

**TITLE 4, DIVISION 13, ARTICLE 6  
OF THE CALIFORNIA CODE OF  
REGULATIONS**

**NOTICE OF PROPOSED RULEMAKING**

The California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”), organized and operating pursuant to Division 16 (commencing with section 26000) of the California Public Resources Code (the “Act”)—pursuant to the authority vested in it by the Public Resources Code Section 26009 to promulgate regulations and Public Resources Code Section 26011 to provide financial assistance to a participating party, and acting pursuant to the Memorandum of Agreement (“MOA”) between CAEATFA and the California Public Utilities Commission (“CPUC”) which sets forth the policies and procedures for establishment of a series of ratepayer-funded pilot programs as authorized and described in the initial CPUC-approved Decision 13-09-044, Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs (the “Decision”), issued September 20, 2013 and subsequent CPUC actions<sup>1</sup>—proposes to amend the Commercial Energy Efficiency Financing Program regulations described below after considering all comments, objections, and recommendations regarding the proposed action. The Commercial Energy Efficiency Financing Program is known publicly as the “GoGreen Business Program” and is also referred to in this document as “Program.”

**PUBLIC HEARING**

The Authority has not scheduled a public hearing on this proposed rulemaking. However, a public hearing will be held if any interested person, or their duly authorized representative, requests a public hearing to be held relevant to the proposed rulemaking by submitting a written request to the Agency Contact Person identified in this notice no later than fifteen (15) days prior to the close of the written comment period.

**WRITTEN COMMENT PERIOD**

Any interested person, or their authorized representatives may submit written comments relevant to the regulations to the Authority. **The written comment period on the regulations ends on Monday, January 20, 2025.** All comments must be submitted in writing to [cheef@treasurer.ca.gov](mailto:cheef@treasurer.ca.gov) by that time in order for them to be considered by the Authority.

In the event that substantial changes are made to the regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified regulations for fifteen (15) calendar days after the date on which such regulations, as changed or modified, are made available to the public pursuant to Title 1, Division 1, Chapter 1,

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<sup>1</sup> CPUC has issued additional decisions and rulings addressing issues related to the implementation of the pilot programs, including: D. 15-06-008, D. 15-12-002, D. 17-03-026; and D.21.08.006.

Article 2, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this notice.

### **AUTHORITY and REFERENCE**

Authority: Public Resources Code Section 26006 and 26009.

Section 26006 and 26009 of the Public Resources Code authorizes the Authority to adopt necessary regulations relating to its authority established by the Act, and Public Resources Code 26011 establishes the authority to provide financial assistance to a participating party.

Reference: Public Resources Code Sections 26002, 26002.5, 26003(a)(3)(A), 26003(a)(6), 26003(a)(7)(A), 26003(a)(8)(A), 26011 and 26040. On September 19, 2013, the CPUC approved Decision 13-09-044 and requested the Authority act as the master administrator of the California Hub for Energy Efficiency Financing (“CHEEF”), funded by ratepayer funds collected by the four investor-owned utilities: Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company (collectively the “IOUs”). CAEATFA’s purpose is to advance the State's goals of reducing the levels of greenhouse gas emissions, increasing the deployment of sustainable and renewable energy sources, implementing measures that increase the efficiency of the use of energy, creating high quality employment opportunities, and lessening the State's dependence on fossil fuels. The Authority’s statute enables it to provide financial assistance to various participating parties that carry out eligible projects. In July 2014, CAEATFA 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.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and authorizes the Authority to provide “financial assistance” to “participating parties” for the implementation of “projects” as those terms are defined in Public Resources Code Section 26003. A Memorandum of Agreement between CAEATFA and the CPUC sets forth the policies and procedures for establishment of a series of ratepayer-funded programs as authorized and described in the CPUC-approved Decision 13-09-044, Decision Implementing 2013-14 Energy Efficiency Financing Pilot Programs, and associated governing actions (“Decision”).

The Decision established the California Hub for Energy Efficient Financing (“CHEEF”) to be administered by CAEATFA. CAEATFA was authorized to develop and implement a number of energy efficiency financing programs, intended to attract a greater amount of private capital to the energy efficiency retrofit market. The programs would make use of a credit enhancement to mitigate risk for finance companies, allowing them to offer more attractive rates and terms and to approve financing for individuals and businesses who might not be approved otherwise. The Decision also authorized on-bill repayment for several sectors including the commercial

sector. Through on-bill repayment, customers can repay energy-related finance agreements through their utility bills.

