

**CALIFORNIA ALTERNATIVE ENERGY AND  
ADVANCED TRANSPORTATION FINANCING AUTHORITY (CAEATFA)**

Board Meeting Date: Tuesday, September 16, 2025

***Request to Approve Modifications to the GoGreen Business Program  
Under the Emergency Rulemaking Process***

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**REQUEST**

Staff requests approval to adopt modifications to regulations (Regulations) for the GoGreen Business Program (“Program”) under the emergency rulemaking process. CAEATFA’s proposed modifications improve Program rules related to the multifamily program and include project enrollment timeframes; security interest for Affordable Multifamily Customer projects; project eligibility requirements; and the structure and pace of loss reserve contributions.

**BACKGROUND**

CAEATFA administers the California Hub for Energy Efficiency Financing (CHEEF) on behalf of the California Public Utilities Commission (CPUC). CHEEF operates three energy financing Programs: GoGreen Home, GoGreen Business, and the GoGreen Multifamily, funded by investor-owned utilities (IOUs) ratepayer surcharges.

In 2013, the CPUC collectively authorized the pilot programs to support the State’s broader energy efficiency and environmental policy goals through leveraging private capital for energy retrofits. Launched in 2019, GoGreen Business was the second of the energy efficiency financing pilot Programs developed by CAEATFA and targets the small business sector. GoGreen Business offers finance companies a credit enhancement in the form of a Loss Reserve Contribution for every enrolled financing agreement.

In 2024, the GoGreen Business Program incorporated the GoGreen Multifamily Program into a single set of regulations for simplicity of administration. The GoGreen Multifamily Program has slow project flow and staff have solicited input from community lenders in the affordable multifamily space as well as networks of multifamily housing owners and other affordable housing advocates to seek ideas to better align the Program’s approach with typical lending practices for multifamily retrofits. This input included requests for extended timelines for submission due to the complexity of funding for these projects, simplified eligibility for energy measures to keep costs down, allowing security against real property to help qualify projects for credit, and an increased rate of loss reserve funding to help multifamily lenders achieve greater coverage.

## **OVERVIEW OF MODIFICATIONS**

The aforementioned proposed changes necessitate the modification of GoGreen Business regulations, specifically, §10092.1, §10092.2, §10092.5, §10092.7, §10092.8, and §10092.9.

### *Outreach for GoGreen Business Regulatory Action*

CAEATFA staff regularly solicits feedback from Participating Contractors and Finance Provider Entities and carefully monitors Enrolled Financing Agreement data to understand Program performance. Early stakeholder feedback is represented in these proposed modifications. On August 25, 2025, CAEATFA held a public workshop to further solicit stakeholder feedback on the proposed amendments.

## **PROPOSED MODIFICATIONS TO REGULATIONS**

Below is a brief description of each of the substantive changes to the Regulations. The specific modifications to the regulations can be found in Attachment A, denoted in strikethrough and underlined text.

### **§10092.1. Definitions.**

This section defines terms used throughout the regulations.

- §10092.1(vv): An amendment was made to clarify that the definition of Multifamily Property may include a property with multiple buildings.

Necessity: This amendment clarifies the definition to align with a common structure of apartment complexes with several buildings on the same property.

### **§10092.2. Finance Entity Enrollment.**

This section defines and describes the Finance Provider Applicant and Finance Provider Entity roles, application process, and enrollment process of the GoGreen Business Program.

- §10092.2(c)(6)(D): An amendment was made to extend the final funding deadline to 12 months for multifamily installations.

Necessity: This section was amended to align with industry standard practices to allow a longer time interval between completion of installation and the conversion of the construction loan into a long-term loan. Final funding of the financing agreement is not required at submittal for enrollment, this amendment allows greater flexibility in completing the funding of the loan.

**§10092.5. Eligible Financial Products.**

This section defines and describes the required financial terms for Eligible Financial Products of the GoGreen Business Program.

- *§10092.5(b)(2)*: An amendment was made to clarify that refinancing agreement requirements do not apply to construction-to-permanent financing agreements.

Necessity: The rule against refinancing exists to prevent customers from benefiting from enhanced financing for projects which were previously installed outside of the Program and is not intended to prohibit construction loans as part of financing a single retrofit project. This section was amended to be in alignment with industry standard practices.

- *§10092.5(b)(5) and (6)*: An amendment was made to remove a rule prohibiting security against real property, and to simplify eligibility by removing specific requirements on the type of security.

Necessity: This amendment allows lenders flexibility in the type of security interest that may be taken on financing agreements in the Program and allows security against real property which is standard practice in multifamily lending.

**§10092.7. Project Eligibility**

This section outlines the eligibility requirements for projects to be eligible for the GoGreen Business Program.

- *§10092.7(a)(4)*: An amendment was made to exclude multifamily installations from a maximum of \$350,000 of non-lighting measures qualifying via the Eligible Energy Measures List.

Necessity: This amendment allows a simplified approach to measure eligibility for installations at multifamily properties to reduce project costs. The additional rigor of requiring an energy professional's certification is not needed for multifamily properties due to the consistency of the energy measures being installed.

- *§10092.7(b)(3)*: An amendment was made to clarify that Eligible Energy Measures qualifying via the certification of an energy professional are in accordance with industry standards.

Necessity: This section was amended to include industry standards which enables better enforcement of best practices in energy savings and generation projections.

### **§10092.8. Financing Submittal and Enrollment**

This section outlines the submittal and enrollment requirements for projects to be enrolled in the GoGreen Business Program.

- *§10092.8(a)(2)*: An amendment was made to extend the time for submittal for multifamily installations.

Necessity: This amendment allows a longer submittal time to accommodate industry standard practices for construction-to-permanent financing agreements for multifamily installations.

- *§10092.8(b)(2)(OO)*: An amendment was made adding the Energy Professional's estimate.

Necessity: This amendment clarifies that the data regarding greenhouse gas reductions are estimates, consistent with other data points in this section.

- *§10092.8(b)(3)(E)*: An amendment was made to clarify that energy usage and greenhouse gas emissions estimates are in accordance with industry standards.

Necessity: This section was amended to include industry standards which enables better enforcement of best practices in energy savings and generation projections.

- *§10092.8(b)(3)(E)(iv)*: An amendment was made to clarify and simplify requirements on battery storage.

Necessity: This amendment makes the Energy Professional's certification consistent with requirements regarding battery measures listed in section 10092.7.

### **§10092.9. Credit Enhancement**

This section outlines the establishment of and contributions to Financial Provider Entities' Loss Reserve Accounts related to Projects that are enrolled in the GoGreen Business Program.

- *§10092.9(c)(2)(A)*: An amendment was made to change loss reserve calculations for multifamily installations from a tiered structure to a contribution of 10%, and to allow both affordable and market rate multifamily to receive the same loss reserve contributions. *§10092.9(c)(2)(A)(i)* was revised and moved to *§10092.9(c)(2)(A)*.

Necessity: This amendment streamlines the calculation for loss reserve contributions and accelerates growth of loss reserves for lenders financing

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multifamily installations. This also allows unsubsidized multifamily housing to benefit from the same loss reserve contributions as affordable multifamily.

- §10092.9(c)(2)(B): An amendment was made to clarify language by using defined terms.

Necessity: This amendment makes regulations language more consistent by using defined terms.

## **REGULATORY PROCESS TIMELINE**

*All of the future dates below are tentative and subject to change.*

|                    |                                                                                                                                                     |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| September 16, 2025 | CAEATFA Board reviews and approves proposed modified Regulations.                                                                                   |
| September 19, 2025 | CAEATFA posts the Finding of Emergency and begins the 5-day notice period.                                                                          |
| September 24, 2025 | Emergency regulations are submitted to Office of Administrative Law (OAL) for review. OAL has 10 calendar days to review the Emergency regulations. |
| October 4, 2025    | OAL decision for approval of emergency regulations. Emergency regulations become effective for 180 days upon filing with the Secretary of State.    |

## **RECOMMENDATION**

Staff recommends the adoption of Resolution No. 25-09-4.C to authorize the Chair and the Executive Director to adopt the emergency regulations for the Small Business Energy Efficiency Financing Program.

**Attachment:** Attachment A: Proposed Amended Regulations. Modifications for Board consideration are shown with strikethrough and underlined text.

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED  
TRANSPORTATION FINANCING AUTHORITY APPROVING MODIFICATIONS TO  
REGULATIONS AND OTHER RELATED ACTIONS TO IMPLEMENT THE  
COMMERCIAL ENERGY EFFICIENCY FINANCING PROGRAM**

**September 16, 2025**

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (“Authority”) is authorized by Section 26009 of the Public Resources Code to adopt emergency regulations to implement and make specific the statutory provisions governing the Authority; and

WHEREAS, the Authority has determined that, under its Memorandum of Agreement with the Public Utilities Commission and its contract with the investor-owned utilities to serve as the manager of the California Hub for Energy Efficiency Financing, it is necessary to adopt modifications to the current Program regulations (the “Regulations”) to implement the Commercial Energy Efficiency Financing Program (Article 6 (commencing with Section 10092.1) of Title 4 of the California Code of Regulations).

