

# FINDING OF EMERGENCY

## CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Title 4, Division 11

### Finding of Emergency

Pursuant to Section 44520 of the Health and Safety Code, the California Pollution Control Financing Authority (the “Authority”) proposes to adopt emergency regulations (the “Emergency Regulations”), which 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 the California Pollution Control Financing Authority Act (the “Act”).<sup>1</sup> The reason for immediate changes to the Authority’s California Capital Access Program (“CalCAP”) regulations are to ensure that changes authorized through Assembly Bill 1553, signed by Governor Brown on October 10, 2017, are implemented in furtherance of the California Americans with Disabilities Small Business Capital Access Loan Program (the “CalCAP/ADA Program” or “CalCAP/ADA”). The primary changes will expand the definition of small business for the purposes of the CalCAP/ADA Program to include businesses with less than \$5 million in total gross annual income, and authorize the Authority to use Small Business Assistance Fund (“SBAF”) monies to incentivize participation in the CalCAP/ADA loan loss reserve program. All numerical dollar amounts, percentages, time-frames, and similar figures were determined to be necessary in the exercise of judgement of the Authority, balancing the needs of the program, lenders and borrowers.

### Authority and Reference

Authority: Sections 44520, 44559.5 and 44559.13 Health and Safety Code.

Reference: Section 55.53 of the California Civil Code.

### 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)

The proposed amendments to the regulations allow the Authority to include provisions specific to the California Americans with Disabilities Small Business Capital Access Loan Program (“CalCAP/ADA Program”). The proposed regulations will expand the definition of small business

---

<sup>1</sup> The Act is codified at Health and Safety Code sections 44500 et seq. and Article 8 is codified at Health and Safety Code section 44559 et seq.

for the purposes of the CalCAP/ADA program to include businesses with less than \$5 million or less in total gross annual income, and allow the Authority to include a reimbursement to the borrowers for the Certified Access Specialist Report cost, in order to incentivize participation in the CalCAP/ADA program.

The Authority has performed a search of existing regulations and has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

### **The Proposed Amendments and Objectives for Each Section are as Follows:**

#### **§ 8070. 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 reimbursement amount to the Qualified Small Business by the Authority that may not 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(l)(3). Updates the definition of “Small Business” or “Qualified Business” to expand the criteria for qualified businesses to be eligible for the CalCAP/ADA Program to have a total gross annual income to less than \$5million according to the statutory changes.

Necessity. The proposed amendments are necessary to include definitions specific to the CalCAP/ADA program and for consistency with 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.

Necessity. A description of the required information is necessary to specify the application contents that must be provided in order for the Authority to reconcile the reimbursement amount.

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

No other matters prescribed by statute are applicable to the Authority or to any specific regulation or class of regulations.

**Mandate on Local Agencies or School Districts**

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

**Fiscal Impact**

The Authority has determined that the Emergency Regulations do not impose any additional cost or savings to any state agency, any cost to any local agency or school district that is required to be reimbursed under Government Code section 17500 et seq., any other non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.