

INITIAL STATEMENT OF REASONS

California Alternative Energy and Advanced Transportation Financing Authority

Sections 10092.1, 10092.2, 10092.5, 10092.7, 10092.8, 10092.9

Title 4, Division 13, Article 6
of the California Code of Regulations

INTRODUCTION

The California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA” referred to herein as “the Authority”) is organized and operating pursuant to Division 16 (commencing with section 26000) of the California Public Resources Code and pursuant to the authority vested in it by Public Resources Code Section 26009 to promulgate regulations. These regulations are necessary for the Authority to carry out its functions as the administrator of the California Hub for Energy Efficiency Financing under its Memorandum of Agreement with the California Public Utilities Commission (CPUC). Specifically, these Regulations will update the Commercial Energy Efficiency Financing Program (“Referred to publicly as the GoGreen Business Program,” and additionally here in this document as “Program”), one of several programs devised in the CPUC approved *Decision Implementing 2013-2014 Energy Efficiency Financing Pilot Programs* (“Decision”)¹ and subsequent CPUC actions². The regulations described below were created after considering all comments, objections, and recommendations regarding the proposed action.

On September 19, 2013, the CPUC approved the Decision, and requested the Authority act as the master administrator of the California Hub for Energy Efficiency Financing (“CHEEF”), funded by ratepayer dollars collected by the four investor-owned utilities—Pacific Gas & Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company (collectively, the “IOUs”). In July 2014, the Authority received initial Legislative budget authority to administer the CHEEF functions, and subsequently entered into a Memorandum of Agreement with the CPUC and a receivables contract with the IOUs to implement the CHEEF.

Under CAEATFA’s statutory authority (Division 16, commencing with §26000 of the Public Resources Code) to provide “financial assistance” to “participating parties” for the implementation or “projects” as those terms are defined in PRC §26003, these regulations interpret the Decision and implement the Program. In 2023, the CPUC issued Decision 23-08-026 which further authorized CAEATFA to finance additional clean energy generation and storage measures in addition to energy efficiency. CAEATFA staff applied a public benefits test to evaluate new energy measures to be included as eligible for financing. In addition, CAEATFA staff incorporated new regulations to allow for the use of sources of funding other than IOU ratepayer funds to allow expanded eligibility and types of financing assistance in the event that other sources of funding become available.

¹ Decision Implementing 2013-2014 Energy Efficiency Financing Pilot Programs. Decision 13-09-044.

² CPUC has issued additional actions addressing issues related to the implementation of the pilot programs, including Decision 15-06-008, Decision 15-12-002, Decision 17-03-026, Decision 21-08-006, and Decision 23-08-026.

The proposed Regulations duplicate or overlap state or federal regulations which are cited as “authority” or “reference” for the proposed Regulations and the duplication or overlap is necessary to satisfy the “clarity” standard of Government Code §11349.1(a)(3).

§10092.1: Definitions.

This section defines and describes the terms used throughout the GoGreen Business Regulations.

- *§10092.1(u)*: An amendment was made to the defined term Eligible Financing Agreement to remove language stating that financing may not be for the construction or purchase of a building.
- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This is part of changes to the program to allow repairs to a property damaged by a natural disaster may be part of eligible projects under the program.

- Specific Purpose of the Regulation:

This requirement was removed from definitions so that requirements can be addressed in §10092.7 Project Eligibility, for consistency and readability.

- Necessity:

This requirement was moved to Section 10092.7 Project Eligibility for clarity and cohesion, keeping project requirements in the same section.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

Prior regulations did not prohibit use of the program for property repairs, the only limitation was on construction of a new building. This change makes explicit that repairs are eligible.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

- *§10092.1(vv)*: An amendment was made to clarify that the definition of Multifamily Property may include a property with multiple buildings.

- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This is part of a set of changes to make the program better align with market needs in the multifamily sector.

- Specific Purpose of the Regulation:

This change makes clear that multifamily properties may have units in multiple buildings.