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority as follows:

Section 1. The proposed modified Regulations, on file with the Authority, are hereby approved. The Chair and Executive Director are hereby authorized to file the Regulations, with the supporting documentation required by law, with the Office of Administrative Law as regulations in the form currently on file with the Authority.

Section 2. The Chair and Executive Director are hereby authorized to proceed with the public notice and comment procedures required by the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) prior to submitting emergency and regular regulations to the Office of Administrative Law and completing the rulemaking process.

Section 3. The Chair and Executive Director are hereby authorized to take the actions necessary for the adoption of the Regulations, including making any necessary changes to the Regulations to secure approval by the Office of Administrative Law, and to execute and deliver any documents and take any steps the Chair and Executive Director may deem necessary or advisable to effectuate the purposes of this resolution.

Section 4. This resolution shall take effect immediately upon its approval.

**ATTACHMENT A:**  
**Proposed Amended Regulations**

CALIFORNIA CODE OF REGULATIONS  
Title 4. Business Regulations  
Division 13. California Alternative Energy and Advanced Transportation Financing Authority

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED  
TRANSPORTATION FINANCING AUTHORITY  
REGULATIONS IMPLEMENTING  
THE COMMERCIAL ENERGY EFFICIENCY FINANCING PROGRAM

**EFFECTIVE ~~XXXX XX~~, 2025**

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**Section 10092.1            Definitions**

- (a) “Affordable Multifamily Customer”: An entity who enters into an Eligible Financing Agreement with a Finance Provider Entity for the purpose of completing a Project installed at a Multifamily Property which:
  - (1) Is subject to a recorded affordability deed restriction or covenant, with at least 5 years remaining on the recorded affordability deed restriction or covenant, such that the property owner is required to keep rents affordable; and
  - (2) Is restricted to occupancy for at least 50% of the total units to households meeting the requirements of the income limits no greater than “moderate,” published annually in the California State Income Limits by the California Department of Housing and Community Development in California Code of Regulations, Title 25, Section 6932.
- (b) “Authority”: California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code, or its agent.
- (c) “Battery Storage”: Technologies capable of storing and discharging electric energy. Battery Storage does not include thermal or mechanical energy storage.
- (d) “Bill Impact Estimate” (BIE): An estimate of the anticipated energy cost savings that are expected to result from the installation of Eligible Energy Measures, which is provided by either the Participating Project Developer, the Participating Contractor, or the Finance Provider Entity to the Eligible Commercial Financing Customer prior to work being performed on the Eligible Property(ies).
- (e) “Capitalized Interest”: Accrued interest from a previous finance agreement for a Project (such as a construction loan or down payment loan) where the interest has been added to the Total Financed Amount of an Eligible Financing Agreement.
- (f) “CHEEF Financing Identifier” or “CHEEF Financing ID”: An identification number associated with an Enrolled Financing Agreement created by the Authority and provided to the Finance Provider Entity at the time the financing is approved for enrollment in the Program.
- (g) “Claim-Eligible Charge-Off Amount”: The Total Charge-Off Amount multiplied by the Claim-Eligible Ratio.
- (h) “Claim-Eligible Financed Amount”: The portion of the Total Financed Amount that is eligible for reimbursement in the event of a charge-off. The Claim-Eligible Financed Amount is limited to \$1 million. At least 70% of the Claim-Eligible Financed Amount must be used to fund Eligible Energy Measures as described in 10092.7(b). Non-Energy Components are limited to 30% of the dollar value of the total Claim-Eligible Financed Amount. The Claim-Eligible Financed Amount is equal to the Total Financed Amount less Non-Energy Components beyond the allowable 30%.
- (i) “Claim-Eligible Ratio”: The ratio of the original Claim-Eligible Financed Amount to the original Total Financed Amount.
- (j) “Commission” or “CPUC”: The Public Utilities Commission established pursuant to Article XII of the California Constitution.
- (k) “Community Choice Aggregator” (CCA): A Community Choice Aggregator as defined in Section 331.1 of the Public Utilities Code.

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- (l) “CSLB”: The Contractors State License Board established pursuant to the Contractors State License Law (Chapter 9 commencing with Section 7000 of Division 3 of the Business and Professions Code).
- (m) “Delayed Bill”: A delay of the date on which a utility is scheduled to send a monthly bill to an OBR Customer, as reported by the utility to the Authority.
- (n) “Demand Response” (DR): Reductions, increases, or shifts in electricity consumption by customers in response to either economic or reliability signals. Economic signals come in the form of electricity prices or financial incentives, whereas reliability signals appear as alerts when the electric grid is under stress and vulnerable to high prices. Demand Response programs aim to respond to these signals and maximize ratepayer benefit.
- (o) “Distributed Generation” (DG): Technologies that generate or store energy at or near the site where it will be used. Distributed Generation may serve a single structure or it may be part of a microgrid. Technologies classified as Distributed Generation systems include, but are not limited to, solar photovoltaic, wind power, hydropower, biomass, fuel cells, combined heat and power, and Battery Storage.
- (p) “Eligible Commercial Financing Customer”: Either a qualifying Affordable Multifamily Customer or an Eligible Small Business Financing Customer that enters into an Eligible Financing Agreement with a Finance Provider Entity for the purpose of completing a Project. The entity or individual is not required to own the Eligible Property. Customers that do not meet the definition of Affordable Multifamily Customer or Eligible Small Business Financing Customer may qualify pursuant to Section 10092.16.
- (q) “Eligible Contractor”: An individual or entity that meets the requirements specified in Section 10092.4(b)(1).
- (r) “Eligible Energy Measure” (EEM): Any Energy Efficiency, Distributed Generation, Battery Storage, or Demand Response measure including alterations and improvements that are legally or practically required to complete the installation of the Eligible Energy Measure. This includes energy audits that meet the Authority's requirements as specified on the Eligible Energy Measure List. An EEM must utilize, conserve, store, or produce a fuel provided by an IOU, CCA, or ESP at the Eligible Property.
- (s) “Eligible Energy Measure Identifier” or “EEM ID”: A unique identifier assigned by the Authority to each measure contained within the EEM List.
- (t) “Eligible Energy Measure List” or “EEM List”: The list of pre-qualified Eligible Energy Measures as defined in Section 10092.14, with corresponding requirements, fuel type designations, and Self-Installer eligibility, published by the Authority.
- (u) “Eligible Financing Agreement”: An agreement made between a Finance Provider Entity and an Eligible Commercial Financing Customer to finance a Project. The agreement may not be for the construction or purchase of a building. The agreement must meet the definition of either an Eligible Lease or Eligible Equipment Financing Agreement, Eligible Loan, Eligible Service Agreement, or Eligible Savings-Based Payment Agreement. The Eligible Financing Agreement must meet the requirements specified in Section 10092.5(b).
- (v) “Eligible Lease” or “Eligible Equipment Financing Agreement”: An agreement that provides the Eligible Commercial Financing Customer with Eligible Energy Measures in

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- exchange for payments in amounts that are due according to a schedule established in the agreement. The payments must result in full satisfaction of the obligation. Those payments are made to the Finance Provider Entity or its assignee for a specified term. Title to the equipment may transfer at the beginning or end of the term.
- (w) “Eligible Loan”: An agreement that provides the Eligible Commercial Financing Customer with ownership of Eligible Energy Measures in exchange for payments in amounts that are due according to a schedule established in the agreement. Those payments must result in full satisfaction of the obligation. Those payments are made to the Finance Provider Entity or its assignee for a specified term. Eligible Loans must be closed end loans; no revolving lines of credit will qualify.
- (x) “Eligible Project Developer”: An individual or entity that meets the requirements specified in Section 10092.4(b)(2).
- (y) “Eligible Property”: A property that is used for commercial activities. If the purpose of the business is residential housing, the property must meet the definition of a Multifamily Property.
- (z) “Eligible Savings-Based Payment Agreement”: An agreement that provides the Eligible Commercial Financing Customer with Eligible Energy Measures in exchange for regular payments to the Finance Provider Entity or the Finance Provider Entity’s assignee. The term may be specified by a number of months or may run until payments have reached a specified amount. The agreement must satisfy all of the following criteria:
- (1) Savings will be measured and verified no less than annually;
  - (2) Total monthly energy and efficiency charges for the Eligible Commercial Financing Customer must be projected to be "cash flow positive," based on industry-accepted estimates, meaning: allowing for seasonal variations, the combined monthly energy expense (gas and electric) along with all projected monthly Eligible Savings-Based Payment Agreement charges is projected to be less than the Eligible Commercial Financing Customer's pre-project monthly energy expense;
  - (3) The Eligible Commercial Financing Customer will share in benefits if actual savings exceed projected savings; and
  - (4) The Eligible Commercial Financing Customer does not bear risk in the event that savings are less than projected.
- (aa) “Eligible Service Agreement”: An agreement that provides the Eligible Commercial Financing Customer with the use of Eligible Energy Measures as well as ongoing service and maintenance of that equipment in exchange for regular payments to the Finance Provider Entity or the Finance Provider Entity’s assignee for a specified term. The agreement must include either:
- (1) A guarantee of functionality for any Eligible Energy Measures and Non-EEMs; or
  - (2) A guarantee of energy savings. Equipment functionality or energy savings must be measured no less than annually.
- (bb) “Eligible Small Business Financing Customer”: A business or non-profit entity (other than a public entity) meeting at least one of the following size requirements:
- (1) 100 or fewer employees;
  - (2) Annual revenues of less than \$16 million; or

