

FINAL TEXT

In the following text:

single underline indicates added or amended text
single
strikeout indicates deleted or moved text

Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

Section 8006 is amended to read:

8006. Inmate Pay Rates, Schedule and Movement

- (a) Inmates assigned to ~~work~~ programs within CALPIA shall receive compensation as determined by the General Manager and reviewed by the Prison Industry Board (PIB). Compensation shall be paid from the Prison Industries Revolving Fund, and shall be in accord with the graduated pay schedule, and based on ~~quality and quantity of work performance~~ performance, and technical skills and abilities required for its performance.
- (b) Any proposed changes to the Inmate Pay Schedule shall be submitted by the General Manager to the PIB for review.
- (c) Final determination of any disputes or interpretations of the Inmate Pay Schedule shall be made by the General Manager.
- (d) CALPIA inmate pay rates shall be in accord with the following skill and step levels:
 - (1) Inmate Pay Schedule.

Skill Level	Step I	Step II	step III
Level 1 Leadperson (AA)	\$.80	\$.90	\$1.00
Level 2 Special Skills (A)	.70	.75	.80
Level 3 Technician (B)	.60	.65	.70
Level 4 Semi-Skill (C)	.50	.55	.60
Level 5 Laborer/Entry Trainee (D)	.35	.40	.45

- (e) The Prison Industries Administrator/Lead Manager at each facility shall be responsible for the administration of the CALPIA inmate pay program, ensuring pay positions are properly classified and allocated.
- (f) Movement between one pay rate to another pay rate shall be based upon the following:

- (1) Pay increases. Increases shall not be automatic or solely based on the inmate's longevity in an assignment. Increases in the pay rate shall be based on the inmate's productivity (~~quantity and quality of work performed~~), the supervisor's recommendation, the inmate's ~~work/training~~ performance report, and shall be subject to the review and approval of the Prison Industries Administrator/Lead Manager.
 - (A) Inmates may receive a pay increase for satisfactory performance after they complete three months of participation work in each step level, as described in subsection (d)(l) above.
 - (B) Inmate pay increases from Step I to Step II and finally Step III shall be effective upon the Prison Industries Administrator/Lead Manager approval on the first day of the following month after the pay increase is administratively processed.
- (2) Pay decreases. Reduction in pay shall be based on the immediate supervisor's recommendation, inmate's less than satisfactory ~~work~~ performance, or inmate misconduct as described in Title 15, California Code of Regulations (CCR), Division 3, Sections 3312, 3314, or 3315.
 - (A) Inmate pay decreases shall be effective upon the Prison Industries Administrator/Lead Manager review and approval on the first day of the following month after the pay decrease is administratively processed.
- (3) Advancement. Inmates may advance to a higher skill level, as described in subsection (d)(l), with the immediate supervisor's recommendation and based upon the inmate's demonstration of increased skill level, their ~~work/training~~ performance report, and shall be subject to the review and approval of the Prison Industries Manager/Lead Manager.
 - (A) Inmates may advance from one skill level to the next after they complete one month of ~~work~~participation in their current skill level as described in subsection (d)(l) above.
 - (B) Inmate advancement shall be effective upon the Prison Administrator/Lead Manager approval on the first day of the following month after the pay increase is administratively processed.
 - (C) An inmate's longevity shall not be used as criteria for the purpose of upgrading skill level.
- (4) Removal beyond inmate control. Inmates removed from their ~~work~~ assignment for reasons beyond their control, including, but not limited to out-to-court or lengthy hospital stay, may return to a CALPIA assignment at the same or closest level of pay to their former position, if a position is available, via the institution classification committee process, CCR, Title 15, Division 3, Section 3040.

AUTHORITY: Sections 2801, 2808 and 2811, Penal Code.

REFERENCE: Sections 2806 and 2811, Penal Code.

