

INITIAL STATEMENT OF REASONS

Description of Regulatory Action:

The California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) propose to amend Section 8000 of Article 1 and adopt Sections 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8116, 8117, 8118, 8119, 8119.1, 8120 of new Article 6, Chapter 1, of the California Code of Regulations (CCR), Title 15, Division 8, concerning CALPIA Personnel. This action is necessary to implement, interpret and make specific Penal Code (PC) Section 2809 regarding the General Manager's authority to determine personnel rules for CALPIA employees. CALPIA workplaces are located on California Department of Corrections and Rehabilitation (CDCR) institution grounds and CALPIA employees work closely with CDCR employees. This close connection between CALPIA and CDCR may confuse staff; the public and other state agencies, such that CALPIA's independence from CDCR regarding personnel rules is often undistinguishable. These proposed regulations are necessary to clarify CALPIA's position as distinct from CDCR as is authorized by PC Section 2809.

As part of the July 1, 2005 reorganization of CDCR, the Legislature, in SB 737, amended PC Sections 2800 – 2816. Although the CALPIA continues its existence within CDCR, PC Section 2809 provides the General Manager with the authority to establish recruiting, testing, hiring, promotion, disciplinary and dismissal procedures and practices that meet the unique personnel needs of the authority. The procedures and practices established shall apply to all employees under the jurisdiction of CALPIA. Statute states "The general manager shall be the appointing authority for all personnel of the authority other than the general manager." The CALPIA's rulemaking authority is established by PC Section 2801. PC Section 2809 identifies the CALPIA general manager as the hiring authority for all CALPIA personnel. CALPIA employees work with CDCR employees within CDCR institutions where inmates participate in work training programs. CALPIA wants its employees to comply with similar regulatory requirements as those imposed upon CDCR employees as much as possible to maintain consistency and safety. CALPIA employees work under a hiring authority which is separate and distinct from the CDCR hiring authority and, therefore, CALPIA requires its own, separate personnel rules. These proposed regulations set forth the personnel requirements for CALPIA employees which are as similar as possible to the personnel requirements for CDCR employees.

As specified in CCR, Title 1, Section 12 (b) (1), the CALPIA acknowledges that some language contained within these regulations is a re-statement of statute found in PC Section 2809 and regulations found in CCR, Title 15, Division 3, Chapter 1, Subchapter 5, Article 2. In justifying the re-statement of statute and regulation, the CALPIA contends the re-statement satisfies Government Code (GC) Section 11349.1(a)(3) by providing clarity to the General Manager's scope of authority and establishing personnel requirements for CALPIA employees that are separate from CDCR employees. This clarity eliminates any confusion with regards to CALPIA's autonomy from CDCR regarding its authority given in PC Section 2809, specific to CALPIA personnel. The construction of Chapter 6 of the PC may confuse or be misinterpreted by CALPIA staff, inmate workers and the public regarding the authority of the General Manager as the appointing authority for all personnel of CALPIA and CALPIA's status as an agency separate and independent from CDCR. Statutes specific to CALPIA and the PIB are spread out and are not in one tightly woven format; therefore, re-statement of certain statutes and

regulations within these proposed regulations provide a clearer, more condensed format, to alleviate any confusion and enable staff, inmates, and the public in general to more fully understand the CALPIA personnel requirements.

The policies of the CALPIA will be vetted through the public process of the PIB, as required in PC Section 2808, subsections (h) and (i), and now are being 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 June 25, 2014. Upon approval, the PIB's Record of Vote and the applicable portion of the transcribed minutes will be filed as an attachment to the Final Statement of Reasons. These documents will be filed with the Office of Administrative Law (OAL).

PC Sections 2801 and 2809 provide CALPIA with implied rulemaking authority. PC Section 2809 authorizes the CALPIA to recruit and employ civilian staff as necessary to carry out its purpose and establishes the General Manager as the appointing authority for all personnel of CALPIA. Further, CALPIA may also establish policies and procedures to recruit, test, hire, promote, discipline, and dismiss employees to encourage civilian employee involvement in the CALPIA productivity goals. Pursuant to PC Section 2809, these policies and procedures shall apply to all employees under the jurisdiction of the CALPIA. This means that the policies and procedures apply to both civilian staff and civil service staff. However, as determined by the Office of the Attorney General (OAG) in 93 Ops. Cal. Atty. Gen. 35, the policies and procedures apply to civil service staff only to the extent that the policies and procedures are consistent with civil service laws and rules.

This action is necessary to create operational consistency for CALPIA employees that work within CDCR institutions and on institution grounds. It is also necessary to govern CALPIA employees as similar as possible to CDCR employees to maintain consistency and safety while supervising the inmates who participate in work training programs.

ECONOMIC IMPACT ASSESSMENT

In accordance with Government Code Section 11346.3(b), the California Prison Industry Authority has made the following assessments regarding the proposed regulation:

Creation or Elimination of Jobs within the State of California

The proposed regulations will not create or eliminate 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 employees. The benefits of new, proposed regulations will provide clear and concise personnel rules that will only affect CALPIA employees.

Creation, Expansion, or Elimination of Existing Businesses (Small or Large) within the State of California

The proposed regulations 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 the internal management of CALPIA employees. The benefits of new, proposed regulations will provide clear and concise personnel rules that will only affect CALPIA employees.