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- (3) Meets the U.S. Small Business Administration’s size standards for a Small Business matched to the North American Industry Classification System found in Part 121.201 of Title 13 of the Code of Federal Regulations.
- (cc) “Energy Efficiency” (EE): An energy using appliance, equipment, control system, or practice for which the installation or implementation results in reduced utility-supplied energy use while maintaining a comparable or higher level of energy service as perceived by the customer.
- (dd) “Energy Professional”: An individual who is either:
- (1) Recognized as a Certified Energy Manager (CEM) by the Association of Energy Engineers with a certification that is current and free of disciplinary actions; or
  - (2) A Professional Engineer (PE) licensed by the State of California whose license is current and free of disciplinary actions.
- (ee) “Energy Service Provider” (ESP): An Electric Service Provider as defined in Section 218.3 of the Public Utilities Code.
- (ff) “Enrolled Financing Agreement”: An Eligible Financing Agreement approved for enrollment in the Program pursuant to Section 10092.8(b).
- (gg) “Enrollment Date”: The date that the Trustee has funded the Finance Provider Entity's Loss Reserve Account for the Enrolled Financing Agreement.
- (hh) “Executive Director” (ED): The Executive Director of the Authority or their designee.
- (ii) “Finance Provider Applicant” (FPA): The Affiliate Finance Provider Applicant and Primary Finance Provider Applicant, collectively.
- (1) “Affiliate Finance Provider Applicant”: As described in Section 10092.2(a).
  - (2) “Primary Finance Provider Applicant”: As described in Section 10092.2(a).
- (jj) “Finance Provider Entity” (FPE): The Primary Finance Provider Entity and the Affiliate Finance Provider Entity, collectively.
- (1) “Affiliate Finance Provider Entity”: The Affiliate Finance Provider Applicant approved for participation in the Program along with a Primary Finance Provider Entity as specified in Section 10092.2(a).
  - (2) “Primary Finance Provider Entity”: Primary Finance Provider Applicant approved for participation in the Program. It may be approved along with an Affiliate Finance Provider Entity as specified in Section 10092.2(a).
- (kk) “Financial Institution”: Any insured depository institution, insured credit union, or Community Development Financial Institution (CDFI), as those terms are each defined in Section 4702 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702), or a Financial Development Corporation as the term "Corporation" is defined in Section 14003(f) of the Corporations Code, or any non-bank entity supervised by the Federal Reserve.
- (ll) “GoGreen Business Energy Financing”: The public-facing name to be used in informational and marketing materials about the Program for commercial customers.
- (mm) “GoGreen Multifamily Energy Financing”: The public-facing name to be used in informational and marketing materials about the Program for multifamily customers.
- (nn) “Investor-Owned Utility” (IOU): Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, or Southern California Gas Company, collectively referred to as “IOUs.”

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- (oo) “IOU Custom”: A program offered by the IOUs, RENs, or CCAs in which measures require pre-approval and incentives are based on unique project characteristics.
- (pp) “IOU Deemed”: A program offered by the IOUs, RENs, or CCAs in which eligible measures and rebate amounts are pre-determined. For the purpose of this definition, IOU Deemed includes the following prescriptive program types: downstream, midstream, upstream, and direct install.
- (qq) “Loss Reserve Account”: An account established and maintained by the Trustee at the Authority’s direction to hold the Loss Reserve Contribution for Enrolled Financing Agreements for the benefit of a Finance Provider Entity.
- (rr) “Loss Reserve Account Representative”: As described in Section 10092.2(b)(6).
- (ss) “Loss Reserve Contribution”: The credit enhancement contributed to the Loss Reserve Account for each Enrolled Financing Agreement in the Program pursuant to Section 10092.9(c).
- (tt) “Marketing Representative”: As described in Section 10092.2(b)(7).
- (uu) “Microloan”: An Eligible Financing Agreement with a Total Financed Amount of less than or equal to \$10,000.
- (vv) “Multifamily Property”: A One or more residential buildings with residential units totaling five or more units.
- (ww) “Non-Energy Components”: All Non-EEMs, and any Capitalized Interest on a single Project.
- (xx) “Non-EEMs”: Any equipment, alteration, or improvement that does not fall under the definition of an Eligible Energy Measure. A measure included on the EEM List may not be considered a Non-EEM, with the exception that Non-EEMs include measures that would otherwise be considered an EEM but do not utilize or conserve fuel provided by an IOU, CCA, or ESP.
- (yy) “OBR Approval Date”: The date on which a utility confirms that the OBR Total Charge will be placed on the OBR Customer's utility bill.
- (zz) “OBR Customer”: An Eligible Commercial Financing Customer that has elected to make payments on its Eligible Financing Agreement through OBR.
- (aaa) “OBR Modified Charge Cutoff Date”: The recurring day of the month by which the FPE must provide the Authority with an updated OBR Total Charge amount in order for the updated OBR Total Charge to appear on the OBR Customer’s next utility bill. The OBR Modified Charge Cutoff Date is specific to each customer’s utility billing cycle and may differ from one billing cycle to another.
- (bbb) “OBR Removal Date”: The date on which a utility confirms that the OBR Customer will be removed from participation in OBR and that the customer’s OBR Total Charge will not appear on its next utility bill or any subsequent bills.
- (ccc) “OBR Tariff”: The gas and electric Rule No. 43 On-Bill Repayment Tariffs filed by each IOU through advice letters and approved by the Commission.
- (ddd) “OBR Total Charge”: The financing payment amount to appear on the OBR Customer's next utility bill, including any applicable penalties, late fees, and interest, as communicated by the FPE to the Authority.
- (eee) “On-Bill Repayment (OBR)”: The repayment of an Enrolled Financing Agreement through charges placed on the OBR Customer's monthly utility bill, pursuant to the requirements of Section 10092.15.

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- (fff) “Operational Reserve Fund (ORF)”: An account administered by the Authority that may be drawn upon if there is a Delayed Bill or Returned Item.
- (ggg) “ORF Balance”: The amount that must be reimbursed to the ORF by an FPE as the result of one or more payments made from the ORF.
- (hhh) “Participating Contractor”: An Eligible Contractor who has been granted approval to participate in the Program by the Authority as described in Section 10092.4(c).
- (iii) “Participating Project Developer”: An Eligible Project Developer who has been granted approval to participate in the Program by the Authority as described in Section 10092.4(c).
- (jjj) “Program”: The Commercial Energy Efficiency Financing Program described in the regulations within this Article.
- (kkk) “Program Holding Account”: Accounts established and maintained by the Trustee at the Authority’s direction to hold funds allocated by funders of the Program for the Loss Reserve Contributions in separate accounts.
- (lll) “Program Identifier” or “Program ID”: A number assigned by the Authority or its agent(s) that represents a program administered by the Authority.
- (mmm) “Project”: One or more Scopes of Work at one or more Eligible Properties, as well as any Capitalized Interest and any Non-EEMs installed by non-participating contractors, financed in whole or in part under a single Eligible Financing Agreement.
- (nnn) “Regional Energy Network” (REN): Regional Energy Network granted authorization by the Commission under Decision 12-05-015 and later defined in Decision 12-11-015.
- (ooo) “Returned Item”: A returned payment, closed bank account, scrivener’s error, or other payment processing issue that results in a negative payment amount to a utility from an OBR Customer.
- (ppp) “Scope of Work”: The Eligible Energy Measures and/or Non-EEMs installed and certified pursuant to the requirements of Section 10092.7(a) – (c) and Section 10092.8(b)(3) by a single Participating Contractor or Self-Installer as reported to the Authority, as part of a Project.
- (qqq) “Scope of Work Completion Date”: Date that a Participating Contractor or Self-Installer completes installation of its Scope of Work.
- (rrr) “Self-Installer”: An Eligible Commercial Financing Customer who installs any measures pursuant to the requirements in Section 10092.7(c).
- (sss) “Total Charge-Off Amount”:
  - (1) For Eligible Leases or Eligible Equipment Financing Agreements and for Eligible Loans: the Total Charge-Off Amount equals the outstanding principal balance at the time of charge-off.
  - (2) For Eligible Service Agreements and Eligible Savings-Based Payment Agreements: the Total Charge-Off Amount equals the (total initial installation amount paid to contractor(s) divided by the number of months in the term) multiplied by the number of months remaining in the term at the time of charge-off. Ongoing monthly service charges are excluded from the Total Charge-Off Amount.
- (ttt) “Total Financed Amount”: The total amount funded by the Finance Provider Entity toward the Project. The Total Financed Amount does not include charges for ongoing

service and/or maintenance and does not include any interest payments or ongoing finance charges.

