

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

TITLE 4, DIVISION 11, ARTICLE 7

INITIAL STATEMENT OF REASONS

Introduction

Existing law establishes the California Capital Access Loan Program (CalCAP) and authorizes the California Pollution Control Financing Authority (CPCFA) to contract with specified financial institutions to make loans to eligible small businesses that are having trouble obtaining capital (Health and Safety Code, §44559.2).

Under existing law, borrowers and lenders must pay a fee on CalCAP loan enrollments to the lender's loss reserve account (Health and Safety Code, §44559.3). The fees paid to the loss reserve account are matched by CPCFA at 150 percent or 200 percent of the lender's contribution, depending on the funding source (Health and Safety Code, §44559.4(d)). The funds held in the lender's loss reserve account are the sole property of CPCFA and are used to cover losses on any loan that the lender has enrolled in CalCAP (Health and Safety Code, §44559.5).

CalCAP was established in 1994 using the fees from tax exempt bond sales for its contributions to loan loss reserve accounts. CalCAP is designed to encourage lending to small businesses throughout California. To accomplish this, CalCAP establishes loan loss reserve accounts in which borrowers and lenders or an Independent Contributor are required to deposit a percentage based on the loan enrollment to help insure against losses. This program is a way to encourage banks to lend money to many small businesses. Over the years, CalCAP has attracted other funding sources, including the injection of \$6 million in State funds in 2010 and \$84 million of Federal funds in 2011, plus significant funding from other Independent Contributors.

Federal tax laws prohibit use of tax exempt bond funds for a variety of items including a "...store whose principal business is the sale of alcoholic beverages for consumption off premises..." For that reason, this language was included in the CalCAP regulations when CalCAP was originally established. However, a major current funding source for CalCAP, the Federal State Small Business Credit Initiative (SSBCI) Act of 2010, does not prohibit a "...store whose principal business is the sale of alcoholic beverages for consumption off premises..." Nor do other funding sources, including CPCFA's State funds which support additional loan loss reserve contributions for borrowers located in severely affected communities. Therefore, the blanket prohibition in the present CalCAP regulations has an adverse effect on wineries and breweries.

The proposed amendment to the regulations will expand lending assistance and increase injections of private capital into this important economic sector in California when it is not prohibited by the funding source.

The second proposed amendment will replace the mandatory prequalification requirement with a procedure offering a voluntary prequalification to enable lenders to confirm the eligibility of a

potential loan enrollment. The change to the regulation will improve the efficiency of the Program by eliminating the requirement of pre-qualifications.

The proposed amendments create a more lender friendly program and encourage the use of the Program.

Statement of Benefits

Allowing a "...store whose principal business is the sale of alcoholic beverages for consumption off premises..." to be enrolled in the Program, will expand lending assistance and increase injections of private capital into this important economic sector in California when it is not prohibited by the funding source.

Removing the pre-qualification requirement and changing it to optional, will cut down on the lenders' paperwork and confusion over process. By making the Program more attractive to current CalCAP lenders and those participating financial institutions considering enrollment in the Program, the Authority is trying to encourage lending to small businesses throughout California.

The Authority is not aware of any benefits of the health and welfare of California residents, worker safety or the state's environment with the proposed amendment to the CalCAP Regulations.

Section Analysis

Section 8070(s)(4)(A) & (B). Since the Program regulations were adopted in 1994 the definition of a qualified loan prohibited a "store whose principal business is the sale of alcoholic beverages for consumption off premises." The State Small Business Credit Initiative (SSBCI) Act of 2010 and other funding sources do not prohibit these types of businesses. CalCAP staff agrees that the prohibition should remain in effect with regards to CalCAP programs funded by fees collected from tax-exempt bond issuances. However, modifying the rules to encourage lending to wineries and breweries using other, unrestricted funds will potentially stimulate California's economy.

Section 8072(f). Currently lenders are required to submit a pre-qualification for any loan \$500,000 or greater. In an effort to simplify the Program for lenders and CalCAP staff, this regulation change will eliminate the requirement. Lenders will have the opportunity to submit a pre-qualification if they choose.

Reliance

Staff held a Lender Roundtable Conference Call on December 18, 2013 to provide an open forum for staff to present the proposed changes in the time limits and to solicit feedback from the stakeholders. Of our 67 Lenders, 23 organizations participated in the Lender Roundtable Conference Call. CalCAP received positive feedback regarding the proposed regulation changes.

Alternatives Considered

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses.

Mandated Technology or Equipment

The CPCFA Executive Director has determined the revisions do not mandate the use of specific technologies or equipment.

Economic Impact Statement

The CPCFA Executive Director has determined that the revisions will have no significant adverse economic impact on small businesses, other businesses directly affected, or private persons. Furthermore, the CPCFA Executive Director has determined that the amended regulations do not impose any additional cost or savings requiring reimbursement under Section 17500 et al of the Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any other State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) Government Code.

The creation or elimination of jobs within California The amendments to sections 8070 and 8072 of the CalCAP Regulations are not expected to have a direct impact on the creation or elimination of jobs within the State of California because these amendments will only affect the definition of a Qualified Loan and the Pre-Qualification requirement.

The creation of new businesses or the elimination of existing businesses within the State of California The proposed language in sections 8070 and 8072 of the CalCAP Regulations will allow a "...store whose principal business is the sale of alcoholic beverages for consumption off premises..." to be enrolled in the Program. The amendments will also replace the mandatory prequalification requirement with a procedure offering a voluntary prequalification. The regulations are not expected to have a direct impact on the creating of new businesses or the elimination of existing businesses within the State of California.

The expansion of businesses currently doing business within the State of California The amendments to sections 8070 and 8072 of the CalCAP Regulations are not expected to have a direct impact on the expansion of businesses currently doing business within the State of California because these amendments will only affect the definition of a Qualified Loan and the Pre-Qualification requirement.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment The proposed language in sections 8070 and 8072 of the CalCAP Regulations will expand lending assistance and eliminate the pre-qualification requirement. These regulations are not expected to have a direct impact on the health and welfare of California residents, worker safety, or the state's environment.