The Office of Administrative Law (“OAL”) first approved emergency regulations for the Commercial Energy Efficiency Financing Program in December 2018. Following a period of financing company and contractor enrollment, the program was launched for small business participants in May 2019. The Certificate of Compliance was completed in December 2019. The Program was initially known publicly as the “Small Business Financing Program” and, beginning in August 2021, as the “GoGreen Business Energy Financing Program” or just “GoGreen Business.”

At the beginning of 2020, GoGreen Business was starting to gain momentum with contractor and project developer enrollments when, due to the pandemic, many small businesses shut down. Additionally, investor-owned utilities (“IOUs”) paused energy efficiency program outreach that was critical for small business’ awareness of the types of upgrades they could make. Since businesses have reopened, the need for energy efficiency financing has resumed. CAEATFA had received industry feedback related to eligible measures and the need for smaller dollar financing amounts than finance companies could practically offer through the program. Further, significant progress had been made between CAEATFA and the IOUs in reaching agreement on key aspects of the on-bill repayment structure and operations. To this end, and to allow for adequate time for the regular rulemaking process, Authority staff proposed making modifications through the emergency process in May 2021.

As part of the emergency rulemaking, CAEATFA made publicly available the proposed modified emergency stakeholder regulations, held stakeholder discussions soliciting input, and conducted a virtual public workshop on May 21, 2021, followed by a 10-day public comment period. Emergency regulations were initially approved by OAL on July 19th, 2021 (OAL File No. 2021-0707-01E) with subsequent approval by OAL for readoption on December 30th, 2021 (OAL File No 2021-1221-01EE) and April 12th, 2022 (OAL File No. 2022-0405-01EE). The Certificate of Compliance action made permanent, with minor amendments, emergency regulations regarding the Commercial Energy Efficiency Financing Program on August 15<sup>th</sup>, 2022 (2022-0701-02C).

Under Decision 23-08-026, published in the summer of 2023, the CPUC authorized CAEATFA to begin using its current funding source, IOU energy efficiency ratepayer funds, to credit enhance financing for comprehensive clean energy measures. In the emergency modifications to regulations adopted in May of 2024, CAEATFA made substantial changes to incorporate the key modifications into the Program. Given the time-intensive nature of the amendments and unanticipated staff vacancies, it was necessary to readopt the emergency regulations, with no additional modifications from the initial emergency action, to allow CAEATFA enough time to complete the Certificate of Compliance. On November 4, 2024, the Office of Administrative Law (OAL) approved the readoption of emergency regulations for the GoGreen Business Energy Financing Program. These regulations became effective on November 13, 2024, and are effective until February 11, 2025.

The California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) is issuing a Notice of Proposed Rulemaking with proposed regulation text for the regular rulemaking process for the Commercial Energy Efficiency Financing (“GoGreen Business”) Program. The Notice is planned to be published in the California Regulatory Notice Register on December 6, 2024. These regulations will complete the rulemaking process initiated by the emergency regulations enacted on May 13, 2024, and re-adopted on November 13, 2024 and with second readoption planned for February 2025. The public comment period for the Notice of Proposed Rulemaking will end on January 20, 2025.

### **Anticipated Benefits of the Proposed Action:**

Adding distributed generation, battery storage, EV charging and other Eligible Energy Measures will enable more California businesses to receive financing for more types of energy projects which will ultimately help to accelerate the reduction of energy consumption and greenhouse gas emissions. Adding rules for affordable multifamily project enrollment and related loss reserve calculations will encourage the program’s enrolled financing companies to provide financing to affordable multifamily customers so they can complete more comprehensive energy retrofits. Extending the loss reserve claim period will help the program align with current financing repayment timeframes for clean energy measures such as solar PV. Conditional eligibility expansion for non-IOU funding will help the program expand its funding source options with greater flexibility to qualify different customer types and offer different types of financial assistance. Expansion of participant rules for On-Bill Repayment enrollment and IRBD promotion rules will help these program features appeal to more customers, contractors and finance companies.

### **Evaluation of Inconsistency/Incompatibility with Existing State Regulations:**

Government Code Section 11346.5(a)(3)(D) requires that the notice of proposed rulemaking include, “[an] evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.” CAEATFA’s Staff reviewed the California Code of Regulations and found no existing regulations with which there might be inconsistency or incompatibility. Therefore, CAEATFA believes that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Executive Director of CAEATFA has made the following determinations regarding the effect of the 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 which must be reimbursed in accordance with Government Code sections 17500 through 17630:** None.