Benefits of the Regulations:

The proposed regulatory action will benefit CALPIA employees and its visitors by providing clear and concise personnel rules while ensuring and promoting increased efficiency in prison industry operations.

Reports Relied Upon:

The CALPIA, in proposing these regulations, has not identified nor relied upon any technical, theoretical, or empirical study, report, or similar document.

Consideration of Alternatives:

The CALPIA determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective as and less burdensome to CALPIA employees than the action proposed. The CALPIA also determined there are no reasonable alternatives that would lessen any adverse impact on small businesses. The internal management of CALPIA employees will not affect small businesses.

Information Digest/Policy Statement Overview

Section 8000 is amended to add the definitions and merge them alphabetically with those that currently exist in the regulations. This provides clarity and consistency and ease of reference for commonly used terms within Division 8 of Title 15.

The term “controlled substance” needs to be defined by CALPIA so that employees may understand exactly what is prohibited in their workplaces. CALPIA employees work with inmates where controlled substances are considered contraband and prohibited. CALPIA uses the term controlled substance as defined by California Health and Safety Code Section 11007.

The term “drug” needs to be defined and clarified because it is used within CALPIA regulation language. By defining the term “drug” employees may understand exactly what is prohibited in their workplaces. CALPIA employees work with inmates where drugs are considered contraband and prohibited. CALPIA’s uses the term drug as defined in Health and Safety Code Section 11014.

The term “employee” needs to be defined and clarified because it is used within CALPIA regulation language. Pursuant to Penal Code 2801, CALPIA’s purpose is to develop and operate enterprises employing prisoners in institutions under the jurisdiction of California Department of Corrections, which enterprises may be located either within those institutions or elsewhere. Because CALPIA inmates work inside CALPIA workplaces, it’s important to specify that inmates are not CALPIA employees nor are the inmates subject to regulations that pertain to CALPIA employees. CALPIA also contracts with individuals and allows volunteers to engage in work at institutions or on institution grounds. Any individual engaging in work at an institution or on institution grounds under the authority of CALPIA is included in the term employee to ensure CALPIA’s personnel regulations pertain to contractors and volunteers when appropriate.

The term “enterprise” needs to be defined to provide consistency and clarity because it is used within CALPIA regulation language to describe a specific type of workplace that is comprised of manufacturing, agriculture and various other operations. Other CALPIA workplaces that are not referred to as enterprises are non-industrial, office type settings. Defining “enterprise” will separate certain types of CALPIA workplaces when referring to them in regulations. Defining “enterprise” will also help eliminate repetitive language by not having to describe the term every time it’s used.

The term “family member” needs to be defined because it is used within CALPIA regulation language and describes individuals that have any relation to inmates or employees. Pursuant to Penal Code 2801, CALPIA operates enterprises which may be located either within California Department of Corrections (CDCR) institutions or elsewhere. Because CALPIA employees work with or around inmates/parolees, some regulations will refer to family members of an inmate or parolee. The term “family member” must be defined to ensure the CALPIA regulations specify who is included in a reference to inmates’/parolees’ family members. This definition of family member is unique to CALPIA and is necessary to include all types of relatives without having to endlessly relations such as foster, step, in-law, adoption, sibling, cousin, aunt, grandparent, child, niece, etc. The term “family member” is used often in CALPIA regulations and needs to be defined once to eliminate repetitive language and unnecessary words to list what constitutes “family member” every time the term is used. It is also necessary to provide clarity and eliminate different opinions of what defines a family member.

The term “institution” needs to be defined to provide clarity within CALPIA regulation language. CALPIA defines “institution” as community-access facility, community correctional facility, camp, or subfacility of an institution under the jurisdiction of the California Department of Corrections and Rehabilitation. By defining “institution” as it pertains to CALPIA regulations, it becomes clear what the term means and eliminates the need to use repetitive language to list the different types of facilities that an institution may consist of. Pursuant to Penal Code 2801, CALPIA operates enterprises which may be located either within California Department of Corrections (CDCR) institutions or elsewhere. The term “institution” is and will be used in often in CALPIA regulations and the term needs to mean all CDCR facilities.

The term “unauthorized electronic communication device” needs to be defined because it is used several times within CALPIA regulation language and to provide detailed clarity of what kind of devices the term includes. Defining “unauthorized electronic communication device” will eliminate repetitive language and unnecessary words to list what constitutes “unauthorized electronic communication device” every time the term is used. It is also necessary to provide clarity and eliminate different opinions of what defines an electronic communication device.

The term “under the influence” needs to be defined because it is used several times within CALPIA regulation language and to eliminate repetitive language to describe the term each time it is used. CALPIA is adopting language from Title 2, Division 1, Chapter 3, Subchapter 1, Article 29 to define the term “under the influence” to mean an employee’s working abilities are impaired and the employee does not have the ability to perform their duties with the same

characteristics of a sober person due to alcohol, drugs, controlled substances, or a combination thereof.