- (1) For Eligible Leases or Eligible Equipment Financing Agreements and Eligible Loans: The original principal amount as disclosed to the Eligible Commercial Finance Customer through loan or lease documentation or the job addendum.
  - (2) For Eligible Service Agreements and Eligible Savings-Based Payment Agreements: The total installation amount paid to the Participating Contractor and/or disclosed on the job addendum, inclusive of equipment, taxes, labor, and shipping costs and exclusive of ongoing service and oversight payments by Eligible Commercial Financing Customer.
- (uuu) “Trustee”: The financial institution chosen by the Authority to hold or administer some or all of the Program Holding Accounts and Loss Reserve Accounts.

Authority: Section 26006 and 26009, Public Resources Code  
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040,  
Public Resources Code

## **Section 10092.2      Finance Entity Enrollment**

- (a) Descriptions of Finance Provider Applicant and Entity Program Roles
- (1) The “Primary Finance Provider Applicant” is the financing company that is applying to the Program for enrollment as a Finance Provider Entity and includes any business organization that is managed, owned, or controlled by the applicant that will perform one or more of the Program roles. The Primary Finance Provider Applicant may fulfill all of the Program roles (described in Section 10092.2(b)(1) – (7)) themselves, or the entity may invite an Affiliate Finance Provider Applicant (as described in Section 10092.2(a)(2)) to apply to fulfill some of the roles. Additionally, the Primary Finance Provider Applicant may invite a Marketing Representative to fulfill the Marketing Representative role described in Section 10092.2(b)(7). If there are two or more entities fulfilling Program roles together, it will be the finance entity that plans to fulfill the "Financing Submittal role" that will be the Primary Finance Provider Applicant. The Primary Finance Provider Applicant must meet requirements described in Section 10092.2(c) and must be a signatory to the Program application.
  - (2) The “Affiliate Finance Provider Applicant” is a potential co-applicant along with the Primary Finance Provider Applicant. It may fulfill one or more of the roles of the Program described in Section 10092.2(b)(1) – (7). The Affiliate Finance Provider Applicant must meet the requirements described in Section 10092.2(c) and must be a signatory to the Program application.
  - (3) “Finance Provider Applicant” means the Primary Finance Provider Applicant and the Affiliate Finance Provider Applicant collectively.
  - (4) “Primary Finance Provider Entity” means a Primary Finance Provider Applicant who has been accepted for enrollment in the Program. The Primary Finance Provider Entity must fulfill all the Program roles described in Section 10092.2(b)(1) – (7) themselves, or this entity may fulfill Program roles along with an Affiliate Finance Provider Entity and, potentially, an additional entity serving as Marketing

Representative. If there are two entities fulfilling Program roles together, it will be the finance entity that fulfills the Financing Submittal role that will be determined to be the Primary Finance Provider Entity.

- (5) “Affiliate Finance Provider Entity” means an Affiliate Finance Provider Applicant that has been accepted for enrollment in the Program to fulfill Program roles along with the Primary Finance Provider Entity.
- (6) “Finance Provider Entity (FPE)” means the Primary Finance Provider Entity and the Affiliate Finance Provider Entity collectively.

(b) Finance Provider Entity Roles Within the Program

(1) “Underwriting”

- (A) Means following Program regulations for approving projects and financing for customers pursuant to Section 10092.5(b), Section 10092.6, and Section 10092.7(a) – (c) as well as following the credit and underwriting guidelines submitted by the Finance Provider Applicant pursuant to Section 10092.2(c)(3) that were approved by the Authority as part of the application process.
- (B) The Underwriting role must be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity.

(2) “Origination”

- (A) Means engaging in financing origination, including executing the legal contract for repayment of the Enrolled Financing Agreement with the Eligible Commercial Financing Customer, getting Program forms signed and certified by the Eligible Commercial Financing Customer, following Program regulations related to eligible products as well as adhering to product terms approved by the Authority as part of the application process.
- (B) The Origination role must be performed by either the Primary Finance Provider Entity or Affiliate Finance Provider Entity.

(3) “Financing Submittal”

- (A) Means providing data, documentation, and certifications related to the Project, the Eligible Financing Agreement and the Eligible Commercial Financing Customer and submitting these data, documentation, and certifications to the Authority for enrollment in the Program.
- (B) The specific data points required at Financing Submittal are described in Section 10092.8(b)(2).

(4) “Servicing”

- (A) Means conducting a customer service operation to on-board all Eligible Financing Agreements into the servicer's servicing system, handling customer inquiries regarding Eligible Financing Agreements already under servicing, sending out regular financing billing statements, collecting and applying payments, handling requests for modifications, collections where necessary, and distributions to investors where applicable.
- (B) The Servicing role must be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity.

(5) “Monthly Reporting”

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- (A) Means supplying the Authority with a regular report of required data related to financing applications, performance, and sale of financings as described in Section 10092.12.
  - (B) The Monthly Reporting role must be performed by either the Primary Finance Provider Entity or Affiliate Finance Provider Entity.
- (6) “Loss Reserve Account Representative”
  - (A) Means the Finance Provider Entity for whom the Loss Reserve Account(s) will be opened, and the sole entity that can file a claim in the event of a charge-off.
  - (B) The Loss Reserve Account Representative role must be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity.
- (7) “Marketing Representative”
  - (A) Means the entity that is publicly listed on Program websites and marketing materials as a result of participation in the Program.
  - (B) The Marketing Representative role must be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity, or by an additional entity.
  - (C) The Marketing Representative must sign the acknowledgements and certifications in Section 10092.2(c)(4), (5), and (7).
- (c) Application to Participate in the Program. A Primary Finance Provider Applicant must submit a complete enrollment application to the Authority signed by an individual authorized to legally bind the Primary Finance Provider Applicant and shall include the signatory’s name, title, and date. Where the Primary Finance Provider Applicant wishes to apply along with an Affiliate Finance Provider Applicant, the Affiliate Finance Provider Applicant must also submit an application signed by an individual authorized to legally bind the Affiliate Finance Provider Applicant and provide their name, title, and date. Both the Primary Finance Provider Applicant and the Affiliate Finance Provider Applicant must sign the acknowledgements, certifications, and representations of the Finance Provider Applicant, below. A complete enrollment application includes the following information, disclosures, acknowledgements, certifications, and representations in a format to be specified by the Authority:
  - (1) Information
    - (A) For the Primary Finance Provider Applicant:
      - (i) Name, address, and website URL of the Primary Finance Provider Applicant.
      - (ii) Name, title, phone number, and e-mail address of the Program contact person for the Primary Finance Provider Applicant.
      - (iii) The name(s) and e-mail address(es) of individual(s) who are authorized to provide and certify data and submit Eligible Financing Agreements for enrollment in the Program on behalf of the Primary Finance Provider Entity.
      - (iv) Type of finance entity, e.g., insured depository institution, insured credit union, Community Development Financial Institution, or California Finance Lender, or other type.

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- (v) Name(s) of any regulatory agency(ies) and any insuring agency(ies) to which the Finance Provider Applicant is accountable and license number(s), if applicable.
- (B) For the Affiliate Finance Provider Applicant, if applicable:
  - (i) Name, address, and website URL of the Affiliate Finance Provider Applicant.
  - (ii) Name, title, phone number, and e-mail address of the Program contact person for the Affiliate Finance Provider Applicant.
  - (iii) Type of finance entity, e.g., insured depository institution, insured credit union, Community Development Financial Institution, or California Finance Lender, or other type.
  - (iv) Name(s) of any regulatory agency(ies) and any insuring agency(ies) to which the Finance Provider Applicant is accountable and license number(s), if applicable.
- (C) For the Marketing Representative, if different than the Finance Provider Applicant:
  - (i) Name, address, and website URL of the Marketing Representative.
  - (ii) Name, title, phone number, and e-mail address of the Program contact person.
- (2) Disclosures. The FPA must disclose the following:
  - (A) If there are to be separate entities applying to be the Primary Finance Provider Entity and Affiliate Finance Provider Entity, which of the two entities will perform the Underwriting, Origination, Servicing, Monthly Reporting, and Loss Reserve Account Representative roles;
  - (B) The name of the entity that will be the Marketing Representative;
  - (C) The name of the entity funding the Projects that are to be enrolled in the Program;
  - (D) The name of the finance agreement counterparty(ies) or the service agreement counterparty(ies) who will be named on the closing documentation provided to the Eligible Commercial Financing Customer;
  - (E) The assignee(s) of repayment streams, if any; and
  - (F) The FPA's intent as to what it will do with the Enrolled Financing Agreements, if known, (e.g. hold, sell, transfer, participate, etc.) and the identity of a purchaser, if applicable.
- (3) Proposed Products. To participate in the Program, the FPA must provide a description of proposed financial product(s), including:
  - (A) A detailed description of the products the FPA is proposing to offer, including, but not limited to, the type of financing product and its relationship to the categories of Eligible Financing Agreements, collateral requirements (if any), minimum and maximum financed amounts, interest rates (including whether they are fixed or variable), terms, service or maintenance charges, fees, prepayment penalties, and a description of customer eligibility and underwriting criteria. These product offerings must be certified by at least one of the Finance Provider Applicants.

