NOTICE OF PROPOSED EMERGENCY ACTION

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6.

If you have any questions or comments regarding this proposed emergency action, please contact Susan Mills at susan.mills@treasurer.ca.gov or (916) 651-3760, with the California Alternative Energy & Advanced Transportation Financing Authority.

FINDING OF EMERGENCY

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

Article 5 (commencing with Section 10091.1), Division 13, Title 4,

Finding of Emergency

Pursuant to Public Resources Code Section 26009, the amended regulations being adopted by the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA") as emergency regulations ("Emergency Regulations") are expressly deemed in statute to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Authority and Reference

Authority: Public Resources Code Sections 26006 and 26009. Section 26009 of the Public Resources Code authorizes CAEATFA to adopt emergency regulations necessary for the immediate preservation of the public peace, health, safety, or general welfare in accordance with the Administrative Procedure Act (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 26002, 26002.5, 26003(a)(3)(A), 26003(a)(6), 26003(a)(7)(A), 26003(a)(8)(A), 26006, 26011, and 26040. CAEATFA's purpose is to advance the State's goals to reduce the levels of greenhouse gas emissions, increase the deployment of sustainable and renewable energy sources, implement measures that increase the efficiency of the use of energy, create high quality employment opportunities, and lessen the State's dependence on fossil fuels. CAEATFA's authorizing statutes enable it to provide financial assistance to various participating parties that carry out eligible projects.

Informative Digest

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA") and requires CAEATFA to establish programs to provide financial assistance to participating parties for projects related to alternative energy sources and advanced transportation projects. Existing law authorizes CAEATFA to receive and utilize grants or loans from the federal government, a public agency, or any other source for carrying out the purposes of the Act.

Pursuant to this statutory authority, CAEATFA is the administrator of the California Hub for Energy Efficiency Financing ("CHEEF") under a Memorandum of Agreement with the Public Utilities Commission ("CPUC"), known as the Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs, Decision 13-09-044. The Residential Energy Efficiency Loan Assistance Program ("REEL").REEL is one of several energy efficiency financing programs as part of that Memorandum of Agreement.

REEL launched in 2016 as a pilot program and, throughout early development and implementation, CAEATFA advocated for specific changes to the CHEEF programs to broaden their relevance to the private market and streamline operations for participants. These efforts were necessary, from CAEATFA's perspective, to facilitate more energy efficiency projects and expand REEL to reach more customers. In March 2017, the CPUC issued Decision 17-03-026, which granted CAEATFA some additional flexibility to amend REEL from previous CPUC guidance. Leveraging this flexibility, CAEATFA 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 REEL's transition from a pilot program to a full program and provided funding for CAEATFA to improve to facilitate scaling, including streamlining operations for lenders, making planned technology improvements, and continuing with marketing, education, and outreach efforts.

The benefits of this regulatory action will be to owners and renters of residential homes, including single-family properties, condominiums, townhomes, and apartments. REEL mitigates the risk of default for lenders by providing a credit enhancement for enrolled loans. This protection enables participating lenders to offer more attractive financing terms, such as reduced interest rates, longer terms, and larger amounts to a broader group of borrowers.

The regulation amendments respond to challenges, lessons learned, and extensive stakeholder feedback received while implementing REEL. It is CAEATFA's intention to expand the opportunity for consumers to access REEL, streamline processes, and facilitate energy efficiency improvements. The amendments:

- Streamline the loan enrollment and reporting processes to accommodate new lender business models and facilitate automation;
- Add new eligible energy efficiency measures to provide more options to

consumers and be responsive to stakeholder feedback and technological advances;
- Enable the ability for point-of-sale financing, by which customers can access user-friendly REEL financing when purchasing energy efficient appliances through utility marketplaces on the internet;
- Provide a new option for loans under $5,000, with streamlined and efficient requirements easing the financing process for lenders and borrowers;
- Add a new role for participants who assist lenders with marketing, lead generation, and collecting and submitting information to CAEATFA;
- Allow for residential equipment leases/service agreements as financing products, with appropriate consumer protections to provide customers with more financing options; and
- Set framework to further simplify the program by allowing CAEATFA to utilize non-ratepayer sources of funding for credit enhancements which will allow for more uniform measure eligibility across Investor-Owned Utility (IOU) and Publicly-Owned Utility (POU) areas.

As part of the ongoing administration of REEL, CAEATFA staff regularly solicited feedback from participating contractors and lenders and carefully monitored enrollment data to understand REEL's impact and challenges. During this regulation amendment process, CAEATFA surveyed contractors, held a lender roundtable to solicit input, engaged key stakeholders for feedback, and conducted a public workshop on March 12, 2021, followed by a seven-day public comment period. Public comments were considered and prompted additional changes, which are reflected in these proposed amended regulations.

CAEATFA has reviewed existing regulations on this topic and has concluded that the proposed regulations are not inconsistent or incompatible with existing state regulations.

Throughout the regulations, CAEATFA made nonsubstantive changes that improve readability, bring consistency, correct grammar, and reorder subsections. Section references and details of these nonsubstantive changes are not included below.

The substantive amendments and necessity for each section of the regulations are as follows:

Universal Change in Multiple Sections.

- *§10091.2(a)(19)(formerly)*
  §10091.3(h)(formerly)
  §10091.5(c)(formerly)
  §10091.8(f)(2)(G)(formerly)
  §10091.8(f)(3)(G)(formerly)
  §10991.8(h)(2)(F)(formerly)
  §10091.9(c)(18)(formerly)
  §10091.12(c)(12)(formerly):
  These subsections were removed. The subsections required Eligible Financial Institutions ("PFIs"), Eligible Finance Lenders ("PFLs"), Participating Contractors, Borrowers, and

Successor Servicers to acknowledge that all the information provided will be true and accurate to the best of the signatory's knowledge.
Necessity: The regulations already require these participants to sign REEL applications by a person authorized to legally bind them.

§10091.1: Definitions.

This section defines and describes the terms used throughout the REEL Regulations. Amendments were made to the following defined terms:

- *§10091.1(c): "Borrower"* was amended to incorporate language that Eligible Improvements can be made to *no more than four units* in an Eligible Property.

  Necessity: This amendment was necessary to move the language that was previously in the definition of "Eligible Property" to this more appropriate definition. This amendment reduces confusion because stakeholder feedback indicated that there was uncertainty about whether a homeowner or renter could upgrade a single unit in a building that contains more than four units. The intent of REEL has never been to limit eligibility to those living in detached properties. This amendment clarifies for participants that REEL financing is available to individual residents, including those living in condominiums, townhomes, and apartments. The intent has also always been that REEL financing should be available to renters, homeowners, or those who may own a small amount of rental property, such as a duplex, where the owner lives in one unit and rents out the other. REEL financing is not intended for real estate companies or commercial property owners looking to upgrade a large number of properties. Corresponding changes were made to the definition of "Eligible Property" in §10091.1(u).

- *§10091.1(f): "Claim-Eligible Principal Amount"* was amended to note that the Claim-Eligible Principal Amount is the principal amount of an Enrolled Loan that qualifies for reimbursement in the event of a charge-off as detailed in §10091.5(f).

  Necessity: This amendment was necessary to clarify the intent of the meaning behind what is considered claim-eligible. It is the portion of the principal amount that a PFI or PFL can submit for reimbursement in the event of a charge-off.

- *§10091.1(k)(formerly): "Credit Enhancement Basis"* was removed.

  Necessity: This amendment was necessary because now that the "net-of-rebate" calculation has been removed (see the former §10091.8(l)(1)(E)), this defined term is no longer needed. This brings the regulations into alignment with the other CHEEF programs.