The term “workplace” needs to be defined because it is used several times within CALPIA regulation language and to eliminate repetitive language to describe the term each time it is used. The term “workplace” means all offices, warehouses, enterprises, and the showroom under the authority of CALPIA, regardless of location. It is necessary for the term “workplace” to be defined and pertain to all CALPIA locations when it’s used in regulation language.

New Section 8100 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically identifying the General Manager as the appointing authority for all personnel of the CALPIA. (a) As the appointing authority, the General Manager has the final determination on all personnel matters involving CALPIA staff. It is necessary to restate PC Section 2809 to clarify CALPIA’s autonomy from CDCR regarding personnel matters. (b) is necessary to adopt and clarify the General Manager’s authority to establish an Executive Branch deemed necessary to accomplish the statutory purpose of the CALPIA. PC Section 2801 directs CALPIA to create and maintain working conditions within its workplaces as much like those which prevail in private industry as possible. The CALPIA Executive Branch is designed to resemble an executive branch of a private industry with its members performing the same or similar tasks as an executive staff in the private sector. The Assistant General Managers are second in command behind the General Manager overseeing the daily operations of the workplaces. The General Counsel provides legal advice regarding all aspects of the business and operations of the CALPIA. The Chief of External Affairs is the conduit between the CALPIA and the public, keeping the public informed of CALPIA actions and accomplishments. (c) makes specific the General Manager’s authority to appoint executive officers at the local enterprises who will oversee the staff working in that particular enterprise. This is necessary to ensure that the local executive officers provide a continuum of oversight in the reporting chain that travels from the local executive officers to the Executive Branch and the General Manager.

New Section 8101 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically with regards to any situation that the General Manager or his or her designee, or the employee’s supervisor deems to be an emergency. In any emergency situation, any CALPIA employee, regardless of their civil service classification, is required to perform any service deemed necessary to aid in any emergency situation. Whether an employee is contacted by telephone or otherwise informed of an emergency situation at a CALPIA workplace, the employee shall report without delay to the emergency coordinator at the workplace to which they are assigned. This is necessary to ensure that the full support of all CALPIA staff is available in case of any type of emergency.

New Section 8102 is adopted to implement an identification process for CALPIA employees. All CALPIA employees assigned to work or are engaged in work at a CALPIA enterprise within a CDCR institution or any other workplace will be issued an identification card granting access to all institution grounds as required for the performance of their duties. While on duty, employees shall carry the identification card on their person and produce the card upon request. An employee shall promptly report the loss of his or her identification card to the General

Manager, their immediate supervisor and the Chief of Human Resources if they are assigned to a workplace not located at an institution. An employee shall promptly report the loss of his or her identification card to Human Resources at Central Office and follow CDCR local rules if they are assigned to a workplace located at an institution. It is necessary for the safety and security of CALPIA employees inside institutions to be clearly identifiable. Security is of utmost importance throughout the state prison system. The possession of identification cards for CALPIA employees at institutions and workplaces aids in ensuring safety and security.

New Section 8103 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of individuals hired under the authority of the CALPIA General Manager through civil service and contracts that are assigned to or engaged in work at CDCR institutions. Individuals assigned to work or are engaged in work at a CALPIA enterprise at a CDCR institution shall observe regulations governing the conduct of CDCR employees in accordance with California Code of Regulations (CCR), Title 15, Division 3, Chapter 1, Subchapter 5, Article 2. Failure to observe the rules and regulations may lead to exclusion from CDCR institutions and/or CALPIA workplaces. Failure by civil service employees may lead to disciplinary action pursuant to the authority of the General Manager of CALPIA. This regulation is necessary to ensure any individual under the authority of CALPIA adheres to CCR, Title 15, Division 3, Chapter 1, Subchapter 5, Article 2 while engaged in work at an institution to provide constancy, aid safety and security for all persons, and provide for a productive and stable work environment. This regulation is necessary to specify the portion of CDCR regulations that will be applied to individuals under CALPIA's authority as it pertains to their duties at the institution.

New Section 8104 is adopted to implement, interpret or make specific provisions of PC Section 2809, specifically, that CALPIA employees shall practice appropriate conduct while at work in their dealings with inmates, parolees, fellow employees, visitors and members of the public. Inappropriate conduct reflects negatively on the employee and CALPIA. Derogatory or slang reference shall never be used when addressing or referring to any inmate or parolee. It is important that CALPIA employees address inmates and parolees by their proper names, such as Mr. Smith or Ms. Jones rather than be on a first name basis with inmates to avoid any improprieties or becoming overly familiar. Employees shall refrain from using inappropriate or improper language in an environment where inmates are present. Requiring CALPIA employees to practice appropriate and professional conduct within the workplace will encourage a safe and productive work environment. The language in this section is similar to language found in Title 15 Section 3391 which pertains to CDCR employees. This regulation is necessary to adopt and apply to all CALPIA employees because they work where inmates are present and also to create personnel rules as similar as possible to CDCR rules. (b) is necessary to adopt and clarify procedures for CALPIA employees to follow for reporting allegations of misconduct by a CDCR peace officer. Because CDCR employs peace officers, PC Section 832.5 authorizes CDCR to establish procedures to investigate complaints against those peace officers. CCR, Title 15, Section 3391 also contains CDCR's procedures for reporting allegations of misconduct by a CDCR peace officer. This regulation is necessary to adopt and apply to all CALPIA employees because they work where peace officers are present and need rules to govern the official complaint processes.

