

## **INITIAL STATEMENT OF REASONS:**

The California Prison Industry Authority (CALPIA) and the California Prison Industry Board (PIB) propose to amend subsections 8004.2(b) and (c) of Article 3, Chapter 1, of the California Code of Regulations (CCR), Title 15, Division 8, concerning CALPIA Inmate<sup>1</sup> Recruitment and Appointment Process.

PC Section 2801 provides CALPIA with implied rulemaking authority. Penal Code section 2801(b) states CALPIA's purpose is to *"create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure prisoners<sup>2</sup> employed therein the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills."* Also, Penal Code section 2801(c), states CALPIA must *"operate a work program for prisoners which will ultimately be self-supporting."*

In order to implement and make specific, Penal Code section 2801(b) and (c), CALPIA proposes to amend the "CALPIA Inmate Worker Application Form IEP-F002, Rev. E, 9-24-2012," (IEP Form) which is incorporated by reference. Current regulations require CALPIA inmates to complete and submit the IEP Form to begin initial screening processes when seeking employment at CALPIA. The IEP Form is much like job applications and other required documentation utilized by employers in the private sector. The IEP Form is a teaching tool to prepare inmates for private industry job requirements and also collects necessary information that allows staff to determine if inmate applicants meet the hiring standards for employment with CALPIA.

In order to accomplish its purpose as an agency, CALPIA will require the collection of necessary personal information directly from inmates rather than from another source. (Civil Code Sections 1798.14 and 1798.15). New, required information will be added to the form for several purposes explained throughout this Initial Statement of Reasons.

---

<sup>1</sup> Inmate means any person incarcerated by CDCR.

<sup>2</sup> Prisoner means any person incarcerated by CDCR.

Amendments to the IEP Form include new additions that will require personal identifying information from inmates for the following purposes: (1) introduces and educates inmates about the type of information that is required to obtain employment; and (2) tasks the inmates with acquiring their official, identifying records (Social Security Card) to satisfy employment requirements; and (3) assists inmates as they transition from CALPIA to private industry job offers upon release (via CALPIA's Industry Employment Program); and (4) allows CALPIA to utilize the personal identifying data to measure recidivism of CALPIA participants; and (5) assists CALPIA staff when assigning inmates based on ethnic balance; and (6) identify when part-time work may be permitted. Additions to the IEP Form also include an explanatory notice to individuals who are required to produce personal information. Other amendments include a deletion of instructional information for filling out the IEP Form.

As CALPIA teaches and prepares inmates for private industry employment requirements, it must also measure the program's goals to produce trained inmates with job skills making them less likely to re-offend. The past methods for gathering recidivism data from California Department of Corrections and Rehabilitation (CDCR) are no longer complete or accurate. This is primarily due to Assembly Bill (AB) 109, California's Public Safety Realignment Act, which requires certain inmates to be sentenced and returned to county jails, rather than state prison. In order to accurately track re-offenders<sup>3</sup> who participated in CALPIA programs, data from county jails is now needed. Re-offender information will also be used by CALPIA to make better decisions about the allocation and use of its resources and determine where improvements to effectiveness and efficiency are needed within the program. Pursuant to Unemployment Insurance Code section 1095(ah), CALPIA (working as an agent of CDCR) will begin collaborating with Employment Development Department (EDD) to research wage data of former CALPIA inmate participants. Pursuant to Penal Code section 13202, CALPIA will work together with Department of Justice (DOJ) to gather statistical information on the number of CALPIA inmate participants who return to any

---

<sup>3</sup> Re-offender means any person previously incarcerated in CDCR and returns to jail or prison after being released.

jail or prison. Collecting personal data from inmates is also necessary to provide them with a certificate upon their completion of certain programs. CALPIA offers many job skill training courses where inmates can become certified; personal identifying information, such as a social security number, is required to receive such certifications. The certifying programs will not issue a certificate if an inmate's social security number is not provided. Pursuant to subsection 8004.1(a)(6) of Title 15 of the California Code of Regulations, CALPIA is required to consider ethnic balance when filling vacancies for safety reasons; CALPIA needs to collect ethnic information to assign identified ethnicities in proportion to those represented within the inmate yards at the institution. Additional information added to the IEP FORM includes a notice pursuant to California Civil Code section 1798.17, which describes the legal purposes for collecting, maintaining, and disseminating personal identifying data required on the form. The notice also describes consequences if personal information is omitted, exceptions to omissions and an individual's rights to their records containing their personal identifying information.