INITIAL STATEMENT OF REASONS:

The California Prison Industry Authority (CALPIA) and the California Prison Industry Board (PIB) propose to amend section 8006. In Penal Code (PC) section 2808 the California Legislature provided the PIB with “*all powers to do all of the things that the board of directors of a private corporation would do . . .*” including approving CALPIA’s rulemaking proposals. According to Government Code section 11342.2, the proposed regulatory action is consistent and not in conflict with PC sections 2801 through 2808 (Prison Industry Authority) and is reasonably necessary to effectuate the purpose of PC sections 2801 through 2808. Section 8006 is amended to remove the word “work” from phrases in the text and add terms to eliminate any ambiguity and confirm that inmates in all types of CALPIA assignments are compensated.

CALPIA has educational, vocational training, and work programs. This amendment is necessary to ensure all inmates have this same opportunity for compensation when assigned with CALPIA.

The proposed regulatory action will be vetted through the PIB’s public process and promulgated through the regulatory process as specified in the Administrative Procedures Act (APA). The final rulemaking file will include the PIB’s Record of Vote. All rulemaking documents will be filed with the Office of Administrative Law (OAL) and are available to the public on CALPIA’s website.

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. State agencies may purchase CALPIA products. CALPIA is implicitly delegated to adopt rules and regulations necessary for the exercise of power expressly granted by the fact that CALPIA and the PIB are granted these powers by statute for rulemaking authority.

Penal Code Section 2802: Section 2802 provides for the existence and powers 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 of and to do all of the things that the board of directors of a private corporation would do.

State Departments have been given “Quasi-Legislative” powers to adopt rules (regulations) that are consistent with state law so that they can run their programs. One court opinion described this as the power to “fill in the details” of the state statute(s) that empower a department to operate a program. *Helene Curtis, Inc. v. Assessment Appeals*

Bd. (1999) 76 Cal.App.4th 124. By the implied terms of Penal Code Sections 2808, 2802, 2807, 2800, CALPIA has the authority to adopt regulations to implement, interpret, make specific, or otherwise carry out the provisions of these statutes.

Problem Statement

The problem addressed by this regulatory amendment is to eliminate any ambiguity and confirm compensation for inmates in all types of CALPIA assignments. CALPIA has programs that are educational and vocational training in addition to work programs, and this amendment is necessary to affirm all inmates to have this same opportunity. This regulatory amendment provides a regulation to support the current payment of inmates in all types of CALPIA assignments.

In order to fully support CALPIA's purpose to operate like a private, self-sustaining business and to function safely and efficiently, the proposed regulatory action is necessary. Under Government Code section 11342.2, the proposed amendment is consistent with, and not in conflict with, PC sections 2801.

Purpose and Necessity of Regulations

To meet CALPIA's mission of reducing recidivism, in part by compensating inmates assigned to CALPIA, this regulatory amendment is necessary to affirm compensation for inmates in any CALPIA assignment, whether education, vocational, or work. Therefore, CALPIA is amending Section 8006 to include this requirement.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made more specific.

ECONOMIC IMPACT ASSESSMENT:

In accordance with Government Code Section 11346.3(b), CALPIA has made the following assessments regarding the proposed regulations:

Significant Statewide Adverse Economic Impact on Business:

CALPIA has determined that the proposed regulatory action 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 compensating inmates. There is no actual change expected to current operations. As a result, there will be no significant statewide adverse economic impact on businesses.

Creation or Elimination of Jobs within the State of California:

CALPIA has determined the proposed regulatory action will have no impact on the creation or elimination of existing jobs or businesses within California because those jobs or businesses are not affected by the internal management of CALPIA compensating inmates. As a result, there will be no creation or elimination of jobs within the State of California of this regulatory action.

Creation of New Businesses or Elimination of Existing Businesses within the State of California:

CALPIA has determined the proposed regulatory action will have no effect on the creation of new or elimination of existing businesses with the State of California because those businesses are not affected by the internal management of CALPIA compensating inmates. There will be no creation or elimination of existing businesses within the State of California as a result.

