

NOTICE OF PROPOSED REGULATIONS

California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 8.0
California Prison Industry Authority

NOTICE IS HEREBY GIVEN that the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2801 through 2818, in order to implement, interpret and make specific Penal Code Sections 2801 through 2818, propose to amend Section 8004.2 of Article 1, Chapter 1, of the California Code of Regulations (CCR), Title 15, Division 8.

PUBLIC HEARING:

At this time, no public hearing has been scheduled concerning the proposed change to regulations. Anyone may request a public hearing by contacting the Contact Person set forth below. Requests for public hearings must be made no later than August 20, 2019. The Notice Register publication date is July 19, 2019.

PUBLIC COMMENT PERIOD:

The public comment period will close September 3, 2019. Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

MAIL or HAND DELIVERED

CALPIA/Legal Services Unit
560 East Natoma Street
Folsom, CA 95630

FAX

(916) 358-2709

E-MAIL

PIAregs@calpia.ca.gov

CONTACT PERSON:

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

M. Doherty, Regulatory Analyst

California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711
piaregs@calpia.ca.gov

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

C. Pesce, Administrative Assistant

California Prison Industry Authority

560 East Natoma Street, Folsom CA 95630
Telephone (916) 358-1711

AUTHORITY AND REFERENCE

Penal Code Section 2800: In 1982, the California Legislature restructured the Department of Corrections' industries and vocational training program for inmates abolishing the Correctional Industries Commission and replacing it with the newly created Prison Industry Authority (PIA) (subsequently renamed CALPIA) under the direction of the Prison Industry Board.

Penal Code Section 2807(a): Section 2807(a) provides that CALPIA is authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. Products may be purchased by state agencies to be offered for sale to inmates of the department and to any other person under the care of the state who resides in state-operated institutional facilities. Fresh meat may be purchased by food service operations in state-owned facilities and sold for onsite consumption. By giving CALPIA these duties and power by statute, rulemaking authority is implicitly delegated to adopt those rules and regulations necessary for the due and efficient exercise of a duty or power expressly granted.

Penal Code Section 2802: Section 2802 provides for the existence of a Prison Industry Board (PIB).

Penal Code Section 2808: Section 2808 provides the PIB, in the exercise of its duties, all of the powers and do all of the things that the board of directors of a private corporation would do.

PIB proposes to amend regulation section 8004.3, renumber section 8004.4 as 8004.5, and add new section 8004.4.

Informative Digest

Policy Statement Overview:

The proposed regulatory action will allow PIB to implement its authority vested by the Legislature. In PC section 2808, the Legislature granted PIB powers equal to "all of the things that the board of directors of a private corporation would do"

The proposed amendments will be vetted through the public process of PIB, and now are being promulgated through the regulatory process as specified in the Administrative Procedures Act (APA). PIB will vote on these proposed regulations at their board meeting. Upon approval, PIB's Record of Vote and applicable portion of the minutes will be placed in the final rulemaking file. These documents will be filed with the Office of Administrative Law (OAL) and are available to the public upon request and upon CALPIA's website.

Anticipated Benefits of the Proposed Regulation:

Anticipated benefits of the proposed regulatory action include a nonmonetary of ongoing employment of inmate workers and providing experiences for inmate workers to utilize upon release from custody. Additional benefits include:

- Increase percentage of inmates leaving incarceration with work experience and skills, focusing opportunities earlier to benefit the greatest number of inmates.
- Provide inmates with experience similar to the work environment in the public sector.
- By instituting an inmate probationary period, inmates are given opportunity to learn the essential duties of the work, and also, may be removed during this period upon not meeting the probationary period requirements. Removing inmates who do not meet the probationary period requirements from CALPIA assignments focuses CALPIA's resources to be able to increase the number of inmates successfully retrained for work after release.
- Potential impact may lower overall recidivism rate for inmates.

CALPIA has evaluated the potential benefits of this proposed regulatory action and made an initial determination that this proposed regulatory action:

- Will have no effect on housing costs.
- Will not impose new mandates upon local agencies or school districts.
- Will involve no nondiscretionary costs or savings to any local agency, no cost to any local agency or school district for which Sections 17500-17630 of the Government Code require reimbursement, nor costs or savings in federal funding to the state.
- Will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses, nor create or expand businesses in the State of California.
- Will continue to provide a nonmonetary benefit for the protection and safety of public health and safety, by ensuring ongoing efficiency of operations employment inmate workers, and providing work experiences for inmate workers to utilize upon release from custody.
- Will eliminate inconsistencies from institution to institution and facility to facility.
- Will decrease the incidences of inmate appeals regarding CALPIA assignments and removal from assignments.
- Will support uniformity in application of regulations regarding inmate assignments and removal from assignments.
- Will provide assurances of consistent and equitably allocated assignments and removal from assignments.

