

**NOTICE OF PROPOSED REGULATIONS**

**California Code of Regulations  
Title 15, Crime Prevention and Corrections**

**Division 8  
California Prison Industry Authority**

**NOTICE IS HEREBY GIVEN** that the California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2801, 2808, 2811 in order to implement, interpret and make specific PC Section 2811, and Labor Code Section 1182 propose to adopt Sections 8006 of Article 4, of the California Code of Regulations (CCR), Title 15, Division 8 concerning CALPIA Inmate Pay.

**PUBLIC HEARING:**

Date and Time: January 24, 2012 – 10:00 am to 11:00 am  
Place: CALPIA Central Office  
560 East Natoma Street  
Folsom, CA 95630  
Purpose: To receive comments about this action.

**PUBLIC COMMENT PERIOD:**

The public comment period will close, January 24, 2012 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CALPIA, Legal Services Unit, Regulation and Policy Manager, 560 East Natoma Street, Folsom, CA 95630; by fax at (916) 358-1610; or by e-mail at [CALPIAregs@calpia.ca.gov](mailto:CALPIAregs@calpia.ca.gov) before the close of the comment period.

**CONTACT PERSON:**

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action to:

**Ann Cunningham  
Regulation and Policy Manager  
California Prison Industry Authority  
560 East Natoma Street, CA 95630  
Telephone (916) 358-1711**

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

**Lynn Braydis  
Legal Secretary  
California Prison Industry Authority  
Telephone (916) 358-1711**

**LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 17630.

**FISCAL IMPACT STATEMENT:**

- Cost to any local agency or school district that is required to be reimbursed in accordance with Government Code Sections 17500 through 17630: *None*
- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

**EFFECT ON HOUSING COSTS:**

The CALPIA under the authority of the PIB has made an initial determination that the proposed action will have no significant effect on housing costs.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The CALPIA under the authority of the PIB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:**

The CALPIA under the authority of the PIB has initially determined 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 because they are not affected by the internal management of state prisons.

**EFFECT ON SMALL BUSINESSES:**

The CALPIA under the authority of the PIB has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

**ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:**

The CALPIA under the authority of the PIB has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

**CONSIDERATION OF ALTERNATIVES:**

The CALPIA under the authority of the PIB must determine that no reasonable alternative considered by the CALPIA, or that has otherwise been identified and brought to the attention of the CALPIA, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

**AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The CALPIA under the authority of the PIB has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the CALPIA's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the CALPIA website <http://www.calpia.ca.gov>.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the CALPIA's contact person.

## **AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the PIB may adopt the proposed regulations substantially as described in this Notice. If the CALPIA under the authority of the PIB makes modifications which 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 15 days before the PIB adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The CALPIA under the authority of the PIB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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

The California Prison Industry Authority (CALPIA) and the California Prison Industry Board (PIB) propose to adopt Section 8006 of Article 4, Chapter 1, of the California Code of Regulations (CCR), Title 15, Division 8, concerning CALPIA Inmate Pay. The Office of Administrative Law (OAL) has published a Determination regarding CALPIA policies, (CTU 2009-11-9-01) determining that CALPIA inmate pay schedules meet the definition of a regulation in Government Code Section 11342.600. These regulations are meant to address this Determination by adopting regulations pursuant to the Administrative Procedure Act (APA).

The policies of the CALPIA have been vetted through the public process of the PIB, as required in PC 2808 (h) and (i), and now are being promulgated through the regulatory process as specified in the APA. The PIB approved the filing of these regulations at their Board Meeting on October 21, 2011. The PIB's Record of Vote and a portion of the transcript of the minutes are filed as an attachment to the Initial Statement of Reasons. These documents represent a true account of the PIB's meeting. The vote of the PIB was unanimous for the approval of the regulations to be filed with OAL.

PC Section 2801 provides CALPIA with implied rulemaking authority. Section 2801(b) clearly states that the purpose of the authority is to create and maintain working conditions within the enterprises as much like those which prevail in private industry. PC 2811 provides the General Manager of the CALPIA the authority to adopt and maintain a compensation schedule for inmate employees.

The CALPIA and the PIB have implied rulemaking authority to adopt regulations to implement, interpret or make specific the laws enforced or administered by CALPIA, or to govern its procedures.

This action proposes the adoption of text as follows:

- **New Article 4 is adopted to read CALPIA Inmate Pay.** Within this Article the inmate pay description and the actual CALPIA inmate pay schedule are standardized. This article establishes guidelines and sets in place the standard by which CALPIA inmate workers shall be paid, which include inmate pay rates, the inmate pay schedule and exceptions.
- **New Section 8006 is adopted** to make specific PC Section 2811 which directs the GM of CALPIA to adopt and maintain a compensation schedule for inmate workers.
- **Subsection 8006(a) is adopted** to restate statute that the GM, determines the compensation inmate who are assigned to CALPIA work programs receive.
- **Subsection 8006(b) is adopted** to create a process by which any proposed changes to the Inmate Pay Schedule shall be submitted by the GM to the PIB for their review.
- **Subsection 8006(c) is adopted** to specify that the GM has authority to make the final determination with regards to any disputes or interpretations of the Inmate Pay Schedule. As specified in PC 2808(e), the GM serves "as the chief administrative officer of the authority" and pursuant to PC 2801, the GM carries out the purpose of the authority and that is to operate CALPIA ensuring the operation is run efficiently and in accordance with not only statute, but with daily business practices of a private corporation.
- **Subsection 8006(d) is adopted** to create a schedule by which to determine an appropriate rate of pay to compensate CALPIA inmate workers.
- **Subsection 8006(e) is adopted** to provide authority to the Prison Industries Administrator/Lead Manager at each facility to administer the CALPIA inmate pay program, ensuring pay positions are properly classified and allocated.
- **Subsection 8006(f) is adopted** to layout the different situations that allows inmate movement between one pay rate to another pay rate. This is necessary so that the inmate would be informed and know the process by which they may move between one pay rate to another.