**Other nondiscretionary cost or savings imposed on local agencies:** None.

**Cost or savings in federal funding to the state:** None.

**Significant effect on housing costs:** None.

**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 the determination that the proposed 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. Participation in the Program is voluntary for California businesses. For those businesses that choose to participate, they are likely to access financing at better rates and terms than they would find outside of the Program, which provides a benefit. In fact, the Authority finds that the proposed regulation will have a positive effect on the participating customers as well as the State's economy and environment generally as a result of reducing the cost of financing, potential utility bill savings and reduction of greenhouse gases.

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

**Cost Impacts on Representative Private Person or Business:** The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## **RESULTS OF ECONOMIC IMPACT ANALYSIS**

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.

**Creation or Elimination of California Jobs:** The Authority finds that the regulations may have

a positive impact on the creation of jobs within California, through manufacturers of energy efficiency measures benefitting from increased demand, contractors and project developers hired to install measures and from businesses participating in the Program who save on energy bills and are able to reinvest those savings into their businesses and hire additional workers. The Authority has not estimated the number of green jobs that may be created as a result of this Program as participation is voluntary.

**Creation of new businesses or Elimination of existing businesses with California:** As the regulations provide an incentive to finance companies offering credit to California business owners, the elimination of businesses within California is improbable. The regulations are unlikely to significantly affect the creation of new businesses within the State of California.

### **Expansion of Existing Businesses in California**

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 Regulation to The Health and Welfare of California Residents, Worker Safety, and The State's Environment:** The goal of the Program is to increase access to financing for California businesses to invest in energy efficient upgrades, thus reducing greenhouse gas emissions and helping meet California's ambitious environmental goals.

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.

## **SUMMARY OF THE PROPOSED CHANGES AND ADDITIONS**

### Section 10092.1. Definitions.

This section defines terms commonly used throughout the regulations and Program documents.

Updates to defined terms in this Section serve the following purposes in the regulations as a whole:

to allow for eligibility of clean energy generation and storage measures including solar panels and batteries,

to incorporate affordable multifamily as an eligible customer type in the program,

to broaden eligibility based on customer type and/or customer utility territory using non-IOU ratepayer sources of funding pursuant to §10092.16,

to expand program eligibility requirements and make other clarifying changes.

#### §10092.2. Finance Entity Enrollment.

Changes to this section remove a requirement that finance company applicants certify that enhanced financing may not be for distributed generation, which is no longer applicable.

#### Section 10092.4. Contractor and Project Developer Participation.

This section establishes the Participating Contractor and Participating Project Developer requirements and responsibilities in the Program. Changes to this section remove a restriction which required that Eligible Contractors not be an employee of the Eligible Commercial Financing Customer, and clarify the conditions for Participating Contractors and Participating Project Developers removal from the program's website and removal from the program.

#### Section 10092.5. Eligible Financing Products.

Changes to this section remove the requirement that Eligible Financing Agreements must not exceed \$5 million and remove a requirement that a FPE must take security interest in projects financed with an Affordable Multifamily Customer.

#### Section 10092.6 Eligible Financing Customers.

This section establishes the minimum credit and underwriting requirements that apply to Eligible Commercial Financing Customers.

Changes to this section add an exception to the positive profit requirement for Affordable Multifamily Customers, and add a mortgage review requirement for Affordable Multifamily Customers.

#### Section 10092.7 Project Eligibility.

This section includes definitions of energy-related installations that can qualify for financing through the program. This section is being updated to remove requirements that measures save fuel for IOUs, in line with the expanded eligibility for alternative sources of funding added in §10092.16. New requirements were added for qualifying Eligible Energy Measures using the Professionally Certified Measure Method.

#### Section 10092.8. Financing Submittal and Enrollment.

The purpose of this section is to detail the full requirements for Project Eligibility, including the documentation, data, and signed certifications that must be submitted by each participant to the authority for the Eligible Financing Agreement for a Project to enroll in the Program.

Changes to this section update project submission requirements to allow for Affordable Multifamily Customers, to broaden definitions to allow participation by utilities other than IOUs, remove a requirement for a contractor invoice to be provided to the program, allow a self-installed project to be certified before installation, and to update eligibility requirements to allow

for clean energy generation and storage measures.

Section 10092.9 Credit Enhancement.

Changes to the section add a different calculation for loss reserves for affordable multifamily projects.

Section 10092.10. Claims.