Expansion of Businesses Currently Doing Business within the State of California:

CALPIA has determined the proposed regulatory action will not affect the expansion of businesses currently doing business within the State of California because they are not affected by the internal management of CALPIA compensating inmates. As a result, there will be no anticipated expansion of businesses currently doing business within the State of California as a result.

Benefits of the Regulations:

A benefit of this regulatory action is to affirm compensation of CALPIA assigned inmates in any type of assignment, whether it is educational, vocational, or work. This amendment will also protect and maintain CALPIA's purpose as an agency.

Statement of Purpose and Issues Being Addressed:

Specific Purpose and Rationale, Per Government Code 11346.2(b)(1):

Specific Regulatory Actions and Reasons:

Section 8006 is amended:

Section 8006(a): The word "work" is removed from in front of "programs" to delete the limitation for work assignments only.

Section 8006(a): The words "quality and quantity of work" are removed to delete the limitation for work assignments only.

Section 8006(a): The phrasing "performed, and technical skills and abilities required for its performance" is changed to the phrasing "performance, technical skills and abilities required for performance". This change is essential to remove the limitation in this sentence which could be read to mean only those with a work assignment will receive pay.

8006(f)(1): The language "(quantity and quality of work)" are deleted as is the language "work/training" to further ensure the regulation does not appear to limit inmate pay only for work assignments, rather than participation in CALPIA programs.

8006(f)(1)(a): The word "work" is replaced with "participation" to clearly identify that participation in programs qualifies for pay and is not limited to work only.

8006(f)(2): The word “work” is removed from the phrase “satisfactory work performance” to delineate that program participation and performance is not limited to only to CALPIA work assignments, but also to participation in CALPIA programs.

8006(f)(3)(a): The phrase “one month of work in their current skill level” is changed to “one month of participation in their current skill level” as some CALPIA programs are not work only, but educational and vocational training.

8006(f)(4): The phrase “work assignment” is changed to remove the word work, to read “assignment” as some CALPIA assignments include other programs than only work.

CALPIA has education, vocational training, and work programs, and this amendment is necessary to ensure all inmates have this same opportunity for compensation when assigned with CALPIA.

Background and CALPIA’s Operations

CALPIA was created by Chapter 1549, Statutes of 1982, as a semiautonomous state agency to operate California's prison industries in a manner similar to private industry. CALPIA was established to:

- Develop and operate manufacturing, agricultural, and service enterprises that provide work opportunities for California Department of Corrections (CDCR) inmates.
- Operate inmate working conditions similar to private industry providing experience, earnings, and opportunities for developing good work habits occupational skills.
- Operate work programs for offenders that are self-supporting through the generation of sufficient funds from the sale of products and services to pay all its expenses.

CALPIA is a self-supporting, customer-focused business that provides productive work assignments for approximately 7,000 inmates within the CDCR institutions. CALPIA manages over 100 manufacturing, service, and consumable operations in CDCR institutions throughout California. The goods and services produced by CALPIA are sold predominately to departments of the State of California, as well as other government entities. CALPIA’s goal is to train offenders with job skills, good work habits, basic education, and job support in the community so when they parole, they never return to prison.

CALPIA Reduces Recidivism and Increases Public Safety.

CALPIA prepares inmates for productive lives, reduce recidivism and reducing incarceration costs. Paroled inmates who participated in CALPIA programs are less likely to return to prison than general population inmates. Although other relevant factors may contribute to lowering recidivism, over three years, beginning in FY 2007-08, CALPIA participants returned to prison, on average, 26 to 38 percent less often than inmates released from the CDCR general population, saving the General Fund millions in incarceration cost avoidance. CALPIA provides CDCR with inmate programming positions, thereby saving CDCR in General Fund costs for rehabilitation positions that CDCR does not have to fund.