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- (B) A description of the geographic area(s) in California where the financing product(s) will be available.
- (C) An explanation of how the Loss Reserve Contribution will be utilized to provide benefits to Eligible Commercial Financing Customers compared to the FPA's typical product offerings in one or more of the following ways:
  - (i) Broadened approval criteria;
  - (ii) Longer repayment terms;
  - (iii) Larger amounts available to finance;
  - (iv) Better rates; and/or
  - (v) Other advantageous terms.
- (4) Acknowledgements of the Finance Provider Applicant and the Marketing Representative. The application must include the FPA's acknowledgements contained within this Section, signed by an individual authorized to legally bind the FPA. If the FPA will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's acknowledgements below, signed by an individual authorized to legally bind the Marketing Representative.
  - (A) The Authority has made no representations, promises, or guarantees pertaining to the volume, quantity, or quality of financing agreements issued pursuant to the Program.
  - (B) It, its representatives, and agents are not hired by the Authority or any of the participating IOUs, and must not represent themselves as such, or claim association or affiliation with the Authority or any of the participating IOUs in any capacity.
- (5) Certifications of the Finance Provider Applicant and Marketing Representative. The application must include the FPA's certifications of this Section, signed by an individual authorized to legally bind the FPA. The FPA certifies that once it is enrolled in the Program as a Finance Provider Entity it will follow Section 10092.2(c)(5)(D)-(G) below. If the FPA will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's certifications of this Section, except for Section 10092.2(c)(5)(D), signed by an individual authorized to legally bind the Marketing Representative.
  - (A) It is not subject to a cease and desist order or other regulatory sanction from the appropriate federal or state regulatory body that would impair its ability to participate in the Program.
  - (B) The individual signing the application is authorized to legally bind the Finance Provider Applicant, and must include the signatory's printed name, title, and date.
  - (C) All Finance Provider Applicants that are not Financial Institutions must comply with the additional requirements specified in Section 10092.3.
  - (D) The regulations within this Article constitute a lender services agreement between the FPE and the Authority.
  - (E) It must follow the Program regulations as set forth in this Article.
  - (F) It must permit an audit by the Authority of any of its records relating to Enrolled Financing Agreements during normal business hours on its premises, and must

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supply any other information concerning Enrolled Financing Agreements as may be requested by the Authority. Additionally, the Finance Provider Entity must permit an audit of its records relating to how it is representing the Program to the public, including, but not limited to, web and print collateral, marketing scripts, and marketing materials.

- (G) The Authority and the State of California have no liability to the Finance Provider Entity under the Program except from funds deposited in the Loss Reserve Account(s) for the Finance Provider Entity.
- (6) In addition to the certifications listed in Section 10092.2(c)(5), the application must include the following certifications of the Primary Finance Provider Applicant. These certifications must be signed by an individual authorized to legally bind the FPA, that upon enrollment in the Program as Finance Provider Entity and for all forthcoming Eligible Finance Agreements submitted for enrollment in the Program, the FPA agrees that:
  - (A) It will provide the documentation required in Section 10092.8(b)(1), the data required in Section 10092.8(b)(2), and will secure the certifications described in Section 10092.8(b)(3);
  - (B) The Eligible Commercial Financing Customer will be provided with a Bill Impact Estimate;
  - (C) The Eligible Financing Agreement will comply with all Program regulations;
  - (D) If the entirety of the Claim-Eligible Financed Amount has not yet been funded at the time of submittal, that it will be funded within 30 calendar days of submittal, unless it is funding for Projects installed at one or more Multifamily Properties, in which case it must be funded within 12 months of submittal; and
  - (E) If after submittal, the Primary Finance Provider Entity determines it will not fund the entirety of the Claim-Eligible Financed Amount, that it will notify the Authority within 10 business days of this determination.
- (7) Representations of the Finance Provider Applicant and Marketing Representative. The application must include the FPA's representation, warranty, and covenant contained in this Section, signed by an individual authorized to legally bind the FPA. If the FPA will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's representation, warranty, and covenant below, signed by an individual authorized to legally bind the Marketing Representative. Upon enrollment in the Program as an FPE:
  - (A) It must retain all records relating to each Enrolled Financing Agreement for the term of financing.
  - (B) It is solely responsible for identifying and making all disclosures and providing periodic reports to its Eligible Commercial Financing Customer(s) as required under applicable finance laws.
  - (C) It must comply with all applicable finance laws, possess and maintain all required state and federal licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
  - (D) It indemnifies, defends, and holds harmless the Authority, each of the IOUs, their affiliates, and each of its respective officers, directors, employees, agents,

and representatives (each of which is an express beneficiary of this indemnity) from and against any and all losses arising in connection with any claim:

- (i) Resulting from the negligent or unlawful acts or omissions, or willful or tortious conduct including, but not limited to, any failure of the Finance Provider Entity, or its agents, to comply with applicable finance laws in connection with Enrolled Financing Agreements;
- (ii) Resulting from any error or omission by the Finance Provider Entity or any of its agents in the calculation or presentation of principal repayments or interest with respect to an Enrolled Financing Agreement, fees and charges, the receipt and processing of payments received from Eligible Commercial Financing Customers or any collection or enforcement action;
- (iii) Alleging any breach of a representation, warranty, or covenant by that Finance Provider Entity;
- (iv) Alleging any misrepresentation by the Finance Provider Entity or its agents with respect to the energy impacts to be achieved in connection with an Enrolled Financing Agreement, or any failure or deficiency in the products, materials, or work supplied to a Eligible Commercial Financing Customer in connection with an Enrolled Financing Agreement; and/or
- (v) Arising from the Finance Provider Entity's breach or alleged breach of the regulations within this Article and/or its confidentiality or privacy obligations under the regulations within this Article or with respect to the Program.

(E) It agrees that the IOUs are not responsible for, and will have no liability for:

- (i) The energy improvements funded through the Enrolled Financing Agreement(s) supported through the Loss Reserve Account(s);
- (ii) The assessment of potential benefits and costs associated with those improvements;
- (iii) The qualification of the Finance Provider Entity;
- (iv) The Finance Provider Entity's marketing and/or lending policies and practices; or
- (v) The Authority's educational and outreach activities.

(d) **Application Process**

- (1) Upon receipt of a completed application, the Authority will, within 15 business days, review and determine whether additional information is required, or whether the application is sufficient to permit the Finance Provider Applicant to be a Finance Provider Entity.
- (2) The Authority's decision regarding enrollment will be final.
- (3) The Authority will notify the Finance Provider Applicant of its decision and provide a Program-assigned identifier if enrolled as a Finance Provider Entity.

(e) **Changes to Product Terms**

- (1) If, after being approved to participate in the Program, an FPE wishes to make changes to products offered that will affect the benefits to Eligible Commercial

Financing Customers as described in Section 10092.2(c)(3) and Section 10092.5), the changes must be approved by the Authority.

(f) Finance Provider Entity Withdrawal and Termination

- (1) A Finance Provider Entity may withdraw from the Program after giving written notice, signed by an individual authorized to legally bind the FPE to the Authority. That notice must specify either:
  - (A) That the Finance Provider Entity waives any further interest in the Loss Reserve Account(s) and the reason for the Finance Provider Entity's withdrawal from the Program (including that all Enrolled Financing Agreements covered by the Loss Reserve Account(s) have been repaid or sold to a different Finance Provider Entity's portfolio); or,
  - (B) That the Finance Provider Entity will not enroll any further Eligible Financing Agreements under the Program but that the Loss Reserve Account(s) will continue in existence to secure all Enrolled Financing Agreements that were enrolled prior to that notice, and the reason for the Finance Provider Entity's withdrawal from the Program.
- (2) For any notice received pursuant to Section 10092.2(f)(1)(A), the remaining balance in the Finance Provider Entity's Loss Reserve Account(s) will be distributed to the appropriate Program Holding Account(s).
- (3) The Executive Director may terminate participation of a Finance Provider Entity in the Program, by notice in writing, upon the occurrence of any of the following:
  - (A) Entry of a cease and desist order, regulatory sanction, or any other action against the Finance Provider Entity by a regulatory agency or court with jurisdiction over the Finance Provider Entity;
  - (B) Failure of the Finance Provider Entity to abide by applicable finance law or the regulations within this Article;
  - (C) Failure of the Finance Provider Entity to service or enroll any Eligible Financing Agreements under the Program, as applicable, for a period of one year;
  - (D) Failure of the Finance Provider Entity to report to the Authority pursuant to Section 10092.12 for 60 calendar days; or
  - (E) Providing false or misleading information regarding the Finance Provider Entity, or an Enrolled Financing Agreement, to the Authority, or failure to provide the Authority with notice of material changes in submitted information regarding the Finance Provider Entity.
- (4) In the event of a termination, the Finance Provider Entity must not enroll any further Eligible Financing Agreements, but all previously Enrolled Financing Agreements will continue to be covered by the Loss Reserve Account(s) until the entity is paid, claims are filed, or the Finance Provider Entity withdraws from the Program pursuant to Section 10092.2(f)(1)(A).
- (5) A terminated Finance Provider Entity must continue to report on Enrolled Financing Agreements pursuant to Section 10092.12.
- (6) If a terminated Finance Provider Entity fails to report to the Authority pursuant to Section 10092.12 for 60 calendar days, the remaining balance in the Finance Provider Entity's Loss Reserve Account(s) may be distributed to the appropriate Program

Holding Account(s).