The purpose of this section is to establish the process and terms whereby a Finance Provider Entity may claim and receive reimbursement for a loss incurred from an Eligible Commercial Financing Customer's default on an Enrolled Financing Agreement.

Changes to this section extend the period during which a claim may be submitted to 15 years from enrollment, or 20 years in the case of solar PV installations.

Section 10092.13. Energy Financing Privacy Rights Disclosure.

The purpose of this section is to discuss the Eligible Commercial Financing Customer's privacy rights relating to information collected through the Program and to obtain approval and acknowledgement that authorizes the Participating Project Developer, Participating Contractors, IOUs, and Finance Provider Entity to share information, some of which may be personally identifiable, with the authority.

The title of this section is being modified for clarity.

Section 10092.14. Eligible Energy Measure List.

This section lists pre-qualified Eligible Energy Measures ("EEMs") by category, including requirements, fuel type, and whether the measure is eligible for self-installation. This section is separate from requirements for the Professionally Certified Measure Method described in 10092.7(b)(3), but this List also serves to indicate to stakeholders the types of installations that may qualify for the program.

A new category of six clean energy measures is being added, along with seventeen new energy efficiency measures. Clarifications to the language of three measures are being added, along with a new Energy Star requirement for another existing measure.

Section 10092.15. On-Bill Repayment.

The purpose of this section is to provide rules governing a mechanism, known as On-Bill



Repayment (“OBR”) by which a utility customer repays third-party private capital financing charges when they pay their monthly utility bill. Including this feature as an option in the Program for customers to avoid making an additional monthly payment and to address their energy improvement costs through their utility bill is intended to attract additional business owners to save energy and additional finance company participation.

This section is being updated to allow other types of utilities beyond IOUs to participate in OBR. The defined term IOU was globally replaced in most cases to allow other forms of utilities to participate in OBR.

The allowed fifteen-year threshold for repayment through OBR was modified to allow twenty years for projects including solar PV and battery storage.

Language regarding tariffs allows other types of utilities participating in OBR to define rules of partial payments other than through IOU Tariffs.

#### Section 10092.16. Conditional Eligibility Expansion.

This new section details the process and rules around the potential future availability of non-IOU-ratepayer funding to fund credit enhancements when measures do not save IOU fuel or there is a fuel substitute to a non-IOU source, and to use alternate sources of funding such as federal funds to allow for additional means of financial assistance to incentivize customers.

While there is some flexibility within the existing Regulations, this addition will allow GoGreen Business to simplify eligibility rules for projects and help with scaling. Californians that have IOU gas providers but POU electricity providers will be allowed to make decarbonization upgrades in line with the state’s goals. New regulations also allow for different types of financial assistance beyond loss reserves and other types of customers to be eligible for the program.

#### Section 10092.17. Interest Rate Buy Down (IRBD) Disbursement.

This section allows additional means of incentivizing customers to engage in energy upgrades to reduce GHG emissions.

This section describes the administration of an interest rate buy-down if CAEATFA secures an external source of funding, lays out the processes by which participating lenders will be informed of the requirements of any funders as well as the process to participate in the funding. It establishes the term sheet that will be available for participating lenders.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the Authority must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, 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 regulations during the written comment period.

## AGENCY CONTACT PERSON

Written comments shall be submitted or directed to: [cheef@treasurer.ca.gov](mailto:cheef@treasurer.ca.gov).

Inquiries and any questions regarding the substance of the regulations shall be submitted or directed to:

Kevin Nakano  
Program Analyst  
CAEATFA  
901 P Street  
Sacramento, California 95814  
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## 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 901 P Street, 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, the proposed text of the regulations, the Economic Impact Statement, and the Technical, Theoretical, and/or Empirical Studies, Reports, or Documents. 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 <https://www.treasurer.ca.gov/caeatfa/cheef/sblp/regulations/index.asp/>.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the public hearing and at the end of the written comment period, the Authority may adopt the 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 regulations, as modified. Inquiries about and request 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 located at <https://www.treasurer.ca.gov/caeatfa/cheef/sblp/regulations/index.asp>.

### **AVAILABILITY OF MATERIALS ON THE INTERNET**

Materials prepared for this rulemaking, including this Notice, the Initial Statement of Reasons, the text of the proposed regulations, the Economic Impact Analysis, and Technical, Theoretical, and/or Empirical Studies, Reports, or Documents may be accessed on the Authority's website located at <https://www.treasurer.ca.gov/caeatfa/cheef/sblp/regulations/index.asp>.