- *§10091.1(l) and (cc): "Eligible Channel Partner"* or *"ECP"* and *"Participating Channel Partner"* or *"PCP"* roles were created to support their EFI or EFL co-applicant with marketing, deal generation, collecting, and submitting information to CAEATFA, and more.

  Necessity: This amendment was necessary to help facilitate the scale and scope of REEL's growth by allowing for PFIs and PFLs with business models that bring in partners to fulfill some parts of the lending process, such as marketing, deal generation, and data submission, to participate in REEL. Through implementation, CAEATFA has found that many PFIs and

PFLs prefer not to take on the role of screening loans for their corresponding project eligibility under these regulations. Some would prefer to work with a Channel Partner to handle aspects of interaction with REEL so that they can focus on core lending aspects, such as underwriting and servicing. Defining this role allows CAEATFA to formalize and maintain a regulatory relationship with the PCP, as they will be representing REEL to customers and may be submitting loans for enrollment.

- *§10091.1(n): "Eligible Energy Efficiency Measures" or "EEEMs"* was amended to reword the term "IOU, REN, CCA rebate or incentive" as "IOU, REN, CCA energy efficiency or demand response program."

  Necessity: This amendment was necessary to ensure that measures offered by the Investor-Owned Utilities ("IOUs"), Regional Energy Networks ("RENs"), and Community Choice Aggregators ("CCAs") for their energy efficiency or demand response programs, regardless of whether the program includes rebate or incentives, will be financeable through REEL. It is possible for one of these programs to offer energy efficient technology without having a rebate or incentive component. Adding "energy efficiency" is necessary to distinguish from other IOU programs that are not related to energy efficiency, as REEL's focus is on projects with energy efficiency measures.

- *§10091.1(s)(2)(A)-(C) and (s)(3): "Eligible Improvements"* was amended to clarify what types of measures are and are not considered "eligible."

  Necessity: This amendment was necessary to reduce confusion regarding Eligible Improvements, based on experience with implementing REEL and stakeholder feedback. In §10091.1(s)(2)(A), new text clarifies that alterations and improvements that are *legally or practically* required to complete the installation of an EEEM, but which may not themselves be EEEMs, are eligible improvements. The requirement that service be provided by an IOU was updated to specify that electricity or gas is *delivered* by an IOU. This amendment was necessary because properties are eligible for REEL if a CCA or ESP provides service to the property as long as an IOU delivers the fuel. In §10091.1.(s)(2)(B) new text clarifies that *additional related* home improvements include any equipment, alteration, or improvement that is not an EEEM or is an EEEM that utilizes a non-IOU fuel source. This change was necessary to prevent Contractors or Borrowers from being able to install a less efficient version of a measure on the EEEMs list and consider it an "additional related" measure. The new §10091.1(s)(2)(C) was added to include capitalized interest of a refinancing of a pre-existing REEL loan, as refinancing is allowable under certain conditions per the regulations. In §10091.1(s)(3), which excludes distributed generation technology from Eligible Improvements, an update was made to specify that solar thermal is excluded if it generates electricity. This update was necessary because certain passive solar thermal technologies are considered to be energy efficiency measures rather than distributed generation measures.

- *§10091.1(t): "Eligible Loan"* was amended to include the addition of a lease/service agreement. Additional information on Eligible Loans and how the proceeds may be used was moved to §10091.5.

  Necessity: This amendment was necessary to account for an additional eligible financing product, lease/service agreements, that was added to the REEL Program. This financing product will provide more options for customers. Section 10091.5 was a more appropriate

location for the additional information because it reduces confusion and aligns the structure of the Definitions section with the regulations of other CHEEF programs.

- *§10091.1(u): "Eligible Property"* was amended to clarify that owned, rented, or leased units in townhomes, condominiums, and apartment buildings qualify. Language regarding the number of units that can be upgraded was moved to the definition of Borrower, and reference to IOU service was struck as it is more appropriately located in the definition of "Eligible Improvements."

  Necessity: This amendment was necessary because stakeholder feedback indicated that there was uncertainty about whether a homeowner or renter could utilize REEL loans in a building that contains more than four units. This amendment clarifies for participants that REEL financing is available to individual residents, including those in multi-unit properties, such as condominiums, townhouses, and apartments. The definition of "Eligible Borrower" now clarifies that a borrower can upgrade up to four units of property.

- *§10091.1(x)(formerly): "Finance-Only Project"* was removed from the regulations.

  Necessity: This removal was necessary because this definition was obsolete and has no reference anywhere else in the regulation. When REEL launched, this definition was added in the original regular rulemaking process to distinguish between projects that were solely financing their measures without seeking a rebate or incentive.

- *§10091.1(bb), (kk), (ll) (formerly): "Loss Reserve Reservation," "Program Reservation Account," "Project Pre-Approval"* were removed from the regulation.

  Necessity: These amendments were necessary because they refer directly to the "Project Pre-Approval and Optional Loss Reserve Reservation" process (formerly §10091.7). This section was removed from the regulations because the PFIs and PFLs have not utilized these features in over four years and, thus, they are obsolete.

- *§10091.1(aa): "Low-to-Moderate Income"* or "LMI" was amended to clarify that when the census tract method is used to determine whether the Borrower meets low-to-moderate income criteria, it is the property address, rather than Borrower address, that is used.

  Necessity: This amendment was necessary to bring the regulations in-line with current practice. When the PFI or PFL uses census tract as the method to determine if the loan qualifies as underserved, CAEATFA has relied on the project address for consistency in data as opposed to the Borrower's address. Using the property address to determine low-to-moderate income status is imperfect because any individual Borrower may or may not be low income, but it allows CAEATFA to determine, with consistency, how many loan dollars are going to update properties located in low-to-moderate income census tracts. Borrowers do not always live at the properties being upgraded by REEL financing, and CAEATFA neither obtains the Borrower's address nor does CAEATFA know when the Borrower address differs from the property address.

- *§10091.1(bb): "Microloan"* was added as a new type of loan, with a Total Loan Principal Amount of $5,000 or less.

Necessity: REEL allows for loans up to $50,000 and the average loan made through REEL has remained consistent at $17,000. The creation of a "Microloan" was necessary because customers often have a need for small dollar amounts of financing for appliances and other energy efficiency measures. PFIs and PFLs need faster and more streamlined processes than allowed under current regulations to offer smaller dollar loans in a cost-effective manner.

Five thousand dollars is a large enough loan amount to enable a customer to make an appliance purchase in many cases, but small enough that it is appropriate to remove some requirements that make REEL loans cost-prohibitive or burdensome for lenders or prevent REEL financing from being used for online purchases.

As described further in §10091.5(j), §10091.8(c)(10)-(11), and §10091.10(c), PFIs or PFLs will not be required to conduct a debt-to-income check for Microloans, and will only have to provide one utility name and account number. Borrowers will be allowed to hire a professional contractor, but will not be required to hire a REEL Participating Contractor, if the measure they are purchasing is not eligible for self-install.

- *§10091.1(ee) and §10091.1(ff): "Participating Finance Lender" or "PFL" and "Participating Financial Institution" or "PFI"* definitions were amended to reflect and clarify that the Participating Channel Partner is included in these defined terms, if applicable.

  Necessity: These amendments were necessary to link the Participating Channel Partner to the PFI or PFL in a regulatory relationship as they will be working collaboratively to enroll loans in REEL.

- *§10091.1(ii): "Program Holding Account"* was amended to *"Program Holding Account IOU"* to distinguish that this holding account is for the IOU ratepayer funding.