- Necessity:

This amendment clarifies the definition to align with a common structure of apartment complexes with several buildings on the same property.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

The previous definition did not clearly encompass existing multifamily property structures, so the alternative was an unclear definition.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

§10092.2. Finance Entity Enrollment

This section defines and describes the Finance Provider Applicant and Finance Provider Entity roles, application process, and enrollment process of the GoGreen Business Program.

- *§10092.2(c)(6)(D)*: An amendment was made to extend the final funding deadline to 12 months for multifamily installations.

- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This is part of a set of changes to make the program better align with market needs in the multifamily sector.

- Specific Purpose of the Regulation:

This better aligns with multifamily lending needs by allowing time to convert from a construction loan to a permanent loan.

- Necessity:

This section was amended to align with industry standard practices to allow a longer time interval between completion of installation and the conversion of the construction loan into a long-term loan. Final funding of the financing agreement is not required at submittal for enrollment, this amendment allows greater flexibility in completing the funding of the loan.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

Previous regulations required funding within 30 calendar days.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

§10092.5. Eligible Financial Products

This section defines and describes the required financial terms for Eligible Financial Products of the GoGreen Business Energy Financing program.

- *§10092.5(b)(2):* An amendment was made to clarify that refinancing agreement requirements do not apply to construction-to-permanent financing agreements.
- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This is part of a set of changes to make the program better align with market needs in the multifamily sector.

- Specific Purpose of the Regulation:

This better aligns with multifamily lending needs by allowing time to convert from a construction loan to a permanent loan.

- Necessity:

The rule against refinancing exists to prevent customers from benefiting from enhanced financing for projects which were previously installed outside of the Program and is not intended to prohibit construction loans as part of financing a single retrofit project. This section was amended to be in alignment with industry standard practices.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

Previous regulations only allowed refinancing within 90 calendar days, which would inhibit standard lending practice of converting from a construction loan to a permanent loan.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

- *§10092.5(b)(5) and (6)*: An amendment was made to remove a rule prohibiting security against real property, and to simplify eligibility by removing specific requirements on the type of security.

- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This is part of a set of changes to make the program better align with market needs in the multifamily sector.

- Specific Purpose of the Regulation:

This better aligns with multifamily lending needs by allowing security against real property, and other types of security.

- Necessity:

This amendment allows lenders flexibility in the type of security interest that may be taken on financing agreements in the Program and allows security against real property which is standard practice in multifamily lending.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

Previous regulations explicitly prohibited security against real property which is standard practice in multifamily lending.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

§10092.7. Project Eligibility

This section outlines the eligibility requirements for projects to be eligible for the GoGreen Business Program.

- *§10092.7(a)(4)*: An amendment was made to exclude multifamily installations from a maximum of \$350,000 of non-lighting measures qualifying via the Eligible Energy Measures List.

- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This is part of a set of changes to make the program better align with market needs in the multifamily sector.

- Specific Purpose of the Regulation:

This helps keep multifamily projects cost effective by removing the requirement to hire an energy professional for an audit.

- Necessity:

This amendment allows a simplified approach to measure eligibility for installations at multifamily properties to reduce project costs. The additional rigor of requiring an energy professional's certification is not needed for multifamily properties due to the consistency of the energy measures being installed.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

Previous regulations required any energy professional to certify non-lighting installations over \$350,000, which creates additional cost for multifamily upgrades.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

- §10092.7(a)(6) - (8): These sections were amended to include the restriction deleted from Section 10092.1 regarding purchase or construction of a building, including a new exception for reconstruction of an existing building that was destroyed in a natural disaster.

- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This is part of changes to the program to allow repairs to a property damaged by a natural disaster may be part of eligible projects under the program.

- Specific Purpose of the Regulation:

This makes explicit that projects which involve repairs after a natural disaster are eligible for the program.

- Necessity:

Under current regulations, financing through GoGreen Business is limited to upgrading existing buildings and cannot be applied to new construction. This change makes explicit that reconstruction of a building damaged in a natural disaster is not subject to this restriction. This provides the option for enhanced financing in reconstruction after natural disasters such as wildfires and encourages the uptake of energy efficient installations as part of this.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

Prior regulations did not prohibit use of the program for property repairs, the only limitation was on construction of a new building. This change makes explicit that repairs are eligible.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

§10092.8. Financing Submittal and Enrollment

This section outlines the submittal and enrollment requirements for projects to be enrolled in the GoGreen Business Program.

