

SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

CALPIA Personnel Regulations

OAL File Number 2014-0410-01, including the Initial Statement of Reasons, is incorporated by reference. CALPIA has determined the following amendments and supplements shall be included in the Initial Statement of Reasons:

Information Digest/Policy Statement Overview

Additional text to Section 8000 is added to define emergency and intoxicants. These terms are used in the initial proposed text and must be defined to provide clarity. Specific definitions for each term will provide clarity to the proposed regulatory text and eliminate confusion for the meaning of each term.

'Background Clearance' is added and necessary to define in the proposed text. The proposed text will designate individuals who must have a background clearance. Any individual who applies to work for CALPIA or visits any CALPIA enterprises inside institutions must agree to a background clearance. The designated individual must submit their fingerprints to the Department of Justice which allows CALPIA access to the individual's criminal history. By defining this term, regulations regarding background clearance will be clarified.

"Emergency" is added and necessary to define in the proposed text.

'Employee' is amended to omit 'contractors and volunteers' because these types of individuals are not subject to the same personal regulations as the CALPIA employees. The word employee is used throughout regulations in Title 15, Division 8. 'Contractors and volunteers' cannot be subject to all regulations that use the word 'employee.' Although contractors and volunteers work on behalf of CALPIA, the hiring authority cannot subject these individuals to most civil service regulations nor discipline them.

"Intoxicants" is defined and necessary to specify the types of chemicals that do not fall within the definitions of controlled substance or drug. Any chemical or substance, not covered in drug/controlled substance definitions, that can alter an individual's judgment, physical control, and working abilities is considered an intoxicant. Many different types of chemicals exist in all CALPIA workplaces, some having the potential to become intoxicating when improperly ingested. Some CALPIA inmates and employees will be required to use chemicals within their scope of duties. Defining intoxicants will facilitate the regulation that prohibits employees from improperly supplying or aiding inmates/parolees with the use of chemicals and/or chemical preparations.

Section 8101 is amended and new text is added to clarify that the General Manager or his/her designee has the sole authority and discretion to declare an emergency. The portion of the original Initial Statement of Reasons stating supervisors could declare an emergency is no longer valid in this rulemaking file. It is mission essential for the General Manager or his/her designee to have the ability to declare an emergency which may occur

outside of normal business hours due to the nature of products such as dairy and poultry farms, laundry facilities, and food packaging enterprises. Any situation threatening the production of products and services is severely critical because CDCR relies on the products and services for incarcerated inmates. CALPIA employees must be aware of the potential need to be available to support continuous operations of CALPIA when an emergency has been declared. Employees must also be aware of the potential need to be available to aid in all other types of emergencies such as chemical spills, gas leaks, prison lockdowns or riots, escaped inmates or farm animals, flooding, fires, or any type of threat to public health, safety, peace and general welfare. The General Manager or his/her designee must have the authority to declare an emergency and require employees to report to work immediately to aid in the emergency and perform any task as directed. Employees may be required to perform tasks outside of their normal job duties to aid in any emergency situation. This regulation is necessary to support continuous operations at CALPIA which have an effect on public peace, health, safety, or general welfare. This regulation will also ensure all employees are aware of the potential need to be available to aid in the protection or recovery from threats to public peace, health, safety, or general welfare.

Section 8103 is deleted and reserved for later use. CALPIA determined clarity issues when trying to require employees to follow two sets of personnel regulations. The regulations conflicted.

Section 8105 is amended to omit text that pertained to contractors. In the original, proposed text, contractors were considered employees by definition in Section 8000. CALPIA determined contractors are not employees and omitted 'contractors' from the definition in Section 8000. This change impacted Section 8105. Because contractors are no longer considered employees by definition, the language pertaining to contractors as employees in Section 8105 is omitted. Language pertaining to contractors in the original Statement of Reasons is no longer valid for section 8105 of this rulemaking file.

The title of Section 8106 is amended to omit 'intoxicants' and add 'controlled substances.' CALPIA amended its regulatory language to include a new Section 8107 that defines intoxicants. All regulatory language pertaining to intoxicants is moved from Section 8106 to new Section 8107. Because language pertaining to 'intoxicants' no longer exists in Section 8106, it is appropriate to remove 'intoxicants' from the title of the section. 'Controlled Substances' is added to the title of section 8106 because the language within section 8106 regulates controlled substances. Therefore, adding 'Controlled Substances' to the section title is appropriate as it relates to the text within the section.