Authority: Section 26006 and 26009, Public Resources Code  
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040,  
Public Resources Code

**Section 10092.5      Eligible Financial Products**

- (a) Disclosure. For all financial products, the Finance Provider Entity must disclose to the Eligible Commercial Financing Customer either:
  - (1) An annual percentage rate (APR) (inclusive of any fees) as well as any advance payments that the Eligible Commercial Financing Customer is required to pay; or
  - (2) The total cost of the Project for the Eligible Commercial Financing Customer comprised of monthly payments multiplied by the number of months in the agreement plus any fees [(monthly payments \* number of months in the agreement) + fees]. Monthly payments must be inclusive of, but not limited to, equipment and installation repayment, and any charges for financing, services, maintenance, or oversight of equipment.
  - (3) For the purposes of this Section, Savings-Based Payment Agreements will satisfy the requirements set forth in Section 10092.5(a)(2) with the FPE's provision of a good-faith estimate of the total cost of the project, based on industry-accepted methods and assumptions used to estimate energy savings, due to the fact that monthly payments will be variable under these agreements.
  
- (b) Other Provisions. In addition to meeting the specific definitions of either an Eligible Lease or Eligible Equipment Financing Agreement, Eligible Loan, Eligible Service Agreement, or Eligible Savings-Based Payment Agreement the following provisions apply to Eligible Financing Agreements:
  - (1) Interest rates, if applicable, may be fixed or variable.
  - (2) Refinancing agreements are acceptable only if both the original and refinancing agreements are for the same Project and the Eligible Financing Agreement is submitted for enrollment in the Program within 90 calendar days of the Scope of Work Completion Date pursuant to Section 10092.8(a)(2). For the purposes of this Section, conversion from a construction loan to a permanent loan is not refinancing.
  - (3) The agreement must not be a revolving line of credit.
  - (4) Fees must be reasonable and in accordance with industry standards.
  - (5) FPEs must take a security interest in agreements with Total Financed Amounts greater than \$50,000 ~~unless the financing customer is an Affordable Multifamily Customer.~~
  - ~~(6) Any security interest must not be real property except for a UCC-1 fixture filing.~~
  - ~~(7)~~ The Claim-Eligible Financed Amount of the Enrolled Financing Agreement must not be enrolled in a substantially similar program.
  - ~~(8)~~ In addition to the general requirements stated above, the terms and characteristics of the Eligible Financing Agreement must be consistent with the product(s) described by the FPE in its application to participate in the Program pursuant to Section 10092.2(c)(3) and approved by the Authority.

Authority: Section 26006 and 26009, Public Resources Code  
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public  
Resources Code

**Section 10092.7      Project Eligibility**

- (a) General Eligibility. Any Project receiving financing through the terms of the Program must comply with the following eligibility requirements:
  - (1) Each Participating Contractor must be enrolled in the Program prior to that Participating Contractor's Scope of Work Completion Date;
  - (2) The Eligible Commercial Financing Customer must be provided with a Bill Impact Estimate (BIE) by the Participating Contractor, Participating Project Developer, or the Primary Finance Provider Entity;
  - (3) The Project must have at least one EEM meeting the requirements described in Section 10092.7(b);
  - (4) The cost for non-lighting measures installed utilizing the EEM List Method, described in Section 10092.7(b)(1), must not exceed \$350,000. The limit of \$350,000 does not apply to Projects installed at one or more Multifamily Properties;
  - (5) Each Participating Contractor must have the proper license(s) relevant to perform its Scope of Work;
  - (6) The Project must comply with all applicable local, state, and federal laws, rules, regulations, and ordinances, including, but not limited to, Title 24 of the California Code of Regulations; and
  - (7) All permits and approvals required to install each Scope of Work must have been approved or must be in the process of being approved.
  
- (b) Measure Eligibility. There are three methods by which a measure may qualify as an Eligible Energy Measure for Program purposes. Each EEM must satisfy at least one of the following methods:
  - (1) EEM List Method - The measure meets the criteria the Authority has specified on the EEM List as described in Section 10092.14.
    - (A) Any measure that qualifies for an IOU, REN, or CCA demand-side energy management program is eligible for qualification through the EEM List Method.
  - (2) IOU Custom Measure Method - The measure has been approved for installation as part of an IOU Custom program with an IOU Custom approval date within the last 24 months.
  - (3) Professionally Certified Measure Method - An Energy Professional certifies that installation of the measure will save energy, will result in energy cost savings compared to existing conditions, or will reduce greenhouse gas emissions compared to existing conditions. EEMs qualifying via this method must meet the following requirements, in accordance with industry standards:
    - (A) Each Energy Efficiency measure must be projected to save energy;
    - (B) Each Demand Response measure must be capable of reducing demand on the electric grid or gas pipeline during peak periods;
    - (C) Each Distributed Generation measure must produce clean energy with reduced greenhouse gas emissions compared to existing conditions;
    - (D) Each Battery Storage measure must have the capability to reduce greenhouse gas emissions, to allow for greater grid stability as part of a virtual power plant, and/or to mitigate customer costs; and

(E) Hydrogen production must occur through electrolysis and must use renewable energy sources.

(c) Self-Installers

- (1) An Eligible Commercial Financing Customer may install or have installed without a Participating Contractor:
  - (A) Eligible Energy Measures which have been identified on the EEM List as eligible for self-installation; and
  - (B) Non-EEMs.
- (2) A Project Developer must be active on any Project with a Self-Installer unless the Eligible Financing Agreement is a Microloan. On Projects with a Self-Installer where the Total Financed Amount is greater than \$10,000, the Project Developer must provide the relevant data points listed in Section 10092.8(b)(2).

(d) Quality Assurance/Quality Control

- (1) In order to verify that Scopes of Work were installed in accordance with the regulations within this Article, within one year of the Enrollment Date of an Eligible Financing Agreement, the Authority may conduct one or more of the following quality assurance/quality control reviews, which may require the Participating Contractor or Project Developer to submit project-related documentation as described in 10092.4(d)(5):
  - (A) A review of data and documentation (desktop review); (B) A field verification at the Eligible Property(ies); or (C) Photo verification.
- (2) For Projects with any IOU Custom measures, the Authority will not perform a field verification.
- (3) The Authority shall notify the Eligible Commercial Financing Customer at least 10 business days prior to conducting a field verification.
- (4) If the Authority finds that a Participating Contractor's Scope of Work was not installed in accordance with the regulations within this Article or that the Participating Contractor misrepresented information related to the work, the Authority may remove the Participating Contractor from Program participation pursuant to the processes described in Section 10092.4(e) and/or may notify other governmental entities and the IOUs.
- (5) If the Authority finds that a Self-Installer's Scope of Work was not installed in accordance with these requirements or that the Participating Project Developer misrepresented information related to any Project, the Authority may remove the Participating Project Developer from Program participation pursuant to the processes described in Section 10092.4(e) and/or may notify other governmental entities and the IOUs.