- *§10092.8(a)(2)*: An amendment was made to extend the time for submittal for multifamily installations.
- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This is part of a set of changes to make the program better align with market needs in the multifamily sector.

- Specific Purpose of the Regulation:

This better aligns with multifamily lending needs by allowing time to convert from a construction loan to a permanent loan.

- Necessity:

This amendment allows a longer submittal time to accommodate industry standard practices for construction-to-permanent financing agreements for multifamily installations.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

Previous regulations required project submittal within 90 calendar days.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

- *§10092.8(b)(2)(OO)*: An amendment was made adding the Energy Professional's estimate.

Necessity:

- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

Regulations include certification of an energy professional for eligibility, this section lists required data points for that method.

- Specific Purpose of the Regulation:

This change makes the requirements on energy professional certification more consistent.

- Necessity:

This amendment clarifies that the data regarding greenhouse gas reductions are estimates, consistent with other data points in this section.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

No alternatives were considered, this is a change for consistency.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

- *§10092.8(b)(3)(E)(iv)*: An amendment was made to clarify and simplify requirements on battery storage.

- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

This makes batteries and other forms of energy storage eligible for the program.

- Specific Purpose of the Regulation:

This section provides requirements to ensure that energy storage is used in a way that reduce greenhouse gas emissions.

- Necessity:

This amendment makes the Energy Professional's certification consistent with requirements regarding battery measures listed in section 10092.7.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:
No technical documents were consulted.
- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:
No alternatives were considered, this is a change for consistency.
- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:
Participation in this program is voluntary so there is no adverse impact on small business.
- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:
Participation in this program is voluntary so there is no adverse economic impact.

§10092.9. Credit Enhancement

This section outlines the establishment of and contributions to Financial Provider Entities' Loss Reserve Accounts related to Projects that are enrolled in the GoGreen Business Program.

- *§10092.9(c)(2)(A):* An amendment was made to change loss reserve calculations for multifamily installations from a tiered structure to a contribution of 10%, and to allow both affordable and market rate multifamily to receive the same loss reserve contributions. §10092.9(c)(2)(A)(i) was revised and moved to §10092.9(c)(2)(A).
- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:
The program's loss reserves promote energy-saving installations through enhanced financing.
- Specific Purpose of the Regulation:
This change provides increased coverage from the loss reserve for multifamily lenders.
- Necessity:
This amendment streamlines the calculation for loss reserve contributions and accelerates growth of loss reserves for lenders financing multifamily installations. This also allows unsubsidized multifamily housing to benefit from the same loss reserve contributions as affordable multifamily.
- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:
No technical documents were consulted.
- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:
Previous regulations provided smaller loss reserve contributions, community lenders in the multifamily sector expressed that a larger loss reserve contribution would allow more multifamily energy retrofits to be financed.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

- *§10092.9(c)(2)(B)*: An amendment was made to clarify language by using defined terms.
- Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

The program's loss reserves promote energy-saving installations through enhanced financing.

- Specific Purpose of the Regulation:

This is a change for consistency.

- Necessity:

This amendment makes regulations language more consistent by using defined terms.

- Technical, Theoretical, and/or Empirical Studies, Reports, or Documents:

No technical documents were consulted.

- Alternatives to the Regulations Considered by the Agency and the Agency's Reasons for Rejecting those Alternatives:

No alternatives were considered, this is a change for consistency.

- Alternatives to the Proposed Regulation Action that Would Lessen any Adverse Impact on Small Business:

Participation in this program is voluntary so there is no adverse impact on small business.

- Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business:

Participation in this program is voluntary so there is no adverse economic impact.

ECONOMIC IMPACT ASSESSMENT

Creation or Elimination of Jobs and Businesses within the State of California

The regulations are designed to establish the Program structure, provisions and the type and level of financial assistance Finance Provider Entities may obtain if accepted to participate in the Program. Existing staff will carry out these regulations, participation in the Program is voluntary, and these regulations do not place a burden on businesses within California, therefore these regulations do not affect the ability to create or eliminate jobs within the state of California.

