

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

TITLE 4, DIVISION 11, ARTICLE 7

INITIAL STATEMENT OF REASONS

Introduction

Pursuant to Article 8, Section 44520(b) of the Health and Safety Code, the California Pollution Control Financing Authority (the “Authority” or “CPCFA”) is authorized to adopt these regulations which are necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Existing law establishes the California Capital Access Program (“CalCAP”) and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that may have difficulty obtaining capital. (Health and Safety Code, § 44559)

The proposed amendments to the regulations allow the Authority to include provisions specific to the California Pollution Control Financing Authority’s California Americans with Disabilities Act Small Business Capital Access Loan Program (“CalCAP/ADA Program”) to ensure that changes authorized through Assembly Bill 1553, signed by Governor Brown on October 10, 2017, are implemented in furtherance of the CalCAP/ADA Program.

Statement of Benefits

The proposed amendments will help increase the pool of eligible small businesses by expanding the definition of small business specific to the CalCAP/ADA program and intend to incentivize small businesses to physically alter or retrofit their facilities for compliance with the federal American with Disabilities Act (“ADA”).

All numerical dollar amounts, percentages, time-frames, and similar figures were determined to be necessary in the exercise of judgment of the Authority, balancing the needs of the program, lenders, and borrowers.

Section Analysis

§ 8078.8 Definitions.

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Section 8078.8(d). Adds the term “CASp Inspection Report” to the definition as it can be used interchangeably with the term CASp Report.

Section 8078.8(h). Updates the name of the Program to conform to the statute.

Section 8078.8(k). Adds the term “Reimbursement” and “Reimbursement for CASp Report” defined as the amount that can be reimbursed to the Qualified Small Business by the Authority. The Reimbursement cannot exceed 5% of the loan amount enrolled in the CalCAP/ADA program. A range of factors can impact the costs of a CASp report like square footage of the facility, specific areas that need to be inspected, and license level of CASp inspector. The reimbursement amount of the CASp report cost is limited to a maximum of 5% of the enrolled loan amount in an effort to prevent an overcharge of the CASp report cost.

Section 8078.8(1)(2). Updates the definition of “Small Business” or “Qualified Business” to expand the criteria for qualified businesses eligible for the CalCAP/ADA Program to have a total gross annual income to less than \$5million according to the statutory changes.

§ 8078.10 Loan Enrollment.

This section describes the contents of a completed application, contribution amounts, and terms of the enrollment and reimbursement.

Section 8078.10(h). Provides the requirement information and documentation a Borrower must submit to the Authority in order to request a reimbursement for the CASp Report cost. The required information is necessary to determine the maximum reimbursement amount for an eligible Borrower.

Section 8078.10(i). Provides the timeframe and process for the Authority to effectuate the Reimbursement. This gives the Borrower an expected timeframe to receive the payment and holds the Authority to a timely standard.

Reliance

The proposed regulations are the result of collaborative effort between the Authority, the Division of the State Architect, and the California Commission on Disability Access.

Alternatives Considered

The Authority has determined that no alternatives are more effective, or as effective and less burdensome to affect persons or small businesses, than the proposed regulations.

Mandated Technology or Equipment

The Authority has determined the proposed regulations do not mandate the use of specific technologies or equipment.

Economic Impact Statement

The Authority has determined that the proposed regulations will have no significant adverse economic impact on small businesses, other businesses directly affected, or private persons, because they do not impose any kind of restrictions or burdens on businesses or persons. The Program is voluntary and the regulations provide financial incentives to qualified small businesses to physically alter or retrofit their facilities for compliance with the federal ADA. Furthermore, the Authority has determined that the amended regulations do not impose any additional cost or savings requiring reimbursement under Section 17500 et al of the Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any other State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) of the Government Code.

The creation or elimination of jobs within California: The revisions in Sections 8078.8 through 8078.10 of the CPCFA Regulations are not expected to have a direct impact on the creation or elimination of jobs within the State of California, due to the limited amount of funding available to support small businesses and due to the nature of the uses of loan proceeds. The revisions and of Sections 8078.8 through 8078.10 do not implement a new program, but rather, just expand and improve aspects of an already existing program.

The creation of new businesses or the elimination of existing businesses within the State of California: The proposed amendments to sections 8078.8 through 8078.10 of the CPCFA Regulations are not expected to have a direct impact on creating new businesses, as this program is in place already. However, the Authority anticipates the proposed amendment will help prevent the elimination of some existing businesses within the State of California because the Authority expects it will incentivize and help small business owners obtain the capital they need to avoid potential costly litigation due to their facilities being out of compliance with the federal ADA.

The expansion of businesses currently doing business within the State of California: The adoption of Sections 8078.8 -8078.10 of the CPCFA Regulations are not expected to have an impact on the expansion of businesses within the State of California. The program is designed to increase access to capital for small businesses seeking to physically alter or retrofit their existing facilities to ensure that the facility is in compliance with the federal ADA The Regulations seek to promote and incentivize Program participation.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: The broad objective of the regulations is to provide access to financing for small businesses and to enable small businesses which have difficulty obtaining financing to physically alter or retrofit their small business facilities for compliance with the federal ADA. It is anticipated that the increase in ADA compliant small business facilities will help meet California's and federal policy goals associated with reducing physical barriers that prevent access to certain small business facilities for disabled persons and will increase the general well-being of disabled citizens. The Authority anticipates that the proposed Adopted Regulations

will have some worker safety benefits, including but not limited to reducing physical barriers and otherwise improving accessibility for disabled workers and California disabled residents as well. The Authority does not expect that the proposed Adopted Regulations will impact the state's environment.

Documents Relied Upon

CPCFA did not rely upon any documents when preparing the proposed regulations for the CalCAP/ADA Financing Program .