

**State of California
Office of Administrative Law**

In re:
California Pollution Control Financing
Authority

Regulatory Action:

Title 04, California Code of Regulations

Adopt sections:

Amend sections: 8078.3, 8078.15

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

California Code of Regulations, Title 1,
Section 100

OAL Matter Number: 2018-1109-01

OAL Matter Type: Nonsubstantive (N)

This section 100 action amends provisions of the California Seismic Safety Capital Access Loan Program (CalCAP/Seismic Safety) and the California Electrical Vehicle Charging Station Financing Program (CalCAP/EVCS) to align the regulations with the underlying statutes. The changes are without regulatory effect.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: November 20, 2018



Mark Storm
Senior Attorney

For: Debra M. Cornez
Director

Original: Renee Webster-Hawkins,
Executive Director

Copy: Bianca Smith

NONSUBSTANTIVE

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2018-1109-01N	

For use by Office of Administrative Law (OAL) only

2018 NOV -9 A 10:30
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY California Pollution Control Financing Authority	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) CalCAP/Seismic Safety and CalCAP/EVCS Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT
AMEND
8078.3, 8078.15
REPEAL
TITLE(S)
4

3. TYPE OF FILING
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____
<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Bianca Smith	(916) 653-5408		bsmith@treasurer.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
	11/9/2018
TYPED NAME AND TITLE OF SIGNATORY Renee Webster-Hawkins, Executive Director	

For use by Office of Administrative Law (OAL) only

TEXT OF REGULATIONS

Title 4. Business Regulations Division 11. California Pollution Control Financing Authority Article 7. Capital Access Program for Small Businesses

§ 8078.3. Definitions.

...

(h) "Program" means the Electric Vehicle Charging Station Financing Program established pursuant to the Interagency Agreement between the Authority and the Energy Commission. Where the term "Program" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(~~pr~~).

(i) "Qualified Business" means any entity eligible under section Health and Safety Code section 44559.1(i) and (m) that together with its affiliates has 1,000 or fewer employees, and that is not dominant in its field of operation. Where the term "Qualified Business" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(~~st~~).

(j) "Qualified Loan" means a loan or a portion of a loan made by a Participating Financial Institution to a Qualified Business where the loan proceeds are for Eligible Project Costs for the installation and operation of one or more EVCS. "Qualified Loan" does not include any of the following:

- (1) A loan for the construction or purchase of residential housing;
- (2) A loan to finance Passive Real Estate Ownership;
- (3) A loan for the refinancing of debt already held by the Participating Financial Institution other than a prior Qualified Loan enrolled under the Program, except to the extent of any increase in the outstanding balance;
- (4) Any loan, the proceeds of which will be used to install EVCS at any of the facilities described in Section 8070(~~tu~~)(4)(A);
- (5) Any loan or portion thereof to the extent the same loan or portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program; and
- (6) Any loan where the total amount or value of loans enrolled in the Program by the Borrower exceeds \$500,000.

Where the term "Qualified Loan" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(~~tu~~).

(k) "Trustee" means a bank or trust company, or the State Treasurer, chosen by CPCFA from time to time to hold or administer some or all of the Program Accounts.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code.
Reference: Sections 44559.1, 44559.3, 44559.5 and 44559.11, Health and Safety Code.

§ 8078.15 Definitions.

...

(g) "~~Qualified building~~" means a ~~building in California that is certified by the appropriate local building code enforcement authority for the jurisdiction in which the building is located as hazardous and in danger of collapse in the event of a catastrophic earthquake~~ residential or commercial building in California that is identified by the local building code official for the jurisdiction in which the building is located as a building in need of seismic retrofitting and is either a building of a type that is potentially vulnerable in the event of a catastrophic earthquake or a building constructed before 1981. A "Qualified building" may be a single-family residence, multiunit housing building, multiunit housing building with commercial space, or mobilehome, manufactured home, and multifamily manufactured home installed in accordance with Section 18613 of the Health and Safety Code.

(h) "Qualified Loan" means a loan or portion of a loan as defined in Section 44559.1(j) of the Health and Safety Code or a loan made to a Qualified residential property owner, where the proceeds of the loan or portion of the loan are limited to the Eligible Costs for an Eligible project under this Program, and where the loan or portion of the loan does not exceed two hundred fifty thousand dollars (\$250,000), and where the term of loss coverage for each qualified loan is no more than ten years. "Qualified Loan" does not include any of the following:

(1) Any loan or portion thereof to the extent the same loan or portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program; and

(2) Any loan where the total amount or value of loans enrolled in the Program by the Borrower exceeds \$250,000.

(i) "~~Qualified small business~~" means a business referred to in subdivisions (i) and (m) of Section 44559.1 that ~~owns and occupies, or intends to occupy,~~ a Qualified building regardless of owner occupancy, notwithstanding the restriction on passive real estate ownership in subparagraph (B) of paragraph (2) of subdivision (j) of Section 44559.1, ~~for the operation of the business, that is not dominant in its field of operation, and that together with affiliates, has 500 or fewer employees.~~

(j) "Qualified residential property owner" means either an owner ~~and occupant~~ of a residential building that is a Qualified building or a Qualified small business that owns one or more residential

buildings, including a multiunit housing building, that is a Qualified building, notwithstanding the restriction on passive real estate ownership in subparagraph (B) of paragraph (2) of subdivision (j) of Section 44559.1.

(k) “Qualified commercial property owner” means either an owner ~~and occupant~~ of a commercial building that is a Qualified building or a Qualified small business that owns one or more commercial buildings that is a Qualified building.

...

(n) “Seismic retrofit construction” means alteration performed on or after January 1, 2017, of a Qualified building or its components to substantially mitigate seismic damage. Seismic retrofit construction includes, but is not limited to, all of the following:

- (1) Anchoring the structure to the foundation.
- (2) Bracing cripple walls.
- (3) Bracing water heaters.
- (4) Installing automatic gas shutoff valves.
- (5) Repairing or reinforcing the foundation to improve the integrity of the foundation against seismic damage.
- (6) Anchoring fuel storage.
- (7) Installing an Earthquake-Resistant Bracing System for mobilehomes or manufactured homes that are registered with the Department of Housing and Community Development.
- (8) Strengthening a building’s lateral load resisting system.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.14, Health and Safety Code.
Reference: Sections 18613, 18613.4, 18613.5, 18613.7, 44559.1, 44559.3, 44559.5 and 44559.11, Health and Safety Code; Section 13340, Government Code.