The Authority finds that the regulations will have a positive effect on the state's economy as studies have cited access to attractive financing as a significant impediment for businesses to invest in energy upgrades. Therefore, the Authority finds there may be increased economic activity for manufacturers and installers of energy efficiency measures, finance companies who participate in the Program, and contractors and project developers who participate in the program. Additionally, businesses that make energy upgrades are likely to experience energy savings which could be reinvested into their businesses and into the state economy as a whole.

The Authority finds that the regulations may have a positive impact on the creation of jobs within California, particularly those commonly referred to as "green jobs," and may help expand the number of employers currently doing business within the state, particularly energy efficiency retrofit contractor companies. The Authority has not estimated the number of direct and indirect green jobs that may be created as a result of this Program.

Creation of New or Elimination of Existing Businesses within the State of California

The regulations help provide an incentive to finance companies offering credit to California small business owners and, therefore, are not anticipated to eliminate existing businesses within the State of California. The Authority finds that the proposed regulations will have a positive effect on the businesses that make use of the financing and OBR mechanism based on stakeholder comments received. The regulations are unlikely to significantly affect the creation of new businesses within the State of California.

Expansion of Businesses or Elimination of Existing Businesses Within the State of California

Studies have cited the need for lower cost financing as a main impediment to increasing the number of businesses investing in energy efficiency upgrades, therefore, the Authority finds there would be increased economic activity for certain businesses of project developers and contractors who conduct energy efficiency retrofits, thus potentially expanding existing businesses.

Benefits of the Regulations

As the amendments make the Program more attractive to finance companies, contractors, project developers, and small business borrowers, there may be additional reduction of greenhouse gas emissions and an improvement of air quality. This could benefit the state's environment and residents' health. These amendments will have no impact on worker safety. Further, the amendments may benefit the state's fiscal health by incentivizing finance companies to enter into financing agreements and offer new products to borrowers who wish to make an energy efficiency investment.

California has aggressive energy reduction goals. A series of legislation passed in recent years, including Assembly Bill 32 (Nuñez, Chapter 488, Statutes of 2006), Assembly Bill 758 (Skinner, Chapter

470, Statutes of 2009), Senate Bill 350 (De León, Chapter 547, Statutes of 2015), and Senate Bill 100 (De León, Chapter 312, Statutes of 2018) have addressed energy efficiency issues and provided direction for establishing ambitious energy goals for the state. Additionally, in July of 2021, Governor Newsom directed the CPUC and the California Air Resources Board to accelerate California's progress to achieving carbon neutrality to 2035, in advance of the previous 2045 target.

In 2008 the California Public Utilities Commission adopted the California Long-Term Energy Efficiency Strategic Plan ("Strategic Plan"), which set forth a statewide roadmap to maximize the achievement of cost-effective energy efficiency in California's electricity and natural gas sectors from 2009 through 2020 and beyond. While the commercial sector is not restricted by lack of financial products, two of the main barriers to achieving the energy efficiency goals laid out by the Strategic Plan are the high interest rates associated with that financing and the fact that many of the financing products currently available are difficult to access.

The purpose of the Commercial Energy Efficiency Financing Program is to provide credit enhancement support for finance companies financing energy efficiency improvements. Through the use of credit enhancements, finance companies are able to mitigate risk and thus offer better rates and terms to a broader base of customers. The goals of the Program are to attract a greater amount of private capital to the energy efficiency retrofit market by mitigating risk to finance companies, to broaden the availability of financing to those who might not have been able to access it otherwise, and to address the upfront cost barrier to energy efficiency retrofit projects.

The goals of the amendments are designed to allow clean energy generation and storage measures to qualify for financing, to add an affordable multifamily customer type, to expand On-Bill Repayment to other types of utilities, and to allow the program to use other sources of funding than IOU ratepayer funds to qualify upgrades in different utility territories, qualify different types of customers, and offer other forms of financial assistance.

Small Business:

The proposed regulations will not have an adverse impact on small businesses in California. Participation is voluntary and designed to offer access to attractive financing that a small business otherwise may not have.