New Section 8105 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically, the reporting of arrest, conviction, or change in driving status. (a) is necessary to adopt and require that an employee notify their supervisor if the employee has been arrested or convicted of any violation of the law. It is also necessary to adopt and require that a contractor working for CALPIA who is arrested or convicted of any violation of the law to notify their contract manager. It is imperative for employees or contractors to inform their supervisors of any illegal misconduct so that their supervisors can determine if the misconduct will interfere with scheduling projects and production or be problematic when working with fellow employees or inmates. (b) is necessary to adopt and require an employee to notify their supervisor of any suspension, revocation, or restrictions to their driving privileges which prohibit the employee from performing any of their job duties. It is also necessary to require that a contractor working for CALPIA to notify their contract manager of any suspension, revocation, or restrictions to the contractor's driving privileges which prohibit the contractor from performing any of their job duties for CALPIA. (c) is necessary to adopt and allow CALPIA to discipline its civil service employees for misconduct that interferes with their work tasks and responsibilities as well as the continuous operations and productions of CALPIA.

New Section 8106 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically with regards to intoxicants and drugs. Some of the language to be adopted is duplicative in nature to the PC sections, but it is necessary to place the PC language with the other personnel regulations for CALPIA employees. The use of alcohol, drugs or controlled substances of any kind may interfere with one's ability to work safely and productively. CALPIA workplaces vary from office settings, dairies and orchards, to dangerous machinery. Most workplaces include supervision of inmates. It is important that all employees perform their jobs to the safest and best of their ability. (a) is necessary to adopt and to prohibit employees from reporting for duty or entering CDCR institution grounds while under the influence of intoxicants or drugs. An employee is considered to be under the influence when the employee no longer possesses the ability to perform duties with the desired caution that is characteristically present in a sober person. Employees shall be able to perform their duties in a manner that a sober person of ordinary prudence under the same or similar circumstances would perform the duties. (b) is necessary to adopt and require employees to report to the Prison Industries Administrator/Manager or their supervisor the presence of any person, including an employee on duty, or on standby for duty, who is or appears to be under the influence of intoxicants or drugs. An employee under the influence of intoxicants poses a threat to the safety of themselves, fellow employees, inmates and production. It is necessary for employees to be aware of and report potential hazards that include co-workers that may be under the influence. (c) is necessary to adopt and prohibit employees from bringing alcoholic beverages, illegal drugs or substances, or prescription drugs without a prescription to any CALPIA workplace or onto institution grounds. CALPIA employees work with inmates where these items are considered contraband. It is necessary to prohibit employees from bringing these items to CALPIA workplaces or onto institution grounds and creating the possibility for inmates to access the contraband. (d) is necessary to adopt, make specific PC Section 4573.5, and prohibit employees from obtaining or delivering specific contraband to inmates. The specific items prohibited include intoxicants or drugs of any kind or any preparations or paraphernalia associated with drugs or intoxicants. (e)

is necessary to adopt and to specify that civil service employees are subject to disciplinary action, including dismissal from state service, under the authority of the General Manager if they violate any subsection of Section 8106. (f) is necessary to adopt and to specify that employees and any other person under CALPIA authority, including visitors, are subject to PC Section 4573.5 and may be criminally prosecuted for bringing contraband into CALPIA workplaces or onto prison grounds. The prohibited items considered to be contraband include: alcoholic beverages, illegal drugs or substances, or prescription drugs without a valid prescription. It is also necessary to prohibit any person under CALPIA authority from obtaining or delivering to an inmate any intoxicants, drugs, or preparations/paraphernalia associated with drugs or intoxicants. Pursuant to PC Section 4573.5, delivering any one of the listed contraband items is a crime and subject to criminal prosecution.

New Section 8107 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, regarding unauthorized electronic communication devices for CALPIA employees and guests at CALPIA workplaces. Pursuant to PC 4575(a), any person in a local correctional facility who possesses a wireless communication device who is not authorized to possess that item is guilty of a misdemeanor. The General Manager of CALPIA has determined regulations must be adopted (a) to prohibit unauthorized electronic communication devices from being brought into workplaces by employees or guests of CALPIA because inmates under the jurisdiction of CDCR are present in the workplaces. It's necessary to specify that unauthorized electronic communication devices must be eliminated from all CALPIA workplaces to ensure inmates have no access to these devices. Section 8107 is adopted to specifically apply PC 4575(a) to CALPIA workplaces located elsewhere from an institution and where inmates may be present. Unauthorized electronic communication devices include but are not limited to cellular phones, wireless Internet devices, pagers, or components and parts of devices. (b) is necessary to adopt and specify while on CDCR institution grounds or within CALPIA workplaces, employees shall maintain and lock any personal, unauthorized electronic communication device(s) in their personal vehicles or in any state vehicle. This is necessary to ensure that while the vehicle is left unattended on CDCR institution grounds, the vehicle cannot be accessed by an inmate. (c) Unauthorized electronic communication devices shall be subject to confiscation. Because CALPIA employees work closely and together with CDCR employees, it is necessary to coordinate similar personnel expectations as much as possible. Maintaining similar personnel regulations are necessary to ensure a fair and safe work environment for both CALPIA and CDCR employees.