  Necessity: This amendment was necessary for CAEATFA to distinguish between, and maintain separate program holding accounts for, IOU and non-IOU ratepayer funding if the latter becomes available, as described in the new §10091.16. This was necessary to maintain accountability and ensure that the funding from different sources is being allocated properly, with IOU funding credit enhancing energy efficiency measures that benefit IOU ratepayers and non-IOU funding credit enhancing energy efficiency measures benefitting those identified pursuant to that funding source's criteria and rules.

- *§10091.1(pp): "Total Loan Principal Amount"* was amended to clarify that the Total Loan Principal Amount does not include unpaid interest or fees.

  Necessity: This amendments was necessary to remove ambiguity as to what is intended by the term "Principal." The Loss Reserve Contribution is intended to provide risk mitigation for the PFI or PFL on their initial investment for the cost of the project, not for any additional fees or unpaid interest throughout the life of the loan. With the addition of the lease/service agreement option, this amendment will also make clear that the initial investment by PFIs or PFLs to fund projects is what is considered to be the Total Loan Principal Amount.

§10091.2. Eligible Financial Institution 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"), describing the information it must provide in its application and responsibilities under REEL. This section was extensively reorganized to reduce confusion and improve readability (e.g., new subsections for describing the proposed loan programs, underwriting criteria, certifications, acknowledgements, and agreements) as well as obtain additional needed information to evaluate applicants. Substantive changes or additions are detailed below.

- *§10091.2(b)(3):* This subsection was amended to add language that loan officers and staff named in the EFI's or EFL's application are authorized to provide, certify, and submit loan, retail installment contract, or lease/service agreement data. References to "reservations" and "pre-approvals" were also removed.

  Necessity: This amendment was necessary to allow for electronic loan enrollment submissions and to include the expanded financing products in Eligible Loans. References to "reservations" and "pre-approvals" were removed because CAEATFA is removing the pre-approval and loan loss reservation process (see the former §10091.7).

- *§10091.2(b)(4):* This subsection was amended to remove the requirement that EFIs or EFLs indicate that they specifically are applying to the REEL Program.

  Necessity: This amendment was necessary to simplify the application process. Since the application is specifically for the "REEL Program," it is obvious that EFIs and EFLs are applying to the REEL Program.

- *§10091.2(c):* This subsection was amended to add Eligible Channel Partner co-applicant details to the EFI or EFL application.

  Necessity: This amendment was necessary to identify and link EFIs or EFLs and Eligible Channel Partners applying together (see §10091.1(l) and §10091.1(4) for details).

- *§10091.2(d)(3):* This subsection was amended to require the EFI or EFL to include sample transaction documentation with the EFI's or EFL's application.

  Necessity: This amendment was necessary for CAEATFA to understand the EFI's or EFL's loan program. As REEL evolves to accommodate different lending models and support scaling, CAEATFA needs to understand PFI's or PFL's products and ensure they adhere to REEL requirements.

- *§10091.2(d)(4):* This subsection was amended to require EFIs or EFLs to specify what they will finance.

  Necessity: This amendment was necessary because CAEATFA needs to understand, for REEL marketing and communication purposes, to what degree EFIs or EFLs will finance items not covered by the credit enhancement (e.g., solar and storage) and to ensure that the "additional related" measures are in alignment with the scope and purpose of REEL.

- *§10091.2(d)(7):* This subsection was amended to require EFIs or EFLs to describe their loan program's operational and compliance processes.

  Necessity: This amendment was necessary to allow CAEATFA to understand how the EFI or EFL will position the product and conduct its transactions and operations to ensure compliance with REEL's regulations. As REEL evolves to accommodate different lending models and support scaling, CAEATFA wants to provide flexibility with regard to EFI's or EFL's operations and technical abilities, but still ensure adherence to REEL requirements.

- *§10091.2(d)(8):* This subsection was amended to require EFIs or EFLs to identify which Borrower certifications are not pertinent and may be forgone pursuant to §10091.8(e).

- Necessity: This amendment was necessary because stakeholder feedback revealed that some EFIs or EFLs will only finance energy efficiency measures that do not require a permit or professional installation. Allowing the EFI or EFL to identify which certifications are irrelevant and not require them to be presented to the Borrower enables a more streamlined and user-friendly process.

- *§10091.2(d)(9):* This subsection was amended to require EFIs or EFLs to disclose their intention for a loan after enrollment (e.g. hold, sell, transfer, etc.).

  Necessity: This amendment was necessary because it is important that CAEATFA understands 1) what entity(ies) will be benefiting from the Loan Loss Reserve and 2) the degree to which REEL is facilitating a secondary market for energy efficiency loans. This amendment assists CAEATFA with its public reporting and it also aligns with the other CHEEF programs.

- *§10091.2(e)(2)(B):* This subsection was amended to require PFIs or PFLs to certify in their application that, for all forthcoming loans, they will obtain executed REEL certifications and privacy disclosures from Borrowers and Participating Contractors.

  Necessity: This amendment was necessary because, as the program scales to accept a larger volume of loan enrollments, it may not be practical for PFIs or PFLs to submit thousands, or tens of thousands of copies of certifications to CAEATFA prior to loan enrollment. Adding this certification in the EFI or EFL application will provide assurance that they understand their requirements to obtain executed certifications and disclosures from the Borrowers and Participating Contractors prior to submitting an Eligible Loan for enrollment in REEL.

§10091.3. Additional Requirements for Finance Lenders.

This section outlines the additional requirements for an Eligible Finance Lender ("EFL") to include in the application to become a Participating Finance Lender ("PFL"). This section was extensively reorganized to reduce confusion and improve readability (e.g., new subsections for demonstrating the EFL's experience and key operations, and making representations, warranties, and covenants to CAEATFA). This change also brings the REEL regulations more in line with the other CHEEF programs, creating consistency across the CHEEF programs where applicable.

- *§10091.3(a)(2) (formerly):* This subsection was amended to remove a requirement for EFLs to provide proof and maintain motor vehicle liability insurance.

Necessity: This amendment was necessary to bring the regulations up to current industry practice. Stakeholder feedback confirmed that lenders do not travel to project sites and that this type of insurance policy is not something regularly procured anymore. CAEATFA spoke with potential EFLs interested in participating in REEL, and it became clear this requirement did not provide any value to REEL or Borrower protection.

- *§10091.3(c)(2):* This subsection was amended to provide alternative eligibility requirements for EFLs who are not legally required to get a California Finance Lenders License, such as EFLs who will provide the new lease/service agreements. These EFLs must certify they do not require a California finance license, provide evidence of committed capital, and a history of similar transactions.

  Necessity: This amendment was necessary to expand REEL to incorporate additional types of finance companies who can provide Borrowers with varied options while allowing CAEATFA to still verify company capacity and qualifications and ensure consumer protection. CAEATFA spoke with staff at the California Department of Financial Protection and Innovation, the regulatory body that issues California Finance Lenders Licenses (CFLL), to confirm that not all entities offering products meeting the definition of "Eligible Loan" in the regulations require a CFLL. For example, a finance company offering a retail installment contract, operating lease, or service agreement will not necessarily need a CFLL.

  CAEATFA is allowing those companies that do not require a CFLL to participate in REEL, but added guardrails to the regulations to ensure the company has sufficient experience with underwriting and originating the types of products these companies will offer. Requiring the EFL to demonstrate at least $20 million in committed capital for general financing activities was chosen as it demonstrates that financial backers, such as banks or other investors, have vetted the EFL and entrusted it with funds available to lend. This committed capital requirement for EFLs without CFLLs aligns REEL with the other CHEEF programs. Requiring evidence that the EFL has originated at least 500 transactions in similar loans or lease/service agreements was added because that is enough history to show that the EFL has a degree of experience and credibility without excluding newer entrants from REEL.

