

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
CalCAP Program Staff Summary
Meeting Date: March 17, 2015

Consideration and Approval of Adoption of Emergency Regulations Implementing the Electric Vehicle Charging Station Financing Program pursuant to the Interagency Agreement between the California Pollution Financing Authority and the California Energy Commission

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Summary. Staff requests approval of an emergency rulemaking pertaining to the launch of the California Capital Access Program's ("CalCAP") Electric Vehicle Charging Station Financing Program ("EVCS Financing Program" or "Program"). Staff is proposing to file emergency regulations to adopt §§8078.3 –8078.7 of the California Pollution Control Financing Authority ("CPCFA" or the "Authority") regulations to amend the existing CalCAP Loan Loss Reserve Program to include the California Energy Commission ("Energy Commission") as an Independent Contributor pursuant to Health and Safety Code section 44559.11(b) and Section 8078 of the CalCAP Regulations, and to administer the new EVCS Financing Program. Upon the Authority's approval, staff will file the emergency regulation package with the Office of Administrative Law (OAL).

Background. CPCFA's mission is to promote access to capital through the delivery of diverse financing options to California. Carrying out this mission, CPCFA staff initiated discussions with the Energy Commission to form a financing program to expand EVCS infrastructure in California. The proposed Program will be funded by the Energy Commission and administered by CPCFA. By collaborating with CPCFA, the Energy Commission can meet several of its policy goals associated with reducing greenhouse gas emissions and working toward California's goal of creating enough EVCS infrastructure to support one million zero emission vehicles (ZEVs) by 2020 and 1.5 million ZEVs by 2025. The funding and broad framework for the Program are formalized in the Interagency Agreement proposed for approval by the Energy Commission on March 11, 2015 and proposed for approval by the Authority on March 17, 2015.

Proposed Amendment to Regulation. Staff proposes to adopt §§8078.3– 8078.7 of the CPCFA regulations as shown in Attachment A.

Need for Emergency Regulations. Section 45599.11(b) permits the Authority to adopt regulations to establish alternate provisions to implement CalCAP programs entirely funded by another source such as an Independent Contributor. Section 45520(b) permits the adoption of such regulations as emergency regulations.

The EVCS Financing Program includes alternative features in addition to the basic CalCAP loan loss reserve model which require regulations. The proposed regulatory amendments address the Program's contribution rates, borrower rebate, change to the size of small business, and specification of electric vehicle charging station technical requirements eligible for inclusion in the Program.

Summary of Regulations. The regulations necessary to administer the EVCS Financing Program include:

- Definitions that apply specifically to the EVCS Financing Program, including the increase in the size of an eligible small business to include 1,000 or fewer employees;
- Changes to the information collected on the loan enrollment forms, to facilitate the reporting of loans enrolled in the program by CPCFA staff to the Energy Commission, as well as the evaluation of this Program;
- Establishing loan loss reserve contribution rates of 20% for all enrolled loans, plus an additional 10% if the enrolled loan supports installation of an electric vehicle charging station at a multi-unit dwelling or in a disadvantaged community;
- Establishing a maximum 48 month term that a loan can be enrolled in the Program; and
- Creation of a rebate of 50% of the loan loss reserve contribution to borrowers with good repayment histories, at the time the loan is paid off or forty-eight (48) months after the loan is enrolled, whichever comes first.

Regulatory Process. The public participation process for these regulations has already been initiated informally. On November 7, 2014, CPCFA and the Energy Commission conducted a joint public workshop for the proposed EVCS Financing Program to solicit feedback from key stakeholders regarding the Program's features. Stakeholders were asked to submit questions or comments within the following thirty days. The comments received were considered and incorporated into the Program as appropriate. The public will be able to further comment during the OAL Regulatory Process and at the public business meetings of the Energy Commission on March 11, 2015, and of the Authority on March 17, 2015.

The formal emergency rulemaking process has also begun. Authority staff posted a 5-day notice to CPCFA's website and sent the notice to interested parties on March 10, 2015. Upon the Authority's approval to amend the CalCAP regulations as proposed, emergency and regular rulemaking packages will be filed with OAL. Once the proposed emergency regulations are filed with OAL the public will have five (5) additional days to comment. OAL has up to 10 calendar days to review or deny the emergency regulations. Assuming OAL approves this amendment as an emergency, the emergency regulations are effective for 180 days during which time CPCFA staff will begin the regular rulemaking process to conform the emergency regulations as permanent.