Section 8108 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically with regards to vacations of CALPIA employees. Vacation times shall be granted to employees at times convenient for the continued operations of CALPIA and are subject to the approval of the employee's immediate supervisor. Approved time off may be revoked if it is deemed mission essential or the employee's time off would result in a significant financial loss for CALPIA and no other provisions to accommodate the vacation can be made. This is necessary to ensure that CALPIA productivity goals are met.

New Section 8109 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically with regards to

hours of employment of CALPIA employees. Hours of employment will be in accordance with state civil service rules and shall be subject to approval of the employee's immediate supervisor and the approval of the General Manager or his or her designee. This is necessary to ensure that CALPIA productivity goals are met.

New Section 8110 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically with regards to in-service training of CALPIA employees. As directed by the General Manager, all employees shall participate in CALPIA's inmate/employee relations training. CALPIA employees working on CDCR institutional grounds are required to participate in the CDCR in-service training program as prescribed by the institutional head. When work schedules permit, employees may attend training classes on state time during their regular working hours. This is necessary to ensure that CALPIA employees are fully trained ensuring safety and goals of CALPIA are met.

New Section 8111 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically with regards to light duty assignment or reasonable accommodations for CALPIA employees. CALPIA employees are located throughout the State of California, for example, in prisons in southern, central and northern California; yet, regardless of their physical location, the processing of any Light Duty and Reasonable Accommodation requests shall be coordinated through the CALPIA Return-To-Work Coordinator at Central Office in Folsom, California. CALPIA employees shall report any requests for Light Duty and Reasonable Accommodation to their immediate CALPIA supervisor at their worksite. The CALPIA supervisor shall immediately contact the CALPIA Return-To-Work Coordinator at Central Office for processing of such requests. The CALPIA Return-To-Work Coordinator will provide assistance and guidance to CALPIA supervisors to resolve the requests with their employees. Employers are required to engage in the interactive process and provide reasonable accommodations for the known disabilities of employees as mandated by (California Fair Employment and Housing Act (FEHA) and Federal (Americans with Disabilities Act (ADA). CALPIA is responsible for coordinating these efforts under the law. The CALPIA Return-To-Work Coordinator is responsible for the management and oversight of the department's Return-To-Work and Reasonable Accommodation program. Therefore, it is necessary that all CALPIA supervisors, statewide, present Light Duty and Reasonable Accommodation requests to the CALPIA Return-To-Work Coordinator to ensure compliance with the law. This will allow the department to centralize tracking of all requests for Light Duty and Reasonable Accommodation.

New Section 8112 is adopted to specify limited term light duty assignments. (a) is necessary to adopt and specify that the General Manager may utilize Limited Term Light Duty assignments to allow employees with documented medical limitations to work. The employee shall be placed in a vacant budgeted position within the employee's bargaining unit, or be allowed to continue working in their current position, while temporarily waiving the essential functions of the job. Proper documentation from an employee's doctor is necessary, documenting the specific medical limitations of the employee's work. This is necessary because CALPIA's positions are accounted for in the Annual Budget funds coming from the Prison Industries Revolving Fund, and there can be no "extra" positions – all assignments for limited term light duty shall be accounted for within the budget. A decision by the Superior Court of California, County of Los

Angeles (Department of Administration, Case Number 99-12-0067) found that placing employees in bargaining unit positions other than their own to be in violation of employee union contracts. The General Manager shall utilize vacant budgeted positions for Limited Term Light Duty assignments for qualified employees provided the assignment is necessary to CALPIA operations and the position is in the same bargaining unit as the qualified employee. Employees qualify when their medical limitations are documented, the employee's bargaining agreement is consistent with the Limited Term Light Duty assignment, the Return-to-Work Coordinator has discussed the employee's potential for a Limited Term Light Duty assignment with the employee's supervisor and General Manager, and the agreement is documented in writing. The General Manager may allow the employee to continue working in their current position while temporarily waiving the essential functions necessary for the employee to perform.

(b) No position will be permanently identified as a "light duty" position. This is necessary to prevent a light duty position from becoming permanent and possibly hindering the organizational goals of CALPIA's production or creating a void in the work force. Limited Term Light Duty for any one employee shall not extend beyond 60 calendar days in a 6-month period for any medical condition(s). CALPIA considers this to be a reasonable amount of time to allow for an employee and the employer to assess their work limitations. This may better allow the employee the ability to recover and return to work on full-time basis performing their normal duties. And ultimately a full-time work force is necessary to carry out the goals of the CALPIA as required in statute.

Section 8113 is adopted upon approval of the California Department of Human Resources to identify and implement provisions of Government Code Section 19990 regarding any state officer or employee's employment, activity or endeavor which is clearly inconsistent, incompatible, in conflict with, or hostile or unfriendly to his or her duties as a state officer or employee. This regulation is necessary to ensure that employees of the CALPIA are aware of what constitutes inconsistent, incompatible, or conflicts with their duties with the State of California and CALPIA. This regulation does not preclude employees from participating in other employment or activity outside of CALPIA. Pursuant to GC 19990, CALPIA General Manager shall determine specific incompatible activities that are inconsistent, incompatible or in conflict specifically with the duties of CALPIA employees. This regulation is necessary to ensure CALPIA employees are made aware of the incompatible activities listed in GC 19990 and specify additional incompatible activities that are unique to CALPIA and not listed in GC 19990.