Without the ability to collect personal identifying data, CALPIA will be unable to: (1) properly teach and transition inmates into real world work environments; and (2) measure successes to validate its program; (3) identify the efficiencies and inefficiencies of its program; and (4) properly place inmates in vacant CALPIA positions. This action is necessary to educate and prepare inmates for private job industry requirements while also providing data to CALPIA which can be used to facilitate its program and measure program goals. This action will allow CALPIA to carry out its purpose, stated in Penal Code sections 2801(b) and 2801(c), to maintain working conditions like those in private industry while assuring opportunity for prisoners to acquire occupational skills and ensure the program will ultimately be self-supporting.

The proposed amendments will be vetted through the public process of the PIB, as required in PC 2808 (h) and (i), and now are being promulgated through the regulatory process as specified in the APA. The PIB will vote on these proposed regulations at the next Board Meeting on December 17, 2015. Upon approval, the PIB's Record of Vote

and the applicable minutes will be placed in the final rulemaking file. These documents will be filed with the Office of Administrative Law (OAL) and are all available to the public.

**Consideration of Alternatives:**

CALPIA must determine that no reasonable alternatives considered, or that has otherwise been identified and brought to the attention of CALPIA, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CALPIA has made an initial determination that no reasonable alternatives to the regulation have been identified or brought to the attention of CALPIA that would lessen any adverse impact on small business.

Currently, no reasonable alternatives have been brought to the attention of CALPIA that would alter CALPIA's initial determination.

**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:**

The CALPIA has initially determined that the proposed amendments 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 inmates in the prison system.

### **Creation or Elimination of Jobs within the State of California**

CALPIA has determined that requiring personal identifying information on inmate job applications 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 inmates.

### **Creation of New Businesses or Elimination of Existing Businesses within the State of California**

Requiring personal identifying information on inmate job applications 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 inmates.

### **Expansion of Business Currently Doing Businesses within the State of California**

Requiring personal identifying information on inmate job applications will have no effect on the expansion of businesses currently doing business within the State of California because they are not affected by the internal management of inmates.

### **Benefits of the Regulations**

The proposed regulatory action will benefit CALPIA staff as it uses the information collected on the IEP Form. New information can be utilized to assist inmates as they transition from CALPIA to private industry job offers upon release and accurately measure recidivism statistics of CALPIA participants. The proposed regulatory action will benefit inmates by training and preparing them for private industry requirements of job applications. Inmates who are prepared with job skills upon release are less likely to re-offend which increases public safety and reduces overall costs to jails and prisons.

### **Reports Relied Upon**

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

**Specific Purpose and Rationale for Each Section, Per Government Code 11346.2(b)(1):**

**Subsection 8004.2(b) is amended** to update the ‘Inmate Worker Application Form IEP-F002, Rev. E, 9-24-2012,’ which is incorporated by reference to the new form, ‘Worker Application and Intake IEP-F002/IEP-F003, 9/15/2015 Rev. G,’ also incorporated by reference. Amendments include additions and deletions.

Additions to the form were made to collect personal identifying information from inmates. The additions include new requirements for inmates to provide: Aliases, Date of Birth, Social Security Number, Immigration and Naturalization Service (INS) Hold (if applicable), Place of Birth, Driver License State and Number (if applicable), County of Last Residence, Parole County, Gender/Ethnicity, Primary/Secondary Language, and Participation in CDCR Rehabilitative Programs. An additional amendment includes a notice required by the California Information Practices Act (IPA). The notice describes the legal purposes for collecting, maintaining and disseminating personal identifying data required on the form. The notice also describes consequences if personal information is omitted and an individual’s rights to their records containing their personal identifying information. The new requirements are necessary for the reasons that follow:

**Date of Birth and Social Security Number**

This information will be used by CALPIA to collaborate with EDD to research wage data of former CALPIA inmate participants in order to assess the impact of rehabilitation services or the lack of these services on the employment and earnings of these former participants; educate on real world requirements when obtaining employment; and collaborate with DOJ to research statistics on former CALPIA participants that return to jail or prison.