The goods and services produced by CALPIA's enterprises are sold predominately to departments of the State of California as well as other government entities. CDCR is CALPIA's largest customer and accounted for 59.6 percent of all sales in FY 2014-15, up from 57.1 percent in FY 2013-14. Other major State customers include the Department of Motor Vehicles (DMV), the Department of State Hospitals (DSH), the Department of Health Care Services (DHS), the Department of Transportation (CalTrans), the Department of Forestry and Fire Protection (CAL FIRE), the California National Guard, the California Highway Patrol (CHP), the Department of Veteran Affairs (CDVA), the Department of General Services (DGS), the Department of the Military, and the Department of Parks and Recreation (DPR).

CALPIA offers programs for inmates that offer nationally recognized accredited certification such as dental technology, food handling, laundry, agriculture, welding, metal stamping, industrial safety and health, electrical systems, mechanical systems, and maintenance. In FY 2014-15, 884 CALPIA participants received a certificate of proficiency and/or Standard Occupational Code Proficiency certification, and 3,117 participants completed an accredited certification program, a 129 percent increase from FY 2013-14. CALPIA inmate participants must be engaged in a General Education Development (GED) degree to continue participating in CALPIA.

CALPIA participants return to prison far less often than general population offenders. The lower recidivism rate of CALPIA participants saves the state General Fund annually. Additionally, according to a survey of 11 items by the Bureau of State Audits, CALPIA products were less expensive than the private sector in six out of the 11 items sampled, which saved CALPIA's five largest state customers \$3.5 million in FY 2009-10.

CALPIA supports California's economy through its operations and the purchase of raw materials from California businesses. According to a 2010 study by associates of the University of Nevada in 2010, if CALPIA did not exist, economic activity in California would decline by \$295 million, household income would decline by \$75 million, and more than 1,000 jobs would be lost statewide.

CALPIA participants contribute 40% of their wages (\$.35 to \$.95 per hour) to pay court-ordered restitution and fees. In addition, in the CALPIA Joint Venture Program (JVP) employers pay inmates a wage comparable to wages paid by the employer to non-inmate employees performing similar work for the employer. If the employer does not employ such non-inmate employees in similar work, compensation is comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. In addition to federal and state taxes, the following distributions are made from inmate's net JV wages:

- 20% is sent to the California Department of Corrections and Rehabilitation as reimbursement for room and board.
- 20% is used to pay inmates' restitution fines or paid directly to local crime victims' programs.
- 20% is sent directly to the inmate's family for support or used to pay court-ordered wage garnishments (i.e., child support).
- 20% is deposited in a mandatory savings account, which is available to the inmate upon his/her parole.
- 20% is placed in the inmate's trust account at the institution for personal use.

CALPIA participants make prisons safer. Reducing idleness decreases violence against both staff and those who are incarcerated. CALPIA participants must have no disciplinary actions against them in order to keep their CALPIA assignments.

CALPIA's industries produce over 1,400 goods and services, including office furniture, clothing, food products, shoes, printing services, signs, binders, eyewear, gloves, license plates, cell equipment, and much more. In 2000, CALPIA began the development of the Industry Employment Program (IEP) to enhance the ability of inmates to obtain private-sector jobs upon their release from prison. The program documents and certifies an inmate's skills, work experience, and positive work habits acquired while assigned to CALPIA's enterprises.