(a) is necessary to adopt and ensure employees are made aware of incompatible activities that apply to them pursuant to GC 19990.

(b) is necessary to adopt and require CALPIA employees not to engage in specific, incompatible activities or employment that falls within listed categories, including, but not limited to the list.

(1) is necessary to adopt for CALPIA to make specific GC Section 19572(t) which allows disciplinary action for "failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the appointing authority or the person's employment." Employment or participation in any activity of an illegal nature by an employee of CALPIA is inconsistent with CALPIA's purpose and existence. CALPIA exists to rehabilitate inmates who have been convicted of illegal activity. CALPIA employees cannot engage in illegal activity without causing discredit, inconsistency, and a conflict to their employment and employer.

(2) is necessary to adopt and ensure employees will not engage in outside employment or activity that prevents the efficient performance of their duties; results in an actual conflict of interest or creates the appearance of conflict to their duties at CALPIA.

(3) is necessary to adopt and prevent employees from engaging in outside employment or activity that prevents a prompt response to report to duty in an emergency or when otherwise required to be present by his or her supervisor or the General Manager. Pursuant to PC Section 2809, CALPIA has authority to carry out its own personnel needs. CALPIA's General Manager has determined it is mission essential for employees to be readily available at any time to support continuous operations of CALPIA which may occur outside of normal business hours due to the nature of products (i.e. dairy farms) or circumstances such as emergencies. Continuous operations are critical to generate self-supporting funds which maintain the CALPIA and also because CDCR relies on products and services produced by CALPIA for incarcerated inmates.

(4) is necessary to adopt and to ensure employees will not use workgroup computer technologies in an improper manner, which interferes with the efficient performance of their duties or is outside of the scope of CALPIA work tasks and responsibilities. The provision does not preclude the occasional use of workgroup computer technology by employees or bargaining units to communicate with each other.

(c) is necessary to adopt and ensure employees are aware they must notify the General Counsel before engaging in outside employment, activities, or endeavors that conceivably might be incompatible, inconsistent, or in conflict with his/her duties as a CALPIA employee. The employee must submit a written statement to the General Counsel through the employee's supervisor naming the prospective employer, if any, the employer's address and phone number, and an outline of the proposed duties or activities. This statement is necessary to provide sufficient detail to enable the General Counsel to determine whether the proposed activity will interfere with the employee's work tasks and responsibilities. The General Counsel must notify the employee of his or her findings in writing. If an employee disagrees with the General Counsel's determination, the employee may appeal to the General Manager in writing providing an explanation of their disagreement. The General Manager's review and decision on the appeal is final. (d) is necessary to adopt disciplinary actions that will discourage incompatible activity. Employees that fail to follow New Section 8113 are subject to disciplinary actions pursuant to the authority of the General Manager up to and including termination of employment.

New Section 8114 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically with regards to legal matters. This regulation is necessary to specify instructions to employees that are subpoenaed or otherwise involved in legal matters pertaining to their employment and duties at CALPIA. It is also necessary to implement GC Sections 68097.2(a) and 68093 regarding compensation for CALPIA employees that must testify in a court of law. Some of the language to be adopted is duplicative in nature to the GC sections, but it is necessary to place the GC language with the other personnel regulations for CALPIA employees. It's necessary to specify processes for legal matters that will affect both CALPIA employees and other parties soliciting CALPIA employee testimony. This section will provide clarity and consistent rules on how the process works. (a) is necessary to adopt and require employees to notify CALPIA's General Counsel prior to testifying before a court or other tribunal in connection with a matter in which they have gained knowledge during the course of their duties at CALPIA. The employee shall

submit in writing to General Counsel within one business day of being subpoenaed to testify and include copies of any subpoena, all relevant information, and a summary of their anticipated testimony. (b) is necessary to adopt and prevent employees from testifying or consulting in a court of law as an expert witness or specialist if they have not notified CALPIA General Counsel. It is necessary to adopt and require employees to submit in writing to General Counsel within one business day of being subpoenaed to testify as an expert. Along with a written notice, the employee must also include copies of any subpoena, all relevant information, and a summary of their anticipated testimony. The CALPIA General Counsel or their designee retains discretion to quash the subpoena if it's deemed necessary and will benefit the CALPIA. (c) is necessary to adopt and implement GC Section 68097.2(a) which states compensation shall be provided to any state employee who is obligated by a subpoena to attend as a witness before any court or other tribunal in any civil action or proceeding in connection with a matter, event, or transaction which they have gained knowledge in the course of their duties. (d) is necessary to adopt and implement GC Section 68097.2(b) which requires a specific dollar amount for reimbursement to be tendered at the time of the issuance of the subpoena. The reimbursement shall be in the form of a check or money order made payable to CALPIA. (e) is necessary to adopt and allow compensation for travel expenses incurred by employees that testified on behalf of CALPIA. The employee shall submit to their immediate supervisor an itemized travel expense claim within two business days following their testimony. (f) is necessary to adopt and require employees to relinquish witness fees received pursuant to GC Section 68093 if the employee testifies on behalf of CALPIA.