To begin the permanent rulemaking process, the Authority will prepare a notice of a proposed rulemaking to be published in the California Regulatory Notice Register, mail the notice to interested parties, and post the notice, text, and initial statement of reasons on our website. The notice starts a 45-day public comment period. After that time, staff will review and respond to any comments and, if substantive changes to the regulations are made, present the final form of the regulations to the Authority for approval. If there are substantial modifications, the revised regulations must be published in the Register again for a 15-day public comment period before Authority approval. After Authority approval, a permanent rulemaking file is submitted to OAL, and OAL has 30 working days to review the regulations for compliance with the Administrative Procedure Act and the Authority's statute. Once OAL approves the regulations, they are filed with the Secretary of State and become effective 30 days later.

Timeline. Outlined below is the estimated rulemaking schedule.

Emergency Regulations

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| March 10, 2015 | 5-day Notice posted on CPCFA website and sent to Interested Parties. |
| March 17, 2015 | The Authority approves the emergency regulations. |
| March 17, 2015 | Emergency regulations filed with OAL. |
| March 23, 2015 | Public comment period ends. |
| March 27, 2015 | OAL review period ends. Emergency regulations are filed with the Secretary of State and are in effect. |
| September 23, 2015 | Emergency regulations expire. |

Permanent Regulations

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| April 28, 2015 | The <i>Rulemaking File</i> and Notice of Publication are filed with the Office of Administrative Law (OAL). The Notice of Proposed Regulatory Action is issued. |
| May 8, 2015 | OAL publishes Notice and 45-day public comment period begins. |
| June 22, 2015 | Public comment period regarding proposed regulations ends. |
| June 8, 2015 | Deliver permanent regulation package to OAL for 30-day review* |
| July 28, 2015 | OAL issues Approval of Certificate of Compliance and files regulations with the Secretary of State. Permanent regulations become effective. |

*If public comments are received that warrant substantial modifications to the proposed regulations, then the process will be lengthened to accommodate a 15-day comment period as follows:

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| June 29, 2015 | Proposed regulation amendments are modified and Notice of Proposed Changes is issued to initiate a 15-day comment period. |
| July 14, 2015 | 15-day comment period ends. |

Agenda Item 4.D.

- July 21, 2015 The Authority approves Permanent Regulations.
- July 21, 2015 Deliver permanent regulation package to OAL for 30-day review.
- August 20, 2015 OAL issues Approval of Certificate of Compliance and files regulations with the Secretary of State. Permanent regulations become effective.

Recommendation. Staff recommends approval of the proposed resolution to adopt regulations concerning the CalCAP EVCS Financing Program and to authorize staff to undertake emergency and regular rulemaking proceedings and other actions related to implementing the Electric Vehicle Charging Station Financing Program pursuant to the Interagency Agreement between the California Pollution Control Financing Authority and the California Energy Commission.

RESOLUTION OF THE CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY AUTHORIZING EMERGENCY RULEMAKING PERTAINING TO THE ELECTRIC VEHICLE CHARGING STATION FINANCING PROGRAM PURSUANT TO THE INTERAGENCY AGREEMENT BETWEEN THE CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY AND THE CALIFORNIA ENERGY COMMISSION

March 17, 2015

WHEREAS, the California Pollution Control Financing Authority (the "Authority") is authorized by California Health and Safety Code Sections 44520(a) to adopt regulations to implement and make specific the statutory provisions governing the Authority; and

WHEREAS, the Authority is authorized by California Health and Safety Code Section 44520(b) to adopt regulations relating to small business as emergency regulations; and

WHEREAS, the Authority is authorized by California Health and Safety Code section 44519 to “delegate to one or more of its members, its executive director, or any other official or employee of the authority any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority”; and

WHEREAS, the Authority is authorized by California Health and Safety Code Section 44559.11(b) to adopt regulations to establish alternate provisions to the California Capital Access Program regulations; and

WHEREAS, the Authority has determined that amendments to the Authority’s regulations relating to its General Provisions Relating to Authority Actions set forth in Article 3 of Division 11 of Title 4 of the California Code of Regulations, are necessary to be adopted as emergency regulations at this time to administer the Program.

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority as follows:

Section 1. The proposed form of regulations presented at the March 17, 2015 meeting is hereby approved in substantially the form submitted. The Chair, Executive Director or Deputy Executive Director is hereby authorized, for and on behalf of the Authority, to proceed with filing such regulations with the Office of Administrative Law, with the supporting documentation required by law, for the purposes of adopting these as emergency regulations and later as regular regulations.

Section 2. The Chair, Executive Director or Deputy Executive Director of the Authority are hereby authorized and directed to take such actions, including making or causing to be made such changes to the regulations as may be required for approval thereof by the Office of Administrative Law, and to execute and deliver any and all documents that they may deem necessary or advisable in order to effectuate the purposes of this resolution.

Section 3. This resolution shall take effect immediately upon its approval.