Authority: Section 26006 and 26009, Public Resources Code  
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public  
Resources Code

**Section 10092.8          Financing Submittal and Enrollment**

- (a)      Timing of Submittal and Enrollment
- (1) Once all Scopes of Work are completed and certified by all Participating Contractors, and, if applicable, the Participating Project Developer, and the FPE has closed the agreement with the Eligible Commercial Financing Customer, a complete financing submittal may be submitted to the Authority for enrollment as described in Section 10092.8(b).
  - (2) The Eligible Financing Agreement must be submitted within 90 calendar days of the last Scope of Work Completion Date on the Project, unless it is for a Multifamily Property, in which case it must be submitted within 12 months.
  - (3) Within 10 business days of receipt of a complete set of data elements, documentation, and certifications as described in Section 10092.8(b), for an Eligible Financing Agreement, the Authority will enroll or deny the Eligible Financing Agreement in the Program and communicate this decision to the Finance Provider Entity.
- (b)      Complete Financing Submittal Requirements
- (1) Documentation. A complete financing submittal must include the following documentation provided to the Authority by the Participating Contractor, Project Developer, and/or Finance Provider Entity:
    - (A) Utility delivery confirmation: Verification of fuel delivery by each utility providing electric or gas fuel relevant to EEMs installed at the Eligible Property. For a Microloan, the verification of fuel delivery to the Eligible Property must be provided for at least one utility.
    - (B) IOU Custom incentive documentation: A copy of the IOU Custom incentive approval letter or notice to proceed must be provided to the Authority for all Projects with EEMs that include an IOU Custom rebate or incentive.
    - (C) Eligible Commercial Financing Customer data authorizations: A signed Privacy Rights Disclosure Form, as described in Section 10092.13.
    - (D) If the Project is being financed by an Affordable Multifamily Customer, a copy of the recorded affordability deed restriction or covenant showing income restriction and family size.
  - (2) Data. A completed submittal includes the following data provided to the Authority in a format approved by the Authority:

|                                                           | <b>Data Points</b>                              | <b>Data Must be Provided by One of These Parties:</b> | <b>Exceptions</b> |
|-----------------------------------------------------------|-------------------------------------------------|-------------------------------------------------------|-------------------|
| <b>Eligible Commercial Financing Customer Information</b> |                                                 |                                                       |                   |
| (A)                                                       | Customer name, e-mail address, and phone number | Contractor, Project Developer (PD), FPE               |                   |

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|                                                                                    |                                                                                                                                                                          |                     |                                                                  |
|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------------------------------------------------|
| (B)                                                                                | North American Industry Classification System (NAICS) Code applicable to the type of business                                                                            | FPE                 |                                                                  |
| (C)                                                                                | Method by which the customer qualifies as an Eligible Small Business Financing Customer pursuant to Section 10092.1(bb), or status as an Affordable Multifamily Customer | FPE                 | Not required for Microloans                                      |
| (D)                                                                                | The number of years in business                                                                                                                                          | FPE                 |                                                                  |
| (E)                                                                                | An indication of how the entity is organized, e.g., sole proprietorship, corporation, or LLC                                                                             | FPE                 | Not required for Microloans                                      |
| (F)                                                                                | The customer's credit score                                                                                                                                              | FPE                 |                                                                  |
| (G)                                                                                | Credit scoring or reporting service relied upon to calculate the customer's credit score                                                                                 | FPE                 |                                                                  |
| (H)                                                                                | The customer's annual revenue                                                                                                                                            | FPE                 | Only for Eligible Financing Agreements greater than \$350,000    |
| (I)                                                                                | Special business characteristics if known, e.g. woman-owned, veteran-owned, or minority-owned                                                                            | FPE                 |                                                                  |
| (J)                                                                                | Whether the customer owns the Eligible Property(ies) or is a tenant occupant                                                                                             | Contractor, PD, FPE |                                                                  |
| <b>Property Information</b>                                                        |                                                                                                                                                                          |                     |                                                                  |
| (K)                                                                                | Number of units or spaces at the Eligible Property for which EEMs were installed                                                                                         | Contractor, PD, FPE | Not required for Microloans                                      |
| (L)                                                                                | The street address, city, and ZIP code                                                                                                                                   | Contractor, PD, FPE |                                                                  |
| (M)                                                                                | Utility names and account numbers for all gas and electric providers at each Eligible Property, if applicable                                                            | Contractor, PD, FPE | For Microloans, name and account number for at least one utility |
| <b>Project Information (for each contractor or Self-Installer's scope of work)</b> |                                                                                                                                                                          |                     |                                                                  |
| (N)                                                                                | The method by which each EEM qualifies for the Program                                                                                                                   | Contractor, PD, FPE |                                                                  |
| (O)                                                                                | The EEM category, e.g. "Lighting" or "Refrigeration"                                                                                                                     | Contractor, PD, FPE |                                                                  |

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|      |                                                                                                                                                                                    |                     |                                                             |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|-------------------------------------------------------------|
| (P)  | The EEM measure name                                                                                                                                                               | Contractor, PD, FPE |                                                             |
| (Q)  | A brief description including size, energy performance, standard material descriptions, and/or specifications                                                                      | Contractor, PD, FPE | Not required for Microloans                                 |
| (R)  | The quantity installed for each EEM                                                                                                                                                | Contractor, PD, FPE |                                                             |
| (S)  | An indication of whether the EEM is replacing existing equipment or is a new installation                                                                                          | Contractor, PD, FPE | Not required for Microloans                                 |
| (T)  | An indication of whether the installation resulted in a fuel substitution for that measure                                                                                         | Contractor, PD, FPE | Not required for Microloans                                 |
| (U)  | The fuel for which there is expected energy impact as a result of installing the EEM                                                                                               | Contractor, PD, FPE | Not required for Microloans unless being repaid through OBR |
| (V)  | Total cost of all EEMs installed as part of a Scope of Work                                                                                                                        | Contractor, PD, FPE |                                                             |
| (W)  | Total cost and brief description of improvements that were legally and practically required to complete a Scope of Work not accounted for in the total cost of EEMs, if applicable | Contractor, PD, FPE |                                                             |
| (X)  | Description of all Non-EEMs installed as part of a Scope of Work                                                                                                                   | Contractor, PD, FPE | Not Required for Microloans                                 |
| (Y)  | Total cost of all Non-EEMs installed as part of a Scope of Work                                                                                                                    | Contractor, PD, FPE |                                                             |
| (Z)  | The Scope of Work Completion Date for any work performed by a Participating Contractor                                                                                             | Contractor          |                                                             |
| (AA) | Any fees charged by the Participating Project Developer and, if there are fees, a brief description of the services provided                                                       | PD                  | Not required for Microloans                                 |
| (BB) | The amount of any Capitalized Interest included in the Total Financed Amount                                                                                                       | FPE                 | Not required for Microloans                                 |

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|                                                                                                                                                     |                                                                                                                                                                                                   |                     |                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------|
| (CC)                                                                                                                                                | An indication of whether the Participating Contractor or Eligible Commercial Financing Customer is seeking or has received a rebate or incentive from an utility, REN, or CCA for a Scope of Work | Contractor, PD, FPE |                                                                                                         |
| (DD)                                                                                                                                                | The amount of any utility, REN, or CCA rebate or incentive sought for a Scope of Work                                                                                                             | Contractor, PD, FPE | Only for projects with rebates or incentives<br><br>Not required for Microloans                         |
| (EE)                                                                                                                                                | The name of the utility, REN, or CCA issuing a rebate or incentive sought for a Scope of Work, the rebate or incentive name, and, if known, the project identification code                       | Contractor, PD, FPE | Only for projects with rebates or incentives<br><br>Not required for Microloans                         |
| (FF)                                                                                                                                                | Date that the IOU, REN, or CCA approved the Eligible Commercial Financing Customer's custom measure(s), if applicable                                                                             | Contractor, PD, FPE | Only for projects with a custom IOU, REN, or CCA incentive.                                             |
| (GG)                                                                                                                                                | A description of any Non-EEMs installed by contractors not enrolled with the Program or by Self-Installers                                                                                        | PD, FPE             | Only for projects with installations by nonparticipating contractors<br><br>Not required for Microloans |
| (HH)                                                                                                                                                | The total cost of any Non-EEMs installed by contractors not enrolled with the Program or by Self-Installers                                                                                       | PD, FPE             |                                                                                                         |
| (II)                                                                                                                                                | The name and CSLB number of the nonparticipating contractor company who installed Non-EEMs                                                                                                        | PD, FPE             | Only for projects with installations by nonparticipating contractors                                    |
| <b>Data Related to Measures Qualifying through the Professionally Certified Measure Method pursuant to Section 10092.7(b)(3). For each measure:</b> |                                                                                                                                                                                                   |                     |                                                                                                         |

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|                       |                                                                                                                                                                                                                                     |                     |  |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|--|
| (JJ)                  | Whether the reported energy cost savings result from Energy Efficiency, Demand Response measures, or Distributed Generation                                                                                                         | Energy Professional |  |
| (KK)                  | For Energy Efficiency and Demand Response: Energy Professional's estimate of the electric savings of each EE or DR measure certified by the Energy Professional. Savings must be reported in annual kWh for EE and peak kW for DR   | Energy Professional |  |
| (LL)                  | For Energy Efficiency and Demand Response: Energy Professional's estimate of the gas savings of each EE or DR measure certified by the Energy Professional. Savings must be reported as annual therms for EE and peak therms for DR | Energy Professional |  |
| (MM)                  | The Energy Professional's name, business name, city, e-mail address, and phone number                                                                                                                                               | Contractor, PD, FPE |  |
| (NN)                  | For Distributed Generation: Energy Professional's estimate of the annual energy generation or maximum energy capacity of storage. Energy must be reported in kWh, therms, or gallons                                                | Energy Professional |  |
| (OO)                  | The <u>Energy Professional's estimate of the</u> annual greenhouse gas emissions avoided or reduced, in pounds of CO2 equivalent                                                                                                    | Energy Professional |  |
| (PP)                  | An indication of whether the Energy Professional is a PE or CEM                                                                                                                                                                     | Contractor, PD, FPE |  |
| (QQ)                  | The Energy Professional's certification ID or license number, as applicable                                                                                                                                                         | Contractor, PD, FPE |  |
| <b>Financing Data</b> |                                                                                                                                                                                                                                     |                     |  |
| (RR)                  | The Finance Provider Entity's internal financing agreement number                                                                                                                                                                   | FPE                 |  |
| (SS)                  | An indication as to whether the financing agreement is an Eligible Loan, Eligible Lease or Eligible Equipment Finance Agreement, Eligible Energy Service Agreement, or an Eligible Savings-Based Payment Agreement                  | FPE                 |  |