Section 8106(b) is not amended. In addition to the original Initial Statement of Reasons, it is also necessary to note the importance for employees to report anyone who may be under the influence while on duty. 'Under the influence' is defined in Section 8000. Most CALPIA enterprises consist of potentially dangerous machinery, chemicals and other hazards. These types of work environments require employees to exercise caution and sober judgment at all times. The safety of any CALPIA workplace, including an office setting, shall not be compromised by a person under the influence. Office space and enterprise factories are large in size. Relying on and requiring employees (who are spread throughout workplaces) to identify and report dangers (i.e. anyone under the influence) is an extra layer of detection in addition to cameras and management. Anyone under the influence is a potential hazard in a working environment. If someone under the influence is purposely ignored and not reported, unnecessary mistakes, injuries, and other dangers may occur.

Persons under the influence while on duty may cause harm to themselves and/or others and possible damage to property. Relying on employees to report anyone who may be under the influence while on duty is a necessary precaution to keep the work environment at CALPIA safe and free from unnecessary dangers.

Section 8106(c) is amended for formatting purposes that do not substantially change the meaning of original text.

Section 8106(d) is amended to omit language that is not defined. 'Intoxicants' is removed because CALPIA amended its regulatory language to include a new Section 8107 that defines intoxicants. All regulatory language pertaining to intoxicants is moved to a new section 8107. Section 8106(d) is also amended to add language that is defined. 'Controlled Substances' is added to use language that is precise. Controlled substances are defined Health and Safety Code Section 11007 which makes this regulatory language clear and specific. New text 'substances deemed illegal by operation of the law' is added to cover any other contraband that should not be delivered to inmates or parolees. Formatting amendments are also made that do not substantially change the meaning of original text.

Section 8106(e) is amended to omit 'civil service.' The regulatory language in Section 8106(e) pertains to employees of the CALPIA. The General Manager does not have authority to discipline any non-CALPIA civil service employee that violates subsections (a), (b), (c), or (d). Therefore, by removing 'civil service,' Section 8106(e) becomes specific to CALPIA employees only.

Section 8107 Unauthorized Electronic Communication Device is renumbered to 8108.

New Section 8107, titled 'Intoxicants' is added to prohibit misuse of chemicals that would otherwise be used in normal, routine job duties. Because CALPIA provides work opportunities involving chemicals to inmates, regulations are needed to prevent inmates from improperly using chemicals on the job to intoxicate themselves. All CALPIA workplaces have some type of chemical stored within their premises ranging from cleaning products to gasoline. CALPIA employees and inmates are permitted to use these chemical for execution of their job duties and in compliance with the instructions on the container of the chemicals. Some chemicals used at the workplaces contain substances that alter an individual's judgment, physical control, and working abilities when used improperly. This regulation is necessary to prohibit employees from aiding an inmate in the improper use of chemicals. Improper use is considered to be any type of use that is not within the scope of job duties or instructions on the container.

Section 8108 regarding "Vacations" is deleted. CALPIA determined a regulation to revoke an employee's approved vacation time is unnecessary and not needed.

Section 8109 is reserved.

Section 8109, 'Employee Work Schedules' is renumbered to 8110.

Section 8110 is deleted. CALPIA determined a regulation to mandate employees to attend mandatory training is unnecessary and not needed.

Section 8113(b)(3) is not amended. Some language from the original Initial Statement of Reasons regarding Section 8113(b)(3) is no longer valid in this rulemaking file. The Initial Statement of Reasons previously stated Section 8113(b)(3) is needed to: 'prevent employees from engaging in outside employment or activity that prevents a prompt response to report to duty in an emergency' To substantiate clarity, the word 'activity' in this statement is no longer valid. The proposed text does not indicate an 'activity' as something employees may not engage in therefore, the Initial Statement of Reasons should not have included 'activity' in its rationale. To further explain 'prevents a prompt response to report to duty in an emergency,' any employment that interferences with the performance of required duties or that may impact required duties is considered incompatible.