**Immigration and Naturalization Service (INS) Hold**

This information will be used by CALPIA to follow the requirements of subsection 8004(e) and subsection 8004(e)(1) of Title 15 of California Code of Regulations. If an inmate is placed on INS Hold (a.k.a. ICE Hold), the inmate may not participate in a CALPIA assignment without an approved exemption in writing from the General

Manager. An INS Hold inmate will not be eligible to receive external accredited certificates unless the inmate can remove his or her INS Hold status prior to the end of accredited certificate program.

**Aliases, Place of Birth, County of Last Residence, and Driver License State/Number**

This information will be used by CALPIA to collaborate with DOJ to research statistics on former CALPIA participants that return to jail or prison.

**Parole County**

This information will be used by CALPIA to transition inmates to private industry job offers upon release. CALPIA's Industry Employment Program works with each county to facilitate employment for inmates upon release. To help facilitate the Industry Employment Program as it seeks employment opportunities for trained CALPIA participants, CALPIA needs to distinguish which county its participants will parole to.

**Ethnicity**

This information will be used by CALPIA to consider ethnic balancing when filling vacancies for safety reasons. Balancing ethnic groups within CALPIA workplaces reduces the risk of altercations and fighting among inmates. Pursuant to subsection 8004.1(a)(6) of Title 15 of the California Code of Regulations, ethnicities should be balanced in proportion to those represented within the inmate yards at the institution.

**Gender**

This information will be used by CALPIA to collaborate with DOJ to research statistics on former CALPIA participants that return to jail or prison as well as identify ambiguous names that can be perceived as male or female.

**Primary/Secondary Language**

This information will be used by CALPIA to educate on real world requirements to obtain employment. Potential applicants who are fluent in other language(s) may receive

priority hiring based on this extra asset they have to offer. It is important to teach inmates to indicate their fluency in other languages to potential employers. CALPIA may also place an inmate, based on lingual skills, within the workplaces to assist where language barriers may exist.

### **Participation in CDCR Rehabilitative Programs**

This information will be used by CALPIA to identify when part-time work may be permitted or when an applicant is not eligible for a CALPIA assignment. Pursuant to subsection 8005(a) of Title 15 of the California Code of Regulations, part-time positions may be established to accommodate inmates who are participating in a rehabilitative program. In order to support rehabilitation, CALPIA may reduce an inmate's working hours to allow extra time necessary to participate in rehabilitative programs. Any indication of participation in a substance abuse program will alert staff to determine eligibility for CALPIA applicants. Pursuant to subsections 8004(b)(3)(C) of Title 15 of the California Code of Regulations, if and when an inmate has a drug violation that has occurred during incarceration, the inmate shall not be assigned to CALPIA unless meeting specific criteria, including but not limited to, successfully graduating from a substance abuse program.

Additions to the form also include a notice required by the California Information Practices Act (IPA) (Civil Code Section 1798.17). The notice describes the principal purposes for requesting the information on the IEP Form and the consequences (disqualification in CALPIA programs) suffered if such information is not provided or is false. Because INS Hold inmates do not have a social security number, an exception is granted to them to omit social security number when filling out the IEP Form. The purposes for sharing inmates' personal information with EDD and DOJ are disclosed and described. The Staff Services Manager of the Industry Employment Program is listed as the agency official who is responsible for the system of records which manages, maintains and disseminates personal information. An explanation is included to detail an inmate's rights to review their own records one time per calendar year.

A deletion was made to eliminate the instructions for filling out the form. The instructions are made for inmates and CALPIA staff. The new form includes instructions throughout the document where needed; therefore, a full page of instructions, placed last in the application stack is useless, duplicating information, likely will not be read, and a waste of resources (paper). It's more efficient to read instructions and descriptions of answers as the form is being filled out.

**Non-substantial changes were made to Subsections 8004.2(b) and (c)** to provide language with clarity.