

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 and 2808 in order to implement, interpret and make specific Penal Code 2801 and 2808, propose to amend Section 8004, 8004.3 of Article 3 of the California Code of Regulations (CCR), Title 15, Division 8, concerning CALPIA Inmate drug/alcohol test refusal.

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 15 days prior to January 16, 2017.

PUBLIC COMMENT PERIOD:

The public comment period will close, **January 16, 2017 at 5:00 p.m.** 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 DELIVER

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

FAX

(916) 358-2709

E-MAIL

PIAregs@calpia.ca.gov

CONTACT PERSONS:

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

Dawn Eger, Legal Analyst
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

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

Diana Harbaugh, Executive Secretary II
California Prison Industry Authority
560 East Natoma Street, Folsom CA 95630
Telephone (916) 358-1711

AUTHORITY AND REFERENCE

PC section 2801 provides CALPIA's purpose as an agency and its implied rulemaking authority.

PC section 2808 provides the PIB with the authority to approve CALPIA's rulemaking proposals.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In order for CALPIA to function safely and efficiently, new regulations are needed to provide clarity of consequences for CALPIA inmates who refuse to participate in controlled substance and/or alcohol testing. For safety reasons, these inmates must be immediately removed and unassigned from CALPIA workplaces. Current regulations do not provide for immediate removal of a CALPIA inmate who refuses to participate in a drug/alcohol testing process. California Department of Corrections and Rehabilitation's (CDCR) disciplinary matrix requires substance abuse treatment programs and progressive loss of pay for first, second and third drug violations. The discipline differences are causing safety issues such as the recent discovery of two CALPIA inmate employees who had refused to drug test, suffered loss of pay but were sent to work in CALPIA enterprises because CDCR was following its own regulations regarding discipline. CALPIA should not be forced to accept this potential risk within its enterprises.

The proposed regulatory action will benefit CALPIA by providing a safe work environment and potentially avoid the cost of human injury or property damage associated with substance abuse.

The proposed amendments will be vetted through the public process of the PIB, as required in PC Section 2808, subsections (h) and (i), and promulgated through the regulatory process as specified in the Administrative Procedure Act (APA). The PIB will review these regulations at the next board meeting held on December 15, 2016. Upon approval, the PIB's Record of Vote and the applicable portion of the meeting minutes will be included in the rulemaking file. These documents will be filed with the Office of Administrative Law (OAL) and available to the public upon request.

Evaluation of Inconsistency/Incompatibility with Existing Regulations:

During the process of developing these regulations and amendments, CALPIA has conducted a search of any similar regulations on this topic and has concluded that these regulations are 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:

CALPIA has made an initial determination that the proposed action will have no significant effect on housing costs.

Significant Statewide Adverse Economic Impact On Business:

CALPIA has initially determined that the proposed adoption 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 CALPIA inmate workers.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Results of the Economic Impact Analysis/Assessment

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

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 the jobs are not affected by the internal management of CALPIA inmate workers.

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 the internal management of CALPIA inmate workers.

BENEFITS OF THE PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed regulatory action will benefit CALPIA by providing a safe work environment and potentially avoid the cost of human injury or property damage associated with substance abuse and will clarify that inmates refusing drug/alcohol testing constitutes a drug violation and the proposed language will specify CALPIA's disciplinary action for the violation.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

CALPIA is 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 business because they are not affected the internal management of CALPIA inmate workers.

CONSIDERATION OF ALTERNATIVES

CALPIA must determine that no reasonable alternative considered by CALPIA, or that has otherwise been identified and brought to the attention of 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 implementing the statutory policy or other provision of law.

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 PROPOSED TEXT, INITIAL STATEMENT OF REASONS, RULEMAKING FILE

The Proposed Text and Initial Statement of Reasons have been placed in the rulemaking file and are available to the public upon request directed to CALPIA's contact person. The rulemaking file, which contains all the information upon which this proposal is based, is available for viewing at the location listed above under "Contact Persons."

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 CALPIA 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 reviews and approves the regulations as revised. The 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 CALPIA's contact person or by visiting CALPIA's website: www.calpia.ca.gov.

AVAILABILITY OF DOCUMENTS ON CALPIA'S WEBSITE

All the various rulemaking documents are available on CALPIA's website at: <http://www.calpia.ca.gov>