Evaluation of Inconsistency/Incompatibility with Existing Regulations:

During the process of developing this regulation, PIB and CALPIA have conducted a search of any similar regulations on this topic and have concluded that this regulation is neither inconsistent nor incompatible with existing laws and regulations.

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:

PIB and CALPIA have determined that the proposed action will have no significant effect on housing costs.

Significant Statewide Adverse Economic Impact on Business:

PIB and CALPIA have determined that adoption of the proposed regulation 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 this regulation only applies to internal operations of CALPIA.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

As a result of the economic impact assessment and in accordance with Government Code Section 11346.3(b), PIB and CALPIA have made the following assessments regarding the proposed regulation:

BENEFITS OF PROPOSED ACTION:

As stated above under the Informative Digest and Policy Statement Overview, the benefits of the regulatory action include:

- Nonmonetary of ongoing employment of inmate workers and providing experiences for inmate workers to utilize upon release from custody.
- Increase percentage of inmates leaving incarceration with work experience and skills, focusing opportunities earlier to benefit the greatest number of inmates.
- Provide inmates with experience similar to the work environment in the public sector.
- By instituting an inmate probationary period, inmates are given opportunity to learn the essential duties of the work, and also, may be removed during this period upon not meeting the probationary period requirements. Removing inmates who do not meet the probationary period requirements from CALPIA

assignments focuses CALPIA's resources to be able to increase the number of inmates successfully retrained for work after release.

- Potential impact may lower overall recidivism rate for inmates.
- Nonmonetary benefit for the protection and safety of public health and safety, by ensuring ongoing efficiency of operations employment inmate workers, and providing work experiences for inmate workers to utilize upon release from custody.
- Decrease the incidences of inmate appeals regarding CALPIA assignments and removal from assignments.
- Support uniformity in application of regulations regarding inmate assignments and removal from assignments.
- Provide assurances of consistent and equitably allocated assignments and removal from assignments.

Thus, this proposed action benefits the public and general welfare.

CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

This action will not create or eliminate existing jobs within the State of California. It is determined that this action has no significant adverse economic impact on jobs within the State of California because these jobs are not affected by CALPIA's proposed regulatory changes any differently than exists presently or there is no impact on existing jobs and therefore there is no impact with the adoption of this section.

CREATION, EXPANSION, OR ELIMINATION OF EXISTING BUSINESSES (SMALL OR LARGE) WITHIN THE STATE OF CALIFORNIA

This action will not have an effect on the creation, expansion, or elimination, of small or large businesses within California. It is determined that this action has no significant adverse economic impact on small or large businesses within the State of California because businesses are not affected by CALPIA's proposed regulatory changes any differently than currently, or not at all, and therefore will not have an effect on the creation, expansion, or elimination of small or large businesses within California.

BENEFITS OF THE PROPOSED AMENDMENTS TO THE REGULATIONS

Provide a nonmonetary benefit for the protection and safety of public health and safety, by ensuring ongoing efficiency of operation employment inmate workers, and providing experiences for inmate workers to utilize upon release from custody.

REPORTS RELIED UPON

1. Immediate Access to Employment Reduces Recidivism, June 11, 2015, https://www.realclearpolitics.com/articles/2015/06/11/immediate_access_to_employment_reduces_recidivism_126939.html
2. CDCR Release Back-to-Back Annual Recidivism Reports, October 10, 2017, <https://news.cdcr.ca.gov/news-releases/2017/10/10/cdcr-releases-back-to-back-annual-recidivism-reports/>

3. How much does it cost to incarcerate an inmate? 2018-2019,
https://lao.ca.gov/PolicyAreas/CJ/6_cj_inmatecost

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

PIB and CALPIA are not aware of any cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

The Department has determined that this action has no significant adverse economic impact on small businesses any differently than they are now or not at all because they are not affected by CALPIA's internal operations.

CONSIDERATION OF ALTERNATIVES

PIB and CALPIA has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of PIB and CALPIA, 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 proposed regulatory action. Interested persons are invited to submit written statements or arguments with respect to any alternatives to the changes proposed during the written comment period.

AVAILABILITY OF RULEMAKING DOCUMENTS

The Proposed Text, Initial Statement of Reasons, and Materials Relied Upon have been placed in the rulemaking file and are available to the public upon request directed to the CALPIA's contact person. The documents will also be made available on the CALPIA website: www.calpia.ca.gov.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If modifications sufficiently related to the originally proposed text are made, the changes will be clearly indicated and made available to the public for at least 15 days before the PIB reviews and approves the regulations as revised. PIB and CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting 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 or by visiting the CALPIA website: www.calpia.ca.gov.