Section 8114(a) is not amended. In addition to the original Initial Statement of Reasons, it is also necessary to note the importance of providing the General Counsel notice within one business day of receiving a subpoena. In the event a subpoena arrives without reasonable notice, time is of the essence. Untimely subpoena's served on employees will need the immediate attention of the General Counsel to ensure the court appearance and/or any deadlines are met. The proposed text will regulate employees to expedite all subpoenas to the General Counsel within one business day for the best possible outcome.

Section 8114(c) is deleted. CALPIA determined a regulation that repeats Government Code Section 68097.2(a) is not necessary.

Section 8114(d) is deleted. CALPIA determined a regulation that repeats Government Code Section 68097.2(b) is not necessary.

Section 8114(e) is deleted. CALPIA determined that regulating employees to turn in a travel expense claim is not necessary.

Section 8114(f) is deleted. CALPIA determined it did not have the authority to require employees to relinquish their witness fees under specific circumstances of their testimony.

Section 8115 is amended to clarify familiarity so employees can understand how to converse with inmates, parolees, or family members, friends, or associates of inmates or parolees. Because CALPIA employees work closely and together with inmates within the workplaces, it is necessary and important to prohibit personal conversations between employees and inmates to eliminate undue circumstances such as coercion, blackmail, illegal threats, and vulnerable employees. These circumstances may arise when inmates gather details from a personal conversation with an employee and use those details to gain control over the employee. For example, an inmate that is affiliated with gangs and has connections to gangs outside of prison can make threats toward family members if the inmate knows specifics of the employee's family. If employee succumbs to any threats, the inmate gains control over the employee and can demand the employee to smuggle in contraband. Prohibiting personal conversations between inmates and employees is necessary for the safety and welfare of the employee and anyone the employee is associated with.

Personal conversations between inmates and CDCR employees are also not allowed. CALPIA needs to regulate conversations in its workplaces to conform to CDCR personnel regulations as much as possible. CDCR and CALPIA employees need to converse with inmates in the same manner. There cannot be differences in conversations and

interactions between inmates and employees when an inmate enters a CALPIA workplace. This regulation is needed to keep interactions uniform and conducive to the prison environment.

Conversations that do not include personal affairs are permitted between employees and inmates, parolees, or family members, friends, or associates of inmates or parolees. It is the responsibility of the employee to use their discretion when conducting conversations that are not work related and to keep the conversation away from personal topics. Conversations about weather, current events, sports, and other non-personal topics are permitted with employee discretion advised. Employees need to understand and be capable of controlling and/or ending a conversation when the topic turns personal. Employees must be aware and not answer personal questions or engage in personal topics when they are conversing about non-work related topics.

Title of Section 8118 is amended. The word 'Employee' is removed from the title because this section does not pertain to employees only. Section 8118 regarding sexual misconduct applies to any non-incarcerated person who interacts with the inmates including contractors, visitors, or volunteers. Removing 'employee' from the title will prevent confusion on whether or not this section only applies to employees.

Section 8118 is formatted to flow and read easier. The formatting changes did not substantially change Section 8118.

Section 8118 (a) is amended to prohibit sexual misconduct between all non-incarcerated individuals and inmates/parolees. The original proposed text limited the regulation to only cover employees, volunteers, agents or individuals working on behalf of CALPIA. Specific types of people 'working on behalf of CALPIA' is removed and replaced with text that will cover any person that CALPIA brings into contact with inmates. Any non-incarcerated person brought into contact with inmates, whether working for CALPIA or visiting CALPIA or touring CALPIA, will be prohibited from engaging in any form of sexual misconduct with inmates. It is necessary to amend this regulation to cover any and all individuals CALPIA brings into contact with inmates. The previous proposed text was not as broad and left loopholes for individuals such as visitors.

Section 8118(d) is amended to omit repetitive language. Section 8118(b) covers employee disciplinary action for employees that engage in sexual misconduct. Section 8118(c) covers possible prosecution for all non-incarcerated individuals who engage in sexual misconduct. It is necessary to amend Section 8118(d) and omit repetitive language.

Section 8118(f) is reformatted. Section 8118(f) did not substantially change.

Section 8119(a) is amended to clarify background clearance requirements for ex-offenders applying to work at CALPIA. The previous proposed text did not clarify that all positions at CALPIA require a background check. The wording of Section 8119 is adjusted to clarify ex-offenders must complete a background check prior to being appointed to any position they apply for.