- *§10091.3(d):* This subsection was amended to clarify the qualifications that the EFL is required to provide in the application to participate in REEL. Reference to home improvement financing was changed to consumer finance. The lease/service agreement was added as it is a new option under Eligible Loan.

  Necessity: This amendment was necessary to provide clear instruction on the requirements. Reference to home improvement financing was changed to consumer finance to allow finance companies with experience with consumer financing, but that may be new to home improvement financing, to participate in REEL.

§10091.4. Channel Partner.

This new section establishes the formal relationship between CAEATFA and an Eligible Channel Partner ("ECP"). It outlines the processes by which an ECP applies to become a Participating Channel Partner ("PCP"), describes the information it must provide in its application and its responsibilities under REEL. This section outlines the required enrollment

information, such as contact information, EFI or EFL co-applicant details, and the precise role the ECP will provide as a PCP; certifications; acknowledgements; and agreements that the ECP must make as part of its combined application with the EFI or EFL.

Necessity: This new section relates to the new definitions of an ECP and PCP. CAEATFA established the PCP role to accommodate additional types of lender business models not currently allowable in REEL, 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 REEL. CAEATFA determined it was necessary to establish a regulatory relationship with the PCP, as the PCP may be involved in promoting or representing REEL to customers, screening borrowers and projects for eligibility, and/or submitting data to CAEATFA for loan enrollments or required reporting.

CAEATFA is entering into a formal relationship with the ECP by establishing an application process requiring the ECP to provide contact information, describe their role and duties, demonstrate their qualifications and experience to take on the types of activities proposed under their joint application with the EFI or EFL, and making certifications, acknowledgements, and agreements that the ECP will follow the regulations. As the ECP is a co-applicant with an EFI or EFL, some of the requirements are the same as in §10091.2 and §10091.3, such as a release of liability, the process once an application has been submitted, and the requirement to update CAEATFA of any changes once enrolled in REEL.

§10091.5. Loan Eligibility and Minimum Underwriting Criteria.

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

- *§10091.5(a)(1):* This section was amended to provide details for a loan.

  Necessity: This amendment was necessary to relocate the details of a loan from §10091.1(t), the definition of Eligible Loan, and to better distinguish the structure of what a traditional loan product is in REEL as CAEATFA adds more financing products to the details of Eligible Loans.

- *§10091.5(a)(2):* This subsection was amended to provide additional details about the legal structure of a retail installment contract.

  Necessity: The amendment was necessary to provide more information for existing and potential PFIs and PFLs and to further differentiate retail installment contracts from a loan and lease/service agreement. CAEATFA received input from staff at the California Department of Financial Protection and Innovation regarding the structure of retail installment contracts.

- *§10091.5(a)(3):* This subsection was amended to add a lease/service agreement as a new Eligible Loan type. A lease/service agreement product provides the Borrower with use of equipment, such as an HVAC system or water heater, in exchange for payments over a

specified term. The functionality of the equipment must be guaranteed if the customer is paying an ongoing service and maintenance fee.

Necessity: This amendment was necessary as new entrants with this business model are emerging in the residential sector, with one company having approached CAEATFA with interest in participating in REEL. Its addition allows CAEATFA to provide more options to customers who may want the accompanying service and maintenance options that these products offer. The functionality guarantee protects consumers from negligence on the part of contractors.

- *§10091.5(c)(2):* This subsection was amended to allow existing Enrolled Loans to be refinanced by the original PFI or PFL.

  Necessity: This amendment was necessary to allow the Borrower to take advantage of better interest rates or undertake additional improvements for their property. One of the intentions of REEL is to reduce costs to the Borrower while investing in energy efficiency home improvements, and this amendment gives opportunity for the Borrower to do that, especially given the decline in interest rates over the last few years.

- *§10091.5(d):* This subsection was amended to require lease/service agreement providers to disclose either the APR or the total project cost for each agreement.

  Necessity: This amendment was necessary because finance companies that offer leases and service agreements tend to communicate their offerings in terms of monthly payments as opposed to interest rates. CAEATFA wants the Borrower to have transparency with all charges associated with a lease/service agreement so a Borrower can make an informed decision, just as they can make an informed decision for a loan or retail installment contract.

- *§10091.5(j):* This subsection was amended to remove the debt-to-income ("DTI") eligibility requirement (55%) if the loan is a Microloan (under $5,000.).

  Necessity: This amendment was necessary to support Microloan lending at scale and at high volume through automation. A DTI check requires a PFI or PFL to collect several data points on a Borrower, including income and monthly expenses. Consultation with stakeholders revealed that achieving the necessary economies of scale means allowing PFIs or PFLs to rely on information efficiently and automatically obtained through a basic credit check. CAEATFA believes these amended requirements are reasonable because smaller loans pose less risk to Borrowers, PFIs or PFLs, and ratepayers than larger loans. PFIs or PFLs also continue to have a financial incentive to prevent defaults based on the structure of the credit enhancement through REEL even if they do not perform a DTI check on smaller loans.

§10091.6. Contractor Qualification and Management.

This section outlines the processes by which an Eligible Contractor applies to become a Participating Contractor, describing the information it must provide in its application and its responsibilities under REEL.

- *§10091.6(a):* This subsection was amended to remove reference to the Center for Sustainable Energy, a REEL vendor, as a provider of REEL training for Contractors.

Necessity: This amendment was necessary because this vendor is no longer performing contractor training.

- *§10091.6(a)(2)-(7):* This subsection was amended to require that Eligible Contractors clarify the types of services they offer and provide affirmation of the appropriate licenses, the geographic area(s) they serve, the languages they speak, their preferred method of contact, and the best way for customers to contact them. Eligible Contractors who wish to have their logo published on CAEATFA's customer-facing website, gogreenfinancing.com, will also be required to grant this permission to CAEATFA.

  Necessity: This amendment was necessary to provide additional useful information for potential Borrowers looking to find a Participating Contractor that meets their needs. This change also brings the regulations up to date with current practice.

- *§10091.6(a)(9):* This subsection was amended to remove a requirement that Eligible Contractors note the location of their REEL training when applying to enroll in REEL.

  Necessity: This amendment was necessary as the data point is no longer required; REEL training used to be conducted in-person at varying locations but is now solely available online.

- *§10091.6(a)(12):* This subsection was amended to remove a requirement about the limits of an Eligible Contractor's commercial general liability insurance policy aggregates.

  Necessity: This amendment was necessary to focus the regulations on the original intent of this insurance requirement. CAEATFA requires that Eligible Contractors have insurance and utilize the industry standard of $1 million per occurrence. Many Eligible Contractors also have a higher aggregate amount, but the original requirement that any aggregate coverage must be two times their occurrence coverage produced an incident where an Eligible Contractor had a $2 million occurrence and a $2 million aggregate and was denied REEL entrance until they reduced the occurrence to $1 million.

- *§10091.6(a)(17):* This subsection was amended to add a new indemnification to the Eligible Contractor application requiring the Eligible Contractor to hold CAEATFA harmless from any and all damages the Participating Contractor may produce.

  Necessity: This amendment was necessary as it provides additional protection for CAEATFA and aligns REEL with the CHEEF Small Business Financing Program.

- *§10091.6(f):* This subsection was amended to add a new training requirement, noting that CAEATFA may annually require up to one hour of REEL-related online training for Participating Contractors.

  Necessity: This amendment was necessary to give CAEATFA the option to provide safety testing training or refresh and/or update Participating Contractors on current and/or new REEL requirements. As REEL continues to develop, it is important for REEL to have a mechanism in place to ensure that Participating Contractors will be kept up-to-date with changes.

- *§10091.6(g)* This subsection was amended to clarify that CAEATFA can remove, not suspend, a Participating Contractor from REEL for fraud or misrepresentation even if the misbehavior was not revealed in an audit or field inspection.