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|       |                                                                                                                                         |     |                                                                                              |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------|-----|----------------------------------------------------------------------------------------------|
| (TT)  | Total Financed Amount                                                                                                                   | FPE |                                                                                              |
| (UU)  | Whether a security interest was taken against the financing agreement, and, if so, an indication of the type of security interest taken | FPE | Not required for Microloans                                                                  |
| (VV)  | Date the financing agreement funded or is anticipated to fund                                                                           | FPE |                                                                                              |
| (WW)  | Repayment term of the financing agreement and its maturity date or its contractual end date                                             | FPE |                                                                                              |
| (XX)  | Interest rate applied to the financing agreement                                                                                        | FPE | Only for Loans, Leases and Equipment Financing Agreements                                    |
| (YY)  | Whether the interest rate is fixed or variable                                                                                          | FPE | Not required for Microloans                                                                  |
| (ZZ)  | Amount of the interest rate bought down by the contractor, if applicable                                                                | FPE | Only for Loans, Leases and Equipment Financing Agreements<br>Not required for Microloans     |
| (AAA) | Monthly charges for ongoing service and maintenance related to the upkeep or performance of all installed measures                      | FPE | Only for Eligible Service Agreements and Eligible Savings-Based Payment Agreements           |
| (BBB) | The interest rate the Eligible Commercial Financing Customer would have received without the benefit of the Loss Reserve                | FPE | Only for Loans, Leases and Equipment Financing Agreements<br><br>Not required for Microloans |

- (3) Certifications. A completed financing submittal includes the following certifications provided to the Authority:

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- (A) Participating Contractor Certifications. Certification, signed by an individual authorized to legally bind the Participating Contractor, of the following:
- (i) The Participating Contractor who completed the Scope of Work holds the relevant license(s) to perform the installation;
  - (ii) All EEMs and Non-EEMs listed on the Scope of Work were installed and comply with Program requirements;
  - (iii) The installation of the EEMs and Non-EEMs complies with all applicable California building standards including, but not limited to, Title 24 of the California Code of Regulations. The installation also complies with all laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred;
  - (iv) All permits and approvals required to install the Scope of Work have been approved or are in the process of being approved; and
  - (v) It complied with all Program regulations, rules, and requirements.
- (B) Project Developer Certification. Certification from an individual authorized to legally bind the Participating Project Developer of the following:
- (i) All of the information provided by the Project Developer and Participating Contractor is true and correct to the best of the Participating Project Developer's knowledge.
- (C) Finance Provider Entity Certifications. Certification from the Primary Finance Provider Entity of the following:
- (ii) All data provided by the Primary Finance Provider Entity is true and correct to the best of its knowledge.
- (D) Eligible Commercial Financing Customer Certification. Certification, signed by an individual authorized to legally bind the Eligible Commercial Financing Customer of the following:
- (i) For projects with equipment requiring installation by a Participating Contractor per the Program rules, all installation(s) by a Participating Contractor have been completed to its satisfaction;
  - (ii) It understands that the Authority and its directors, officers, and agents, and the IOUs and its directors, officers and agents, do not guarantee the performance, quality, or workmanship of any installation in the Project;
  - (iii) The Eligible Financing Agreement funds were, or will be, used to pay for the eligible Project;
  - (iv) All permits and approvals required to complete the Project have been approved or are in the process of being approved;
  - (v) The Participating Contractor, Participating Project Developer, or the Finance Provider Entity has provided the Eligible Commercial Financing Customer with a Bill Impact Estimate; and
  - (vi) Acknowledgement and agreement to be subject to post-project verifications, as described in Section 10092.7(d).
- (E) Energy Professional Certification. The Energy Professional's certification, for each Eligible Energy Measure qualifying by the Professionally Certified Measure Method, as described in Section 10092.7(b)(3), of the following, in accordance with industry standards:

- (i) Each energy efficiency measure will save energy;
- (ii) Each Demand Response measure is capable of reducing demand on the electric grid or gas pipeline during peak periods;
- (iii) Each Distributed Generation measure will produce clean energy with reduced greenhouse gas emissions compared to existing conditions;
- (iv) Each Battery Storage measure is capable of reducing greenhouse gas emissions ~~through load shifting, to~~ allowing for greater grid stability as part of a virtual power plant, and/or ~~to mitigate~~ ing customer costs ~~through energy arbitrage~~; and
- (v) Hydrogen produced through electrolysis must use renewable energy sources.

Authority: Section 26006 and 26009, Public Resources Code  
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040,  
Public Resources Code

**Section 10092.9            Credit Enhancement**

- (a) Establishment of Accounts. Upon the Authority's acceptance of an application from a Finance Provider Applicant to be a Finance Provider Entity, the Authority shall instruct the Trustee to establish a Loss Reserve Account(s) for the Finance Provider Entity. The Loss Reserve Account(s) will be held by the Trustee and will be used to:
  - (1) Receive and hold Loss Reserve Contributions deposited by the Authority for the benefit of a Finance Provider Entity; and
  - (2) Pay claims pursuant to Section 10092.10.
- (b) At the Loss Reserve Account Representative's request, the Authority will establish up to three Loss Reserve Accounts for the Finance Provider Entity.
- (c) Contributions to Loss Reserve Accounts
  - (1) For each of the Finance Provider Entity's Enrolled Financing Agreements, the Authority shall direct the Trustee to transfer a Loss Reserve Contribution from the Program Holding Account to the Loss Reserve Account of that Finance Provider Entity.
  - (2) The Loss Reserve Contribution for an Enrolled Financing Agreement will be calculated based on customer type.
    - (A) Affordable Multifamily Customer For Projects installed at one or more Multifamily Properties, a Participating Finance Entity's Loss Reserve Account(s) will receive a Loss Reserve Contribution of 10% of the first \$1,000,000 of the Claim-Eligible Financed Amount.
      - (i) ~~For the first two enrolled Projects which are financed by an Affordable Multifamily Customer, a Participating Finance Company will receive a contribution of 30% of the first \$200,000 of claim-eligible financing and then 5% of the next \$800,000.~~
      - (ii) ~~For subsequent enrolled Projects financed by an Affordable Multifamily Customer, a Participating Finance Company will receive a contribution~~

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~~of 15% of the first \$200,000 of claim-eligible financing and then 5% of the next \$800,000.~~

- (B) For enrolled Projects which are financed by an Eligible Small Business Financing Customer, a Participating Finance Company's Loss Reserve Account(s) will receive a contribution of 20% of the first \$50,000 of ~~claim-eligible financing~~ the Claim-Eligible Financed Amount and then 5% of the next \$950,000.
- (3) If the Primary Finance Provider Entity notifies the Authority pursuant to Section 10092.2(c)(6)(F) that it determined not to fund the Enrolled Financing Agreement, the Authority will recover the Loss Reserve Contribution for that Enrolled Financing Agreement by transferring the funds back to the Program Holding Account and the financing agreement will be removed from the Program.
- (4) If the Primary Finance Provider Entity notifies the Authority pursuant to Section 10092.2(c)(6)(F) that it determined to fund less than the Claim-Eligible Financing Amount as reported at the time of submittal, the Authority will recover any excess contribution to the Loss Reserve Account by transferring the funds back to the Program Holding Account.
- (d) Annual Rebalance. Once per fiscal year ending June 30, the Authority will instruct the Trustee to rebalance a Finance Provider Entity's Loss Reserve Account, if necessary, and move funds from the FPE's Loss Reserve Account into the Program Holding Account.
- (e) Methodology. The initial rebalance amount will be the sum of the original Loss Reserve Contributions associated with Enrolled Financing Agreements that were paid off in full during the fiscal year.
- (1) If the FPE did not make any claims pursuant to Section 10092.10 during the fiscal year, the initial rebalance amount will not be changed and the funds will be transferred from the FPE's Loss Reserve Account to the Program Holding Account.
- (2) If the FPE made one or more claims pursuant to Section 10092.10 during the fiscal year, and the total claim amount is less than the initial rebalance amount, the final rebalance amount will equal the initial rebalance amount less the claim(s) amount.
- (3) If the FPE made one or more claims pursuant to Section 10092.10 during the fiscal year, and the total claim amount is more than the initial rebalance amount, there will be no rebalance.

Authority: Section 26006 and 26009, Public Resources Code  
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040,  
Public Resources Code