

FINDING OF EMERGENCY

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Title 4, Division 11

Finding of Emergency

Pursuant to Section 44520(b) of the Health and Safety Code, the regulations being amended herewith by the California Pollution Control Financing Authority (the “Authority”) as emergency regulations (the “Emergency Regulations”) are, by legislative mandate, necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Necessity

These Emergency Regulations are necessary to implement, interpret, and make specific Article 8 of the California Pollution Control Financing Authority (the “Authority”) Act (the “Act”).¹ The following is the reason for changes made in January of 2013: The Authority’s Capital Access Program (CalCAP) is the subject of new legislation passed that increases the number of days a lender has to submit an application to CalCAP for enrollment from 10 days to 15 days. To ensure clarity for CalCAP’s Participating Financial Institutions, this change must be reflected in the Program regulations.

Authority and Reference

Authority: Sections 44520 (a), 44520(b) and 44559.5(f), Health and Safety Code. Section 44520(b) of the Act authorizes the Authority to adopt regulations relating to small business financing as Emergency Regulations and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.” Sections 44520(a) and 44559.5(f) of the Act authorize the Authority to adopt necessary regulations relating to the Capital Access Program established by the Act (CalCAP).

Reference: Sections 44559-44559.12 of the Health and Safety Code. These Emergency Regulations implement, interpret and make specific Sections of the Act by amending Sections 8070, 8071, 8072, 8078 and 8078.2 of Title 4, Division 11, Article 8 of the California Code of Regulations.

Informative Digest

Existing law establishes the Capital Access Program 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)

New legislation that became effective on January 1, 2013 changes the existing law to allow lenders 15 days to submit an application to CalCAP for enrollment in the Program.

¹ The Act is codified at Health and Safety Code sections 44500 through 44563 and Article 8 is codified at Health and Safety Code section 44559 through 44559.12.

(Health and Safety Code, § 44559.4.) Previously, the lender was allowed 10 days from the date of loan to send a loan enrollment application to CalCAP.

The proposed amendments to the regulations allow lenders to submit loan enrollment applications to CalCAP within 15 business days of the date of loan. In addition, the amendments will also give CalCAP 15 business days after the receipt of a completed loan enrollment application to notify the lender of the decision made for the request. These amendments are necessary to remain consistent with the statute.

By including rules for the revised time limit for submission of enrollments within the current CalCAP regulations, the Program will be more lender friendly and will help both the financial institutions and CalCAP meet time requirements in the Program.

The proposed amendments to the current regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or elimination of existing businesses within California, or significantly affect the expansion of businesses currently doing business within California. There are also no benefits of the health and welfare of California residents, worker safety or the state's environment with the proposed amendment to the CalCAP Regulations.

This proposed amendment to the CalCAP Regulations is consistent and compatible with the existing state regulations. The proposed amendment and objective is as follows:

The proposed amendments to the regulations increase the time limit for submission of a loan enrollment application to CalCAP and the notification to the lender of approval of a completed loan enrollment application. The proposed amendments and objectives for each section are as follows:

Section 8072(b)(1). *Change 10 business days to 15 business days.* The revision to this section increases the amount of time a lender has to submit a loan enrollment application to CalCAP to reflect the allowable time limit set forth by the statute with the passing of SB 1116.

Section 8072(g). *Change 10 business days to 15 business days.* To remain consistent with current practices, CalCAP will also be allowed 15 business days to respond to a complete loan enrollment application request.

Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulations or to the Authority.

Mandate on Local Agencies or School Districts

The Executive Director of the Authority has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts.

Fiscal Impact

The Executive Director of the Authority has determined that the Emergency 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 the 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 State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) Government Code.