  Necessity: This amendment was necessary to clearly state the intent of this subsection, which is that Participating Contractors can be removed from and no longer associated with REEL for fraud or misrepresentation. As the number of enrolled Participating Contractors is now over 500 across the state, it is prudent to be clear and consistent in communicating REEL's expectations.

§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 REEL.

Necessity: This deletion was necessary because the pre-approval process was burdensome and no PFIs or PFLs have utilized the pre-approval or reservation option since 2017.

§10091.7. Establishment and Funding of Loss Reserve Accounts.

This section outlines the process by which each PFI's and PFL's or Successor Servicer's Loss Reserve Account(s) is established and funded under REEL by the Trustee Bank.

- *§10091.7(a):* This subsection was amended to add the option to establish up to three Loss Reserve Accounts for a PFI, PFL, or Successor Servicer upon request.

  Necessity: This amendment was necessary to enable a secondary market by allowing PFIs, PFLs, or Successor Servicers to maintain separate pools of loans for separate purchasers. This aligns REEL with the other CHEEF programs.

- *§10091.7(b) and (c):* These subsections were amended by moving language regarding how the Loss Reserve Contribution is calculated and for how long an Eligible Loan can be enrolled in REEL from the Loan Enrollment section (§10091.8) to this section.

  Necessity: It is more appropriate for the details of the Loss Reserve Contribution to be in the same section as the credit enhancement details, and aligns REEL with other CHEEF programs.

- *§10091.7(b)(1):* This subsection was amended to clarify that the Loss Reserve Contribution will be 11% or 20% of the Claim-Eligible Principal Amount and not the Credit Enhancement Basis.

  Necessity: This amendment was necessary as CAEATFA is removing the net-of-rebate calculation, and, thus, the Credit Enhancement Basis is no longer relevant. When REEL was first created, there was a concern that customers who received a rebate that was not applied to the project cost would benefit from both the rebate and the credit enhancement. The credit enhancement was, therefore, reduced by the amount of the rebate. This required collecting extra data points and setting up a process for calculations when 1) customers rarely did not

apply the cost of rebates to their projects, 2) rebates have become increasingly uncommon, and 3) the amount was de minimis. CAEATFA launched the other CHEEF programs without this calculation, and this amendment aligns REEL with them.

§10091.8. Loan Enrollment.

This section describes all of the data required for a loan to be enrolled in REEL and CAEATFA's timeframe for reviewing the loan. As CAEATFA prepares to make REEL financing available as part of an online retail marketplace and welcome new business models, CAEATFA is proposing changes to loan enrollment requirements to provide flexibility as to how data is provided to the Program while still ensuring data integrity and compliance.

- *10091.8(b):* This subsection was amended to allow the submission method for all data for loan enrollment to be in "a format approved by the Authority."

  Necessity: This amendment was necessary to set up REEL for electronic data submission and adds flexibility to accommodate different PFIs' or PFLs' technology capabilities and support automation.

- *§10091.8(c):* This subsection was amended in two general ways. First, it was modified to use a table format to more clearly identify the data elements required. Second, it was modified to specify when the Participating Contractor, PFI or PFL, the Borrower, or any of the above is required to supply the data.

  Necessity: This amendment was necessary to allow for flexibility as to which party submits some data points. CAEATFA determined the current regulations to be overly prescriptive as to which party provides what data, and this change allows REEL to accommodate different business models and reduces the data to be submitted by PFIs or PFLs.

  Additionally, the following data points were removed for enrollment: "Building Type," "Utility Commodity Service ID (CSAID)," "Replacement or new" (regarding the EEEM), "Permit number," "Rebate or incentive amount, applicability, anticipated or actual," "Monthly payment amount," "Date of first payment."

  Necessity: This amendment was necessary as these data points were not needed or could be derived from other data points already provided. This change also reduces and streamlines the amount of data required from PFIs or PFLs, reducing their operational burden.

  The following data points were added for enrollment: "Borrower Phone #," "Borrower email," "Borrower name," and "Whether customer enrolled in autopay."

  Necessity: This amendment was necessary to capture Borrower contact information for use in scheduling site inspections and/or engaging in outreach activities to gauge their experience with REEL. Whether or not a Borrower elects to enroll in autopay sometimes affects their interest rate.

- *§10091.8(c)(10)-(11):* These subsections were amended to require the account number(s) of the utility(ies) delivering service to the property whether or not the utility is an IOU. If the

loan is a Microloan, only the name and account number for the utility that corresponds to the fuel source for the EEEM(s) is required.

Necessity: CAEATFA needs to collect account numbers to work with the utilities to determine energy savings from the projects. A uniform requirement for PFIs or PFLs to provide both a gas and electric utility account number(s) is much simpler than PFIs or PFLs deciding which to provide based on project characteristics. For projects that could utilize non-IOU ratepayer funding as described in §10091.16 should it become available, the customer's non-IOU utility information will be needed.

Requiring account numbers for only one utility reduces in-transaction friction for PFIs or PFLs, especially those making a Microloan through online purchases in utility marketplaces where attempting to obtain a second account number pertaining to an unrelated utility is impractical.

- *§10091.8(c)(18):* This subsection of the loan enrollment data table was amended to correct "fuel switch" to "fuel substitution."

  Necessity: This amendment was necessary because the original intent of this subsection was to identify when a measure resulted in the change of one IOU fuel type to another IOU fuel type. Pursuant to CPUC Decision 19-08-009, "fuel switching" refers to a customer changing from a CPUC-regulated fuel to a non-regulated fuel and "fuel substitution" is changing between regulated fuels.

- *§10091.8(e)(1):* This subsection was amended to identify those certifications that are required for all projects. Certifications regarding rebates and the sharing of Borrower information were removed.

  Necessity: This amendment was necessary to clearly list and have one set of certifications common to all projects. This will streamline the enrollment process and reduce confusion on which certifications are required. The removal of the certifications was necessary because of the removal of §10091.8(e)(26) requiring rebate information, and the certification to share Borrower information was redundant of language in §10091.15 California Hub for Energy Efficiency Financing Privacy Rights Disclosure.

- *§10091.8(e)(2):* This subsection was amended to identify additional certifications that are only required for projects where professional installation is required: that the Borrower is hiring a CSLB-licensed contractor or Participating Contractor.

  Necessity: This amendment was necessary to separate out those certifications required for projects requiring a professional installation as opposed to a self-installed project. Requiring certifications that were irrelevant to projects hampered the loan enrollment process and can cause confusion for Borrowers as to why they are seeing those certifications. This amendment streamlines the enrollment process by only requiring the necessary certifications tailored to the type of project.

- *§10091.8(f)(1)(G) (formerly):* This subsection was amended to move permit verification from pre-enrollment to post-enrollment of an Eligible Loan.

Necessity: This amendment was necessary because, as regulations currently stand, any permit numbers associated with a project are submitted in loan enrollment documents, and then further reviewed and, in some cases, verified post-enrollment by the Contractor Manager. Capturing and verifying permit numbers is an administrative burden for currently enrolled PFIs and causes problems for Participating Contractors and PFIs without effectively leading to permit closure compliance. CAEATFA is removing the requirement for Participating Contractors to supply permit numbers at loan enrollment. Instead, CAEATFA will be able to verify permits post-enrollment as described in §10091.10(g).

- *§10091.8(f):* This subsection was amended to change the proof of utility service. References to utility bills for IOUs "servicing the property" were changed to proof of electric or gas "delivery" whether or not the utility is an IOU.