CALPIA's operations include and are not limited to commercial laundries (563 inmates¹), construction services and facilities maintenance, production of metal products, metal signs and license plates (408 inmates), commercial printing (89 inmates), modular construction (5 inmates), roofing, carpentry, marine technology, viticulture, and health facilities (collectively 361 inmates), other health facilities maintenance (978 inmates) commercial construction labor, ironwork, commercial kitchen culinary arts, optical manufacturing (214 inmates), bindery production (80 inmates), meat cutting, baker (53 inmates), food and beverage packaging (255 inmates), furniture, shoes (126 inmates) and mattress manufacturing (30 inmates), the production of fabric products, dairy operations (136 inmates), crop production and farming operations (27 inmates), commercial dairy operations, dental laboratories (61 inmates), maintenance and repairs (63 inmates), warehouse operations (75 inmates), knitting mill and fabric engineering (53 inmates), fabric products (1057 inmates) health facilities maintenance, furniture production (388 inmates), poultry and egg production operations (57 inmates), coffee production and roasting (23 inmates), general fabrication (116 inmates), and cleaning products (48 inmates) among other operations. These operations include numerous and varied assignments for inmates to gain training, experience, and earn funds.

CALPIA invests in various curriculum for inmates, offering more than 120 nationally recognized accredited certifications such as dental technology, food handling, laundry, dental technology, agriculture, welding, metal-stamping, industrial safety and health, electrical systems, mechanical systems, and maintenance. CALPIA inmates may earn certificates of proficiency in occupational disciplines to validate skills and abilities obtained during CALPIA assignments. In FY2016-17, 559 CALPIA participants received a certificate of proficiency and/or Standard Occupational Code Proficiency certification, and 4,540 participants completed an accredited certification program, a 9% overall increase for both from FY2015-16. The increase was caused primarily by the opening of IEP enrollment to all CALPIA offenders into TPC Training Systems course 109.1 Industrial Safety and Health and the ongoing activation of the Healthcare Facilities Maintenance program at all institutions.

In order for CALPIA to function efficiently and to eliminate any ambiguity, this amendment is necessary. CALPIA has educational, vocational training, and work programs, and this amendment is necessary to ensure all inmates have this same pay opportunity when

¹ All numbers of inmates assigned are subject to daily fluctuations.

assigned with CALPIA. This regulatory amendment will validate the practice of paying all CALPIA assigned inmates. Therefore, Section 8006 is amended.

Duplication or Conflicts with Federal Regulations:

The proposed regulatory action does not conflict with any federal standards.

Technical, Theoretical, and/or Empirical Studies, Reports and Documents Relied Upon:

None.

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

The Notice of Proposed Regulations was published on May 28, 2021. The notice was mailed and emailed, and posted at facilities and enterprises in addition to being posted on the CALPIA website. A public hearing was not scheduled nor requested by any person.

During the 45-day comment period, no comments were received. No written comments were received during the public comment periods. There were no requests for notice of this rulemaking.

CALPIA posted to its website the notice and initial statement of reasons which were published in the Notice Register in place of alternate documents which had been in their place.

REVISIONS TO REGULATION TEXT:

There are no revisions to the originally noticed regulation text.

REVISIONS TO THE INITIAL STATEMENT OF REASONS:

There are no changes to the Initial Statement of Reasons.

REVISIONS TO THE 45 DAY NOTICE:

There were no changes to the immediately preceding laws or regulations directly related to this proposed rulemaking action and its effects.

The Notice of Proposed Action on Regulations (Notice) was published in the California Regulatory Notice Register on May 28, 2021. The notice was mailed and emailed, and posted at facilities and enterprises in addition to being posted on the CALPIA website. A public hearing was not scheduled nor requested by any person.

During the 45-day comment period, no comments were received. No written comments were received during the public comment periods. There were no requests for notice of this rulemaking.

LOCAL MANDATE:

The proposed regulations do not impose any mandate on local agencies or school districts.

ALTERNATIVES

THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS:

No alternatives were proposed to CALPIA or Prison Industry Board that would lessen any adverse economic impact on small business.

ALTERNATIVES DETERMINATION:

CALPIA has determined that no alternative it considered or that was otherwise identified and brought to its attention 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.

No other alternatives have been proposed or otherwise brought to the attention of CALPIA or Prison Industry Board.

INCORPORATION BY REFERENCE:

No documents have been incorporated by reference in the regulatory action text.