

TITLE 4. BUSINESS REGULATIONS

NOTICE OF PROPOSED RULEMAKING

The California Pollution Control Financing Authority (CPCFA and the “Authority”), organized and operating pursuant to Sections 44500 through 44563 of the California Health and Safety Code, proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

Proposed Regulatory Action

The Authority proposes to amend Section 8070 of Title 4 of the California Code of Regulations concerning the administration of the California Capital Access Program for Small Businesses (the “Program” and CalCAP). These regulations were readopted on an emergency basis in February 2012. The current rulemaking action would make these changes permanent.

Authority and Reference

Authority: Sections 44520(a) and 44559.5(f) of the Act authorize the Authority to adopt necessary regulations relating to the California Capital Access Loan Program (CalCAP) established by the Act.

Reference: Sections 44559-44559.12 of the Health and Safety Code. These amended regulations implement, interpret, and make specific Sections of the Act by amending Section 8070 of Title 4, Division 11, Article 7 of the California Code of Regulations.

Informative Digest/Policy Statement Overview

Existing law establishes the California Capital Access Loan Program and authorizes the Authority 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 loans to the lender’s loss reserve account. (Health and Safety Code, § 44559.3.) The Authority matches the fees paid by the lender to the Loss Reserve Account at 150 percent or 200 percent, 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 the Authority and are used to cover losses on any loan that the lender has enrolled in CalCAP. (Health and Safety Code, § 44559.5.)

The proposed amendments to the current regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or elimination of existing businesses within California, or significantly affect the expansion of businesses currently doing business within California. There are also no benefits of the health

and welfare of California residents, worker safety or the state's environment with the proposed amendment to the CalCAP Regulations.

The proposed amendments introduce a new type of qualified lender in the program that was recently added to the statute. These amendments are the result of periodic evaluation of the regulations and specific requests to make the Program available to more individuals.

Many small businesses throughout the state will benefit from the increased accessibility of the Program that will come from the inclusion of Microbusiness Lenders. Also, with the addition of a new type of Financial Institution, these businesses will have more options to receive necessary loans to continue to operate or to expand.

This proposed amendment to the CalCAP Regulations is consistent and compatible with the existing state regulations. The proposed amendment and objective is as follows:

Section 8070(e). This proposed change would revise the definition of a "Financial Institution" to include Microbusiness Lenders as qualified lenders in CalCAP. The definition of a Microbusiness Lender would be added to the current definition of a "Financial Institution" to show that these lenders are now qualified to enroll in the Program.

Disclosures Regarding the Proposed Action: The Executive Director of the Authority has made the following determinations regarding the effect of the Amended Capital Access Regulations.

Mandate on local agencies or school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None.

Other non-discretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

Significant effect on housing costs: None

Cost impact on a representative private person or business: The Authority is not aware of any cost impacts that a representative, private person, or business would necessarily incur with reasonable compliance with the proposed action.

Small Business: The amended CalCAP Regulations will not have an adverse impact on small business in California. The proposed regulation will not significantly affect small businesses because they do not impose additional costs on small businesses.

Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states:

The Authority has made an initial determination that the amended CalCAP Regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Analysis

Assessment regarding effect on jobs/businesses: The amended CalCAP Regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or elimination of existing businesses within California, or significantly affect the expansion of businesses currently doing business within California.

Benefits of the health and welfare of California residents, worker safety, and the state's environment: 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.

Consideration of Alternatives

In accordance with Government Code Section 11346.5(a)(13), the Authority must determine that no reasonable alternative to the amended CalCAP Regulations considered by the Authority or that have otherwise been identified and brought to the attention of the Authority would be more effective in carrying out the purpose for which the amended CalCAP Regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Authority invites interested persons to present statements with respect to alternatives to the amended CalCAP Regulations during the written comment period.

Agency Contact Person

Written comments, inquiries and any questions regarding the substance of the amended CalCAP Regulations shall be submitted or directed to:

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Or:

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Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments relevant to the amended CalCAP Regulations to the Authority. The written comment period on the amended CalCAP Regulations ends at **5:00 p.m on June 4, 2012**. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time in order for them to be considered by the Authority.

In the event that substantive changes are made to the amended CalCAP Regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified amended CalCAP Regulations for fifteen (15) calendar days after the date on which such amended CalCAP Regulations, as changed or modified, are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

Availability of Initial Statement of Reasons and Text of the Proposed Regulations

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall, Room 457, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the amended CalCAP Regulations. Copies of these items are available upon request from the Agency Contact Person designated in this Notice or at the Authority's website located at <http://www.treasurer.ca.gov/cpcf/index.asp>.

Public Hearing

A public hearing regarding the amended CalCAP Regulations has been scheduled for **June 5, 2012 at 10:00 AM (PST) until 11:00 AM (PST) at 915 Capitol Mall, Room 470, Sacramento, CA 95814**.

Availability of Changed or Modified Text

After the written comment period ends and following a public hearing, if any is requested pursuant to Section 11346.8 of the Government Code, the Authority may adopt the amended CalCAP Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) calendar days before the Authority adopts the proposed amended CalCAP Regulations, as modified. Inquiries about and requests for copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice. The Authority will accept written comments on the modified regulations for fifteen (15) calendar days after the date on which they are made available.

Availability of Final Statement of Reasons

Upon completion, a copy of the Final Statement of Reasons may be requested from the Agency Contact Person designated in this Notice or at the Authority's website at <http://www.treasurer.ca.gov/cpcfai/index.asp>.