

# STATEMENT OF CHANGES WITHOUT REGULATORY EFFECT

## CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

### TITLE 4, DIVISION 11, ARTICLE 7

The California Pollution Control Financing Authority ("CPCFA") proposes changes without regulatory effect that would amend Title 4 of the California Code of Regulations (CCR), section 8078.3 and 8078.15. The proposed amendments contained in the accompanying regulation text are changes without regulatory effect pursuant to Title 1, CCR, Section 100(a)(6).

Title 1, CCR, Section 100(a)(6) allows for making a regulatory provision consistent with a changed California statute if both of the following conditions are met:

1. The regulatory provision is inconsistent with and superseded by a changed statute, and
2. The adopting agency has no discretion to adopt a change that differs in substance from the one chosen.

The proposed changes need to be adopted to align the existing regulations for the California Seismic Safety Capital Access Loan Program with the statute and to correct mistaken references to the Electrical Vehicle Charging Station Financing Program regulations.

a) The proposed changes to section 8078.3(h), 8078.3(i), and 8078.3(j), correct mistaken references to the "CalCAP/EVCS" regulations.

b) Each of the proposed changes discussed below stem from the legislative changes arising out of Assembly Bill 1547 (Statutes of 2018, Chapter 645), effective September 21, 2018.

1. The changes to section 8078.15(g), regarding the definition of the term qualified building, align the regulation with the existing definition in Health and Safety Code section 44559.14(b)(4). The statutory changes modify the term "qualified building" to mean a residential or commercial building identified by the local building code official as a building in need of seismic retrofitting and either a building of a type that is potentially vulnerable in the event of a catastrophic earthquake or a building constructed before 1981. This change only requires the qualified building to be "identified" rather than "certified" as it was before the change in the statute.

2. The changes to section 8078.15(i), regarding the definition of "Qualified small business", align the regulation with the existing definition in Health and Safety Code section 44559.14(b)(6). The change no longer requires the owner to occupy a qualified building in order to be eligible under the program.

3. The changes to section 8078.15(j), regarding the definition of "Qualified residential property owner", align the regulation with the existing definition in Health and Safety Code section 44559.14(b)(7). The change no longer requires the owner to occupy a qualified building in order to be eligible under the program.

4. The changes to section 8078.15(k), regarding the definition of “Qualified commercial property owner”, align the regulation with the existing definition in Health and Safety Code section 44559.14(b)(7). The change no longer requires the owner to occupy a qualified building in order to be eligible under the program.
5. The changes to section 8078.15(n), regarding the definition of “Seismic retrofit construction”, align the regulation with the existing definition in Health and Safety Code section 44559.14(b)(1)(H). The changes add the “strengthening a building’s lateral load resisting system” feature to the existing definition.

The above proposed amendments make section 8078.3 and 8078.15 consistent with existing statute. CPCFA requests this amendment as a change without regulatory effect, as it does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

## 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.