  Necessity: This amendment was necessary because the word "delivery" has a broader meaning and reflects the fact that Community Choice Aggregators (CCAs) offer "service" of energy that is delivered by an IOU. This amendment was also necessary because PFIs or PFLs are allowed to finance measures for any non-IOU fuel within the 30% allowable as described in §10091.5(f)(2), and a uniform requirement for PFIs or PFLs to submit both a gas and electric utility bill for each project is much simpler than PFIs or PFLs deciding which utility bill to submit based on project characteristics. With the addition of §10091.16, if non-ratepayer funding is available to better credit enhance financing for non-IOU fuel measures, the customer's non-IOU utility information will be needed to inform CAEATFA when to use the non-ratepayer funding.

- *§10091.8(f)(1)-(4):* This subsection was amended to add new options to prove electric or gas delivery at the project address for Borrower eligibility.

  Necessity: This amendment was necessary to provide PFIs or PFLs and Borrowers with additional flexibility (e.g., when utility service is new) and removes unnecessary paperwork submission. Some potential Borrowers are clearly served by a particular utility but do not have a recent bill because they have just established service. Homeowners association managers of master-metered accounts in mobilehome parks have been reluctant to turn over utility bills. Additionally, utility implementers who refer customers to REEL are working, by the nature of their contracts, with IOU customers and should not need to provide a utility bill to prove service. REEL will continue to receive account numbers for each loan.

- *§10091.8(l)(1)(E) (formerly):* This subsection was removed from REEL as the "net-of-rebate" calculation is no longer required.

  Necessity: This subsection was removed because when REEL was first created, there was a concern that customers who received a rebate that was not applied to the project cost would benefit from both the rebate and the credit enhancement. The credit enhancement, therefore, was reduced by the amount of the rebate. This required collecting extra data points and setting up a process for calculations. The "net-of-rebate requirement" was removed because 1) customers rarely did not apply the cost of rebates to their projects, 2) rebates have become increasingly uncommon, and 3) the amount was de minimis.

§10091.9. Claims.

This section outlines the process and requirements for PFIs and PFLs to file a claim through REEL.

- *§10091.9(a):* This subsection was amended to clarify that the outstanding Claim-Eligible Principal Amount is not required to include unpaid interest, unpaid late fees, or other unpaid charges.

  Necessity: This amendment was necessary to remove ambiguity and clarify that the intent of the regulations is that the loss reserve will help PFIs or PFLs recoup their initial investments in the event of losses, and nothing more.

- *§10091.9(c):* This subsection was amended to add and remove several data points from the claim application. The following data points were removed from the claim application: "Program Participation ID" and "Address." The following data points were added: "Lender internal loan ID," "Amount of any inchoate losses," and "Whether any acceleration notices have been sent."

  Necessity: These amendments were necessary because the removed data have not been needed during claim processing. The added data points were determined to be useful for claim processing and for when any recoveries are later reported. This amendment will keep the data burden for claim applications as streamlined as possible for PFIs and PFLs.

- *§10091.9(d):* This subsection was amended to clarify the methodology by which post-claim recoveries are applied. Recoveries will be applied first to reasonable collection costs, second to the PFI or PFL making themselves "whole" with regard to principal (the 10% loss that is not covered by the claim payment), third to reimbursing the Program Holding Account IOU, and fourth to reimbursing the PFI or PFL for any inchoate losses.

  Necessity: This amendment was necessary because the lack of clarity around this topic, as well as complicated accounting, resulted in a confusing and difficult process in a recent recovery. With this amendment, there are clear processes on how to apply recoveries. CAEATFA discussed these processes with currently enrolled PFIs as well as with other PFLs interested in participating in REEL to receive their input.

- *§10091.9(f):* This subsection was amended to expand CAEATFA's authority to request additional information related to a charged-off loan in response to receiving a claim, such as payment history, application of payments, and history of collection attempts.

  Necessity: This amendment was necessary to bring the regulations in line with current practice. Lenders have made this data available, and CAEATFA sometimes finds it helpful to see additional data, such as a history of collection attempts, or backup documentation showing non-payment to ensure that the PFI or PFL was practicing industry standards with regard to collection attempts.

§10091.10. Project Requirements.

This section describes measure and project eligibility for REEL, installation and safety testing requirements, and CAEATFA's field verifications and inspections of projects.

- *§10091.10(b) (formerly):* This subsection was removed, which stated that rebates and incentives do not need to be sought for EEEMs.

  Necessity: This deletion was necessary to remove legacy language from REEL's early days. When REEL launched, rebates for energy projects were common and contractors often concluded that rebates or incentives were necessary to obtain financing. Therefore, the regulations clarified that rebates or incentives were not needed. This clarification is no longer necessary.

- *§10091.10(b):* This subsection was amended to remove the requirement that the PFI or PFL capture and submit to CAEATFA a Self-Installer's proof of purchase for each financed EEEM and instead will let the PFI or PFL deem on its own that proof has been provided "to its satisfaction" for both self-installed EEEMs and also additional related home improvements.

  Necessity: This amendment was necessary to reduce the burden on the PFI or PFL to submit a receipt to CAEATFA. This modification will give flexibility to the PFI or PFL to determine its own level of required proof of purchase for self-installed Eligible Improvements.

- *§10091.10(c):* This subsection was amended to 1) allow projects financed with Microloans that include EEEMs not eligible for self-install be performed by Contractors-State-License-Board contractors, whether they are enrolled in REEL or not, instead of requiring a REEL-enrolled Contractor and 2) to clarify the requirement that the Participating Contractor must be enrolled in REEL by the date the PFI or PFL approves the project.

  Necessity: This amendment was necessary as it is expected that Microloans will be used to finance purchases of appliances online through utility marketplaces. It is impractical to enforce that a Borrower will utilize a REEL Participating Contractor when they are making an online purchase, and most appliances, other than water heaters, are already eligible for self-install. Therefore, the effect of this change will be minimal for most small projects. Borrowers still have the option of using a REEL contractor if the Borrower takes out a Microloan.

  To clarify when a Participating Contractor must be enrolled in REEL was necessary to allow the Eligible Contractor time to enroll in REEL while the PFI or PFL reviews customer credit and eligibility prior to approving the credit application. The previous requirement that Participating Contractors must be enrolled prior to starting work on the project created some ambiguity, depending on the Eligible Contractor's processes.

- *§10091.10(d)(formerly):* This subsection was amended by relocating the identification of and requirements for EEEMs eligible for self-install to a new column in the EEEMs table.

  Necessity: This amendment was necessary to parse out the self-installability of EEEMs beyond the previously referenced categories of Title 20 of the California Code of Regulations. CAEATFA wanted the flexibility to make some specific measures within Title

20 categories eligible for self-install but require professional installation for others due to safety or performance concerns as described further in §10091.10(j). The amendment also improves readability and ease of access to information for participants and stakeholders. This change also brings the regulations into alignment with the CHEEF's Small Business Financing Program.

- *§10091.10(e):* This subsection was amended to clarify who supplies the Bill Impact Estimate to the Borrower.

  Necessity: This amendment was necessary because, with the addition of the Participating Channel Partner and incorporation of finance companies with different business models, it does not make sense to restrict the provision of the Bill Impact Estimate to only the Participating Contractor.

- *§10091.10(f)(1):* This subsection was amended to refine the triggers for a safety test so that a safety test is required when measures are most likely to present a combustion safety issue.

  Necessity: This amendment was necessary because the original requirement to test when a third EEEM was installed meant that an arbitrary measure, such as a pool pump, could trigger a combustion safety test. Participating Contractors told CAEATFA that these rules were frustrating and confusing and did not necessarily increase in-home safety for Borrowers. Through extensive outreach to CAEATFA's industry consultant and contractor manager, IOUs, and other industry experts on safety testing, it was identified that atmospherically-vented combustion appliances within the home posed the greatest risk when the home also underwent an air or duct sealing/replacement.

