGreen Home, wherein the lender performs roles related to underwriting and servicing but collaborates with a partner to generate and facilitate transactions as well as interact with GoGreen Home. It outlines the processes by which an Eligible Channel Partner (“ECP”) becomes a Participating Channel Partner (“PCP”) including the information it must provide and its responsibilities under and regulated relationship with GoGreen Home.

Section 10091.5. Loan Eligibility and Minimum Underwriting Criteria.

This section details the types and characteristics of loans that are eligible for GoGreen Home, how loan proceeds are to be allocated and relevant limits, refinancing requirements, information that must be disclosed to the Borrower, and Borrower underwriting eligibility.

This section is amended to add and clarify financial products available to borrowers through the program - as well as the option to refinance existing GoGreen Home loans, and streamline the eligibility requirements for Microloans.

Section 10091.6. Contractor Qualification and Management.

This section outlines the process for an Eligible Contractor to become a Participating Contractor (both referred to as “Contractor” throughout this document) including the information it must provide and its responsibilities under the Program.

The amendments to this section reflect the Authority’s need to capture important additional information about an Eligible Contractor applicant, as well as changes to the Authority’s expectations for Participating Contractors throughout their participation in the Program.

Section 10091.7 Establishment and Funding of Loss Reserve Accounts.

This section is re-numbered because the former Section "10091.7 Optional Loss Reserve Reservation and Project Pre-Approval" was deleted. This section outlines the process by which each Lender’s Loss Reserve Account(s) is established and funded under GoGreen Home by the Trustee Bank.

This section has been amended, due to stakeholder input, to clarify some ambiguities regarding Loss Reserve contributions calculations and to allow up to three Loss Reserve Accounts per lender. The requirement for how long an Eligible Loan can be enrolled in GoGreen Home was also moved from Section 10091.8 to this section. Several provisions in this section were also updated to reflect a change to 10091.1(ii) in Definitions, indicating that funds from different funders will be stored in separate Program Holding Accounts, and transfers to or from these holding accounts will be made to the “appropriate” account.

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

This section, which detailed an optional reservation and project pre-approval process for PFIs or PFLs, has been removed from GoGreen Home.

The removal of this section is due to the pre-approval and reservation process being burdensome and not used by PFIs/PFLs since 2017.

Section 10091.8. Loan Enrollment.

This section describes the documentation and data required for a loan to be enrolled in GoGreen Home, as well as the source of the data and which participant is required to submit it.

As GoGreen Home prepares to expand and welcome new business models, the Program is seeking to change how loans are enrolled to deliver flexibility and scalability. This includes clarifications and amendments to streamline the information that is provided by lenders while still ensuring data integrity and compliance. Data points required for loan enrollment were also organized into a table format to provide clarity and ease of reading.

Section 10091.9. Claims.

This section outlines the process and requirements for Lenders to submit a claim for reimbursement from their Loss Reserve Account if a Borrower defaults on a GoGreen Home loan.

Amendments to this section are proposed to remove ambiguities, adjust which data points are required, provide the Authority the ability to request additional information when necessary, and to otherwise streamline the claim application process.

Section 10091.10. Project Requirements.

This section describes measure and project eligibility for GoGreen Home, installation, safety testing requirements, and how projects are verified and inspected.

This section is updated to clarify when a GoGreen Home Participating Contractor is and is not required for a project. Additionally, a substantive modification was made to determine that Participating Contractors are not required if the work is financed by a Microloan. Further, new Eligible Energy Efficiency Measures (“EEEMs”) are added to provide additional opportunities to save energy for Borrowers, and the table listing EEEMs was modified to improve readability. Lastly, the regulations have been modified to streamline the Quality Assurance/Quality Control review processes to provide needed flexibility as the Program grows and evolves while still ensuring that risk-based compliance verification efforts are accurately targeted to the projects that most need them.

Section 10091.11. Reporting.

This section describes the reporting requirements for lenders in GoGreen Home.

This section is amended to remove and add more data points that are needed for Program participation and evaluation, in order to streamline a sometimes burdensome monthly reporting process for participants while ensuring that the Authority is capturing relevant information regarding enrolled loans and the impact of its credit enhancement.

Section 10091.12. Sale of Enrolled Loans.

This section describes the processes and requirements by which a Lender may apply to GoGreen Home to serve as a Successor Servicer.

This section is being amended to clear up ambiguities in defining eligibility and certification requirements.

Section 10091.13. Termination and Withdrawal.

The purpose of this section is to describe the processes and requirements by which a Lender or Successor Servicer may withdraw or be terminated from GoGreen Home.

This section is being amended to update and clarify how a Lender’s remaining loss reserve funds are handled if it withdraws from GoGreen Home.

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

This section describes the CHEEF Privacy Disclosure that advises the Borrower of their privacy rights under the Program, informing them that certain information may be shared with utility companies and other state or federal agencies.

Modifications to this section bring the Regulations into alignment with the Information Practices Act, indicating that the Authority may report information to new funders and clarifies the types of information shared by the Program with different audiences.

Section 10091.16. Conditional Eligibility Expansion.

This new section was added to describe what the Authority will do if it secures funding for GoGreen Home from a non-IOU Energy Efficiency ratepayer source. If the Authority is able to secure that funding, it will 1) maintain an interested parties list, 2) expand the type of equipment and corresponding costs that will count toward the required Claim-Eligible Principal Amount, 3) publish when this additional funding is available and the criteria for expanded eligibility, and 4) offer the credit enhancement for loans financing GoGreen Home projects on a first-come first-serve basis. The section also explains that funding may come from various types of government or nonprofit organizations.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Authority must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, 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 persons to present statements with respect to alternatives to the regulations during the written comment period.

AGENCY CONTACT PERSON

Written comments shall be submitted or directed to: cheef@treasurer.ca.gov.

Inquiries and any questions regarding the substance of the regulations shall be submitted or directed to:

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CAEATFA
915 Capitol Mall
Sacramento, California 95814

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AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF THE 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 801 Capitol Mall, Second Floor, 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, the proposed text of the regulations, the Economic Impact Statement, and the Technical, Theoretical, and/or Empirical Studies, Reports, or Documents. Copies of these items are available upon request from the Agency Contact Person designated in this Notice or at the Authority's website located at <https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the public hearing and at the end of the written comment period, the Authority may adopt the 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 the 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 request 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 at the Authority's website located at <https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/>.

AVAILABILITY OF MATERIALS ON THE INTERNET

Materials prepared for this rulemaking, including this Notice, the Initial Statement of Reasons, the text of the proposed regulations, the Economic Impact Analysis, and Technical, Theoretical, and/or Empirical Studies, Reports, or Documents may be accessed on the Authority's website located at <https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/>.