New Section 8115 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically the prohibition of CALPIA employees becoming overly familiar with inmates, parolees, or family members, friends, or associates of inmates or parolees. CALPIA employees work with inmates and may have contact with inmates, parolees, or family members, friends, or associates of inmates or parolees. CALPIA employees must avoid engaging in personal discussions or relationships with inmates, parolees, or family members, friends, or associates of inmates or parolees for safety reasons. The language in this section is similar to language found in Title 15 Section 3400 which pertains to CDCR employees. This regulation is necessary to adopt and apply to all CALPIA employees because they work where inmates are present and also to create personnel rules as similar as possible to CDCR rules.

New Section 8116 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of CALPIA employees who have any type of a relationship with an inmate or parolee under the jurisdiction of CDCR. The practices and procedures will also pertain to employees that have any type of relationship with a family member, friend, or associate of an inmate or parolee under the jurisdiction of CDCR. The language in this section is similar to language found in Title 15 Section 3406 which pertains to CDCR employees. This regulation is necessary to adopt and apply to all CALPIA employees because they work where inmates are present and also to create personnel rules as similar as possible to CDCR rules. (a) is necessary to adopt and permit employees to conduct relationships with their own family members if their family member is an inmate or parolee under the jurisdiction of CDCR and if the relationship is disclosed. Employees may also conduct relationships with a family member, friend, or associate of an inmate or parolee under the

jurisdiction of CDCR and if the relationship is disclosed. (b) is necessary to adopt and require employees to disclose any current or previous relationship that the employee conducts with an inmate or parolee under the jurisdiction of CDCR. (c) is necessary to adopt and clarify specific instructions an employee must follow to disclose their relationships described in New Section 8116. The employee must submit notification in writing with descriptions of relationships described in New Section 8116 to their supervisor. It's necessary to require supervisors to provide the notification to the CALPIA General Manager, the warden at the employee's assigned workplace, the appropriate CDCR Director, and CDCR Assistant Secretary to ensure safe and secure working conditions exist within the CALPIA workplaces. New Section 8116 is necessary to ensure that CALPIA employees are aware of the importance of reporting any type of relationship with an individual described in this new section. Reported relationships that are described and disclosed in this section are closely monitored by the CDCR.

New Section 8117 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, regarding employee and inmate/parolee transactions. The language in this section is similar to language found in Title 15 Sections 3399 and 3401 which pertains to CDCR employees and their relationships with inmates, parolees, or person known to be a family member, friend, or associate of inmates or parolees. This regulation is necessary to adopt and apply to all CALPIA employees because they work where inmates are present and also to create personnel rules as similar as possible to CDCR rules. It is necessary to prohibit transactions between CALPIA employees and inmates to ensure the safety of CALPIA workplaces. Prohibiting specific transactions is necessary to ensure an inmate, parolee, or person known by the CALPIA employee to be a family member, friend, or associate of an inmate or parolee will not have the ability to intimidate, threaten or extort information, goods or force a CALPIA employee using unacceptable methods to perform any illegal activity against the employee's will. (a) is necessary to adopt and prohibit employees from engaging in personal transactions with an inmate, parolee, or person known by the employee to be a family member, friend, or associate of an inmate or parolee. Prohibited transactions include bartering, lending, giving, promising to give or any type of transaction that is personal. Employees may conduct transactions with an inmate, parolee, or person known by the employee to be a family member, friend, or associate of an inmate or parolee if the transaction is made in accordance with one of the following: transaction is executed in the course of employee's assigned duties; or transaction involves the employee's disclosed family member or friend; transaction is a business/financial relationship and has been approved by the General Manager. (b) is necessary to adopt and clarify the prohibition of CALPIA employees from sharing verbal or written messages, documents, items, articles or substances with an inmate, parolee, or person known by the employee to be a family member, friend, or associate of an inmate or parolee. (c) is necessary to adopt and prohibit CALPIA employees from contacting, corresponding or otherwise communicating with an inmate, parolee, or person known by the employee to be a family member, friend, or associate of an inmate or parolee. Employees may communicate with an inmate, parolee, or person known by the employee to be a family member, friend, or associate of an inmate or parolee if the correspondence/communication is made in accordance with one of the following: is executed in the course of employee's assigned duties; involves the employee's disclosed family member or friend; is for the purpose of a business/financial relationship and has been approved by the General Manager. (d) is necessary to adopt and define the process CALPIA employees must follow in the event an employee is

asked or coerced by anyone to violate subsections (a), (b), or (c). An employee must immediately file a written report with CALPIA management with details regarding who and how they were asked to violate any of subsections (a), (b), or (c). It is imperative that employees are aware and their management is made aware when anyone is trying to violate subsections (a), (b), or (c). (e) is necessary to adopt and provide the exceptions to the prohibitions of subsections (a), (b), or (c) as follows: (1) allows CALPIA employees to issue or receive items from inmates, if it is required in the course of their assigned duties; (2) allows CALPIA employees to interact with an inmate, parolee, or person known by the employee to be a family member, friend, or associate of an inmate or parolee if the interaction is in the course of their assigned duties. New Section 8117 is necessary for CALPIA employees because they work on institution grounds and in workplaces where inmates are present and personnel rules should be as similar as possible to CDCR rules to ensure safety.