- *§10091.10(2):* This subsection was amended to include training that is proficient in the generally accepted standards for combustion safety and ventilation testing to qualify a Participating Contractor to conduct the safety testing.

  Necessity: This amendment was necessary because the Natural Gas Appliance Testing (NGAT) is a training that contractors receive if they participate in an IOU program, but the training does not certify contractors in safety testing. Not all contractors participate in IOU programs need the extensive certification provided by the Building Performance Institute, and CAEATFA needed another way to include contractors who are proficient and have been trained in generally accepted industry standards, such as that which NGAT provides.

- *§10091.10(g):* This subsection was amended to simplify descriptions of how projects will be verified and to clarify that as part of project reviews, REEL may undergo a desktop review and request project-related documentation from Contractors.

  Necessity: This amendment was necessary because the current inspection process is overly detailed and prescriptive as to exactly how many onsite inspections occur and does not allow for photo or video review, which has become the norm during the Covid-19 pandemic and is efficient and effective. This change provides needed flexibility and allows REEL to prioritize certain types of projects for onsite inspections. This change aligns REEL with the other CHEEF programs.

- *§10091.10(j):* This subsection was amended to improve the readability of the EEEMs table and remove, add, and amend some measures.

References to Titles 20 & 24: All references to the eligibility standards for unique EEEMs in Title 20 and Title 24 of the California Code of Regulations were removed from the EEEMs table, and new language was added in §10091.10(j) clarifying that all projects must comply with Title 20 and/or Title 24.

Necessity: This amendment was necessary to improve readability, allow CAEATFA to draw attention to measures that are specifically above code (e.g., Energy Star), and align the table with the other CHEEF programs.

EEEM eligibility based on IOU/REN/CCA "rebate" and "incentive": All mentions of EEEM eligibility based on an IOU/REN/CCA "rebate" and "incentive" were changed to "energy efficiency program."

Necessity: This amendment was necessary as it is possible for one of these programs to offer energy efficient technology without having a rebate or incentive attached, and CAEATFA intends for REEL to support these other ratepayer-funded programs. "Energy Efficiency" is necessary to distinguish from other IOU and state programs for solar, etc.

Self-installability of several EEEMs: Gas Dryers and Window Film were changed to allow for self-install. Water Heaters were changed to require professional installation.

Necessity: This amendment was necessary because while Borrowers can choose to hire contractors to install gas dryers and window film, these EEEMs are able to be installed by Borrowers with relatively low safety risk or risk of hampering efficiency performance. Given the complexity and safety risks for installing water heaters, and the risk of reduced savings if installed incorrectly, CAEATFA now requires professional installation.

Fuel source eligibility: The word "IOU" was removed as an eligibility qualifier for fuel sources for EEEMs in this subsection and in the EEEMs table.

Necessity: This amendment was necessary as this change will allow EEEMs fuel source eligibility to potentially expand beyond IOUs should CAEATFA access additional non-IOU ratepayer funding and apply it as described in §10091.16.

New Eligible Energy Efficiency Measures (EEEMs):

New EEEMs added to the EEEMs List	
Water heating - Tank and pipe insulation	HVAC - Air filter upgrade (with efficient fan motor)
Appliances - Range hoods ENERGY STAR	HVAC - Air filter alarm or sensor
Appliances - Induction range or cooktop	HVAC - Ventilation fan ENERGY STAR
Building envelope - Insulated siding	HVAC - Diagnostic or fault detection alert
Pool Products - Pool cover	HVAC - Duct sizing or optimization
Appliances - Convection oven (gas)	HVAC - Fan or motor control
Appliances - Convection oven (electric)	HVAC - HVAC tune-up
Lighting - LED tape lighting	HVAC - ECM furnace fan motor
Lighting - LED light bulbs	Other - Other measures qualifying through IOU/REN/CCA Programs – Self-Install
Demand Response – Thermal energy storage (TES) system	

Necessity: This amendment was necessary as stakeholders requested new measures that are energy efficient be allowed in REEL to provide more options to Borrowers. CAEATFA's technical consultant verified that these measures are highly likely to result in energy savings when installed in the vast majority of homes.

§10091.11. Reporting.

This section describes the reporting requirements for PFIs, PFLs, and Successor Servicers in REEL.

- *§10091.11(a):* This subsection was amended and the following data points were removed from the monthly loan performance reporting requirement: "Program Participation ID," "Original Total Loan Principal," and "Updated Payment Amount." The data points of "Inchoate losses or acceleration notices" and "Date(s) of charge-off for any charge-offs and if enforcement proceedings have begun" were moved to be collected as part of a claim application. The loan status data point was updated to add "120 days past due" to align with PFI, PFL, and Successor Servicer reporting practices. New data points were added to distinguish the reporting period, date the report was issued, and updated interest rate, if applicable.

  Necessity: These amendments were necessary to ameliorate a sometimes burdensome reporting process for PFIs, PFLs, and Successor Servicers and to allow PFIs, PFLs, and Successor Servicers to generate loan performance reports automatically from their systems. The data that was removed, after analysis, was deemed superfluous for REEL's reporting needs. Similarly, data points moved to the claim application were not necessary to receive monthly and are only likely to be relevant in the event of a default and claim. The PFIs and

PFLs currently participating in REEL are already voluntarily supplying the 'new' data points, so this change brings the regulations in alignment with current practice.

- *§10091.11(b):* This subsection was amended to require the PFIs and PFLs to make a "good faith effort" to provide REEL with several loan program activity and marketing data points upon request from CAEATFA, but not more than monthly.

  Necessity: This amendment was necessary to bring the regulations in line with current practice and the other CHEEF programs. The data is valuable for CAEATFA's marketing and public reporting efforts. These changes also allow CAEATFA to capture information on promotions, such as delayed first payments, etc., as they occur. The data captured in §10091.11(b)(4) in particular has been important for CAEATFA to demonstrate the value of the credit enhancement to customers.

- *§10091.11(c):* This subsection was amended to clarify the requirement that PFIs and PFLs must annually report any material changes to their original application, referencing not only the original application but also any updated certifications or modifications to their approved product.

  Necessity: This amendment was necessary to close a small gap in the directions on reporting. It also ensures CAEATFA is kept up to date on how the PFI or PFL positions their product(s).

- *§10091.11(d)(5):* This subsection was amended to amend the requirement that PFIs and PFLs must continually report recovery data with the monthly performance report. Instead they will report recoveries as they occur. When the PFI and PFL does report a recovery, they will report the gross recovery amount and the net amount reimbursable to their Loss Reserve Account.

  Necessity: This amendment was necessary because recoveries do not happen frequently. It is an unnecessary burden to require PFIs and PFLs to report that no recoveries have been made each month. The new requirement that they report the gross recovery amount and the net amount reimbursable to their Loss Reserve Account stems from the fact that, in practice, CAEATFA has found it necessary to understand both gross and net recoveries.

§10091.13. Termination and Withdrawal.

This section describes the processes and requirements by which a PFI, PFL, or Successor Servicer may withdraw or be terminated from REEL.

- *§10091.13(b):* This subsection was amended to clarify that, if a PFI, PFLs or Successor Servicer withdraws from REEL, the remaining Loss Reserve Account funds in that PFI, PFL, or Successor Servicer's account can transfer to another PFI, PFL, Successor Servicer, or CAEATFA's Program Holding Account-IOU.

  Necessity: This amendment was necessary to align this subsection with the current intent of REEL. In the 2018 rulemaking of REEL, the credit enhancement structure was changed allowing for one account to hold program funds from all four of the IOUs rather than each of the IOUs having individual program holding accounts for their respective funds. This

amendment also allows for the transfer of Loss Reserve Account funds aligning this subsection with §10091.12(b).