New Section 8118 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically the prohibition against familiarity in the form of sexual behavior between CALPIA employees and inmates or parolees. This section is a restatement of CCR Title 15 Section 3401.5 which imposes the same prohibition on CDCR employees. Because CALPIA employees work closely and together with CDCR employees and inmates, it is necessary to coordinate similar personnel expectations to ensure a safe work environment for both CALPIA and CDCR employees. This regulation is necessary to provide clear and concise language regarding sexual misconduct and aids to the safety and security of its employees, inmates/offenders and the prison environment as a whole. (a) defines sexual misconduct between CALPIA employees and inmates/parolees. The definition specifies that consensual relationships between CALPIA employees and inmates/parolees does not exist. Several actions that are considered sexual misconduct for purposes of this proposed regulation are enumerated as follows: (1) discusses the prohibition of using influence to get sexual favors; (2) makes specific the prohibition of using threats against an inmate or parolee for refusing to engage in sexual behavior; (3) prohibits invasion of privacy; (4) discusses the prohibition of disrespectful, unduly familiar, or sexually threatening comments directed to, or within the hearing of, an inmate/parolee; or (5) subsections A through E identify several acts which are considered sexual acts under this proposed regulation, such as sexual intercourse; sodomy, oral copulation; penetration of genital or anal openings by a foreign object, substance, instrument or device for the purpose of sexual arousal, gratification, or manipulation; rubbing or touching of the breasts or sexual organs of another or of oneself, in the presence of and with the knowledge of another, for the purpose of sexual arousal, gratification, or manipulation. (b) sets forth the response to and penalties for sexual misconduct between CALPIA employees and inmates/parolees. (c) is necessary to adopt and clarify the obligation for any CALPIA employee who observes or receives information regarding sexual misconduct to immediately report the information to CALPIA management. Immediate reporting of sexual misconduct is required so that CALPIA and CDCR can comply with law that requires immediate and appropriate action in response to sexual misconduct in the workplace. (d) is necessary to adopt and clarify the right for alleged victims of sexual misconduct to have their identity remain confidential from the public and from a courtroom.

Section 8119 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically the General Manager's authority to appoint ex-offenders. As the appointing authority, the General Manager has the final determination on all personnel matters involving CALPIA staff. The General Manager's written approval is required for the appointment of an ex-offender. Ex-offenders shall not be assigned to areas that contain access to the following information without the written approval of the General Manager: (1) Employee records; or (2) Inmate personal or medical information. An ex-offender shall not be appointed to any position requiring a background clearance until such clearance is received. Not only is this oversight necessary due to potential safety and security issues surrounding the hiring of ex-offenders, but the General Manager's approval ensures the operational needs of CALPIA are met regardless of the status of the employee. CCR, Title 15, Section 3404 provides a similar clarification to CDCR employees. Because CALPIA employees work closely and together with CDCR employees, it is necessary to coordinate similar personnel expectations to ensure a safe work environment for both CALPIA and CDCR employees. CALPIA provides opportunities to individuals both inside and outside of prison. Hiring of ex-offenders exemplifies CALPIA's goal to rehabilitate. It is necessary for CALPIA staff to know that the General Manager must approve the hiring of ex-offenders to ensure safety and security of those who may be working with the ex-offenders.

Section 8119.1 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically transactions between ex-offenders and CALPIA employees. Any relationship involving business and financial transactions between employees and persons previously incarcerated under the jurisdiction of CDCR shall require the advanced approval of the General Manager. This oversight is necessary for General Manager to assess potential safety and security issues.

New Section 8120 is adopted to implement, interpret and make specific provisions of PC Section 2809 regarding procedures and practices of the CALPIA, specifically with regards to personal record access and amendments. (a) is necessary to adopt and clarify that any person whom CALPIA maintains a record or file containing personal information has the right to inspect their record or authorize any person to inspect such records on their behalf and to request amendments to correct outdated, inaccurate or incomplete information. Any requests to inspect a record shall be submitted in writing to CALPIA Human Resources, which is responsible for maintaining the record. Requests to amend a record or file shall be submitted in writing, including documentary evidence to support the proposed amendment, to CALPIA Human Resources. (b) The denial of a request to amend information may be appealed in writing to the Assistant General Manager of the subject employee reporting chain of command. The Assistant General Manager's determination can be appealed to the General Manager. The appeal shall include all documentation pertaining to the requested amendment. (c) If an individual's appeal is denied, they may submit a statement of disagreement to CALPIA Human Resources for placement in the record or file. The statement shall remain a part of the record for as long as the disputed information is retained. This is necessary to ensure that employees or a person authorized on their behalf understand the process by which their individual personnel files can be inspected; and furthermore that they have a right to inspect those files. The process is established to ensure consistency throughout CALPIA and to ensure fairness for employees

regarding rights to the information that is in their file that may have been placed there for various reasons; for example, probation reports, letters of instruction, letters of accommodation, etc.