§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 CHEEF, informing them that certain information may be shared with utility companies and other state or federal agencies.

- *§10091.15(a):* This subsection was amended to allow the method by which the Borrower acknowledges receipt of the privacy rights disclosure to be in "a format approved by the Authority."

  Necessity: This amendment was necessary to allow for PFIs or PFLs to receive certifications for disclosures through their own electronic platforms. This adds flexibility to accommodate different PFIs' and PFLs' technology capabilities and to support automation where feasible. Staff has received requests from current participants and interested parties on allowing for data transmission in various electronic formats that are effective and provide for consumer protection.

- *§10091.15(a)(1)(G):* This subsection was amended to inform the Borrower that data related to the equipment or improvements funded with the proceeds of the loan, including costs, permit information, and shipping dates, may be disclosed to CAEATFA.

  Necessity: This subsection was amended to reflect the fact that contractors provide permit and cost information to CAEATFA and that, as part of REEL being offered via utility online marketplaces, CAEATFA may come into possession of data related to product shipping dates.

- *§10091.15(a)(1)(H):* This subsection was amended to replace the customer service agreement identification number on the Borrower's utility bill with the "utility account" number.

  Necessity: This amendment was necessary because utilities are able to provide energy usage data to CAEATFA using the utility account number without also receiving the service agreement number. This provides an operational efficiency and reduces the administrative burden of collecting multiple data points related to utility account numbers.

- *§10091.15(a)(1)(J):* This subsection was amended to inform the Borrower that CAEATFA may come into contact with data provided by the PFI, PFL, or PCP as part of their own quality assurance process or via satisfaction surveys.

  Necessity: This amendment was necessary to accommodate data potentially available to CAEATFA as part of REEL being offered via marketplaces and post-project surveys planned by potential PCPs.

§10091.16. Conditional Eligibility Expansion.

This new section was added to describe what CAEATFA will do if CAEATFA secures funding for REEL from a non-IOU ratepayer source. If CAEATFA is able to secure that funding, CAEATFA will 1) establish a non-IOU program holding account(s) that will hold funds allocated for credit enhancements, 2) maintain an interested parties list, 3) expand the type of equipment and corresponding costs that will count toward the required Claim-Eligible Principal Amount, 4) publish when this additional funding is available and the criteria for expanded eligibility, and 5) offer the credit enhancement for loans financing REEL projects on a first-come first-serve basis. The section also explains that funding may come from various types of government agencies or a nonprofit organization.

Necessity: CAEATFA has been exploring the procurement of additional sources of funding, beyond IOU ratepayer funds, to solve a gap in REEL's ability to serve state residents, scale, and meet the State's carbon reduction goals. Because to date REEL has been an IOU ratepayer-funded program and supports energy upgrades that correspond to an IOU fuel source, customers that are served by a Publicly-Owned Utility (POU) have not been eligible to finance electric energy efficiency measures or measures that result in fuel substitution from gas to electricity, like the adoption of heat pumps. However, there are over 40 POUs providing electricity in the state.

This results in a web of complex eligibility requirements, causing confusion for Participating Contractors and PFIs. For example, financing for a cool roof, which is intended to reduce electricity consumption, is eligible for a credit enhancement in West Sacramento (where Pacific Gas & Electric (PG&E) provides both gas and electric service), but not in Sacramento (where PG&E provides gas service and the Sacramento Municipal Utility District provides electric service). One result of this complexity is a burden on PFIs who must become familiar with IOU and POU jurisdictional boundaries and specific measures and their corresponding fuel sources, and then analyze each project for its unique combinations of gas and electric service providers, measure costs, and measure fuel source. The cost of this burden is overall fewer transactions, even in IOU territories.

Securing a non-IOU ratepayer source of funding for REEL credit enhancements mitigates much of the complexity described above. State residents who have IOU gas providers but POU electricity providers will be allowed to make decarbonization upgrades in line with the State's climate change goals. CAEATFA would be able to use non-IOU ratepayer funds as Loss Reserve contributions when a customer project was electric in nature or resulted in fuel substitution from gas to electricity – and that customer was not served by an electric IOU. CAEATFA has identified a few potential sources of credit enhancement for REEL, including another program funded under the mechanisms provided through the State's Cap and Trade Program to promote electrification. Federal funding or funding from some of the POUs are also potential sources.

Because additional funding sources may differ from one to the next in terms of the measure eligibility expansion they will facilitate and because additional funding sources may come and go, it is necessary to have a new section that specifies broadly what will happen when CAEATFA secures new funding.

The necessity for specific provisions of §10091.16 are included below:

§10091.16 (a)(1): This provision was necessary to create separate, new non-IOU program holding accounts, which will be required to segregate Loss Reserve Contribution funding between IOU ratepayer and non-IOU-ratepayer sources so that those funds are clearly identifiable and are not commingled between sources.

§10091.16 (a)(2): This provision was necessary to enable CAEATFA to establish an interested parties list with whom to share information about the availability of additional funding and an equipment eligibility expansion. The interested parties list will be notified when a non-IOU-ratepayer source of funds has been procured for use in REEL and will identify and describe any conditions on use of the funds that are put in place by specific funding sources.

§10091.16 (a)(3): This provision was necessary to make clear that non-IOU-ratepayer funding described in this §10091.16 will allow additional equipment, beyond what is currently allowed, to be applied toward the 70% Claim-Eligible Principal Amount (CEPA) and that the source of the funding, not CAEATFA, will determine the criteria for expanded eligibility. The current regulations require 70% of the CEPA to fund EEEMs that correspond to an IOU fuel source. However, if CAEATFA were to secure credit enhancement funding from a POU, then it is likely that the POU funding could be used to allow EEEMs corresponding to the POU fuel source to count toward the 70% of the CEPA for that particular POU's service area. However, not all funding sources are going to set the same criteria. For example, a federal funding source is likely to allow its funds to be used as a credit enhancement for loans with measures corresponding to POU fuel sources, in any POU jurisdiction across the state, but may limit the use to particular measures on the EEEMs list.

§10091.16 (a)(4): This provision was necessary to establish that CAEATFA will publicize and provide notice to the public, as well as Participating Contractors, PFIs, or PFLs, of the criteria put in place by the funding source and how that criteria will impact eligibility for particular measures in particular utility jurisdictions. For example, should a POU decide to provide funding that is limited to Loss Reserve Contributions for loans to customers in their particular service area, that criteria will be published on CAEATFA's website and the interested parties list will be notified when the website is updated.

§10091.16 (a)(5): This provision was necessary to make it clear that CAEATFA will use the additional funding for Loss Reserve Contributions on a first-come first-serve basis as loans are enrolled in the Program.

Documents Relied Upon

- CPUC Decision 13-09-044, Decision Implementing 2013-2014 Energy Efficiency Financing Pilot Programs
- CPUC Decision 17-03-026, Addressing Energy Efficiency Financing Pilot Programs Originally Ordered in Decision 13-09-044
- CPUC Resolution E-5072, Disposition of the Residential Energy Efficiency Assistance Loan Program ("REEL") pursuant to Decision 17-03-026
- CPUC Decision 19-08-009, Decision Modifying the Energy Efficiency Three-Prong Test Related to Fuel Substitution

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 CAEATFA 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 CAEATFA.

Costs to Any Local Agency or School District That Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630

The Executive Director of CAEATFA 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)).

Other Nondiscretionary Cost or Savings Imposed on Local Agencies

The Executive Director of CAEATFA has determined that the Emergency Regulations do not impose any additional mandated cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 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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