



Department of Corrections and Rehabilitation
NOTICE OF CHANGE TO REGULATIONS

Sections: 3043, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3043.7, 3043.8, 3044, 3044.1, 3044.2, 3045.1, 3046.1, 3047	NCR Number: 22-03	Publication Date: February 25, 2022
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INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendment of Sections 3043, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045.1 and the renumbering and amendment of Sections 3043.7 to 3044.1, 3043.8 to 3044.2, and 3047 to 3046.1, of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Inmate Credit Earning.

PUBLIC COMMENT PERIOD

The public comment period will close on **April 13, 2022**. Any person may submit written comments about the proposed regulations by mail to the California Department of Corrections and Rehabilitation (CDCR), Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, or by e-mail to RPMB@cdcr.ca.gov. All written comments must be received or postmarked no later than **April 13, 2022**.

POSTING

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each Department facility and field office not later than five calendar days after receipt. Also, institutions and facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies, and shall distribute it to inmate law libraries and advisory councils. CDCR Form 621-A (Rev. 05/19), Certification of Posting, shall be returned to RPMB by mail or email. See Department Operations Manual Section 12010.6.7 for posting and certification of posting procedures.

CONTACT PERSON

Inquiries regarding this Notice should be directed to Josh Jugum, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2266, or e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to Kelly Santoro, Division of Adult Institutions, at (661) 721-2345.

Original Signed By:

KATHLEEN ALLISON
Secretary
California Department of Corrections and Rehabilitation

Attachments

NOTICE OF PROPOSED REGULATIONS
California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or department), proposes to amend sections 3043, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045.1 and to renumber and amend sections 3043.7 to 3044.1, 3043.8 to 3044.2, and 3047 to 3046.1, of the California Code of Regulations, Title 15, Division 3, Chapter 1, regarding Inmate Credit Earning.

PUBLIC COMMENT PERIOD

The public comment period begins **February 25, 2022** and closes on **April 13, 2022**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

No public hearing is scheduled for these proposed regulations; however, pursuant to Government Code Section 11346.8, any interested person or their duly authorized representative may request a public hearing, no later than 15 days prior to the close of the written comment period.

CONTACT PERSONS

Primary Contact

Josh Jugum
Telephone: (916) 445-2266
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

Y. Sun
Telephone: (916) 445-2269
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Program Contact

Kelly Santoro
Division of Adult Institutions
(661) 721-2345

AUTHORITY AND REFERENCE CITATIONS (Government Code section 11346.5(a)(2))

Government Code section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC section 5055 provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR.

PC section 5058 authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

INFORMATIVE DIGEST (Government Code section 11346.5(a)(3))

The proposed regulations adjust the Good Conduct Credit earning rates for inmates to a fixed rate. These proposed regulations simplify the sentence calculation methodology resulting in the same credit rate gained, allowing for an accurate projected release date for all inmates that enables placement in specific programs and institutions that require precise timeframes for release. These changes will incentivize inmates to participate in rehabilitative programs which may assist in successful reintegration into society, thus reducing recidivism and enhancing public safety.

POLICY STATEMENT OVERVIEW (Government Code section 11346.5(a)(3)(C))

This rulemaking action will:

- Establish a credit earning rate for inmates assigned to Work Group F. Work Group F is established at a 66.6% credit earning rate for inmates assigned to firefighting or firefighting-related duties convicted of a non-violent offense, and 50% credit earning rate for those convicted of violent crimes per Penal Code section 667.5(c).
- Establish a credit earning rate for inmates assigned to Work Group M. Work Group M is established at a 66.6% credit earning rate for inmates assigned to minimum custody convicted of a non-violent offense, and 33.3% credit earning rate for those convicted of violent crimes per Penal Code 667.5(c).

Documents Incorporated By Reference

None

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED UPON

None

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS (Government Code section 11346.5(a)(3)(C))

The department anticipates these proposed regulations will benefit our criminal justice system and communities by continuing to create incentives and opportunities for inmates to positively participate in rehabilitative programs.

EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS (Government Code section 11346.5(a)(3)(D))

The department has determined that these proposed regulations are not inconsistent or incompatible with existing regulations or other state laws. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations which concern these provisions.

STATUTORY REQUIREMENTS, IF ANY, SPECIFIC TO AGENCY (Government Code section 11346.5(a)(4))

Not applicable

LOCAL MANDATE DETERMINATION (Government Code section 11346.5(a)(5))

This action imposes no mandates on local agencies or school districts, nor a mandate which requires reimbursement of costs or savings pursuant to Government Code sections 17500 through 17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*
- Cost to any local agency or school district that is required to be reimbursed: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations will not affect the welfare of California residents, as they concern internal management of state prisons only.

CONSIDERATION OF ALTERNATIVES

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department 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 regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed during the written comment period or at a public hearing should one be scheduled.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public

upon request directed to the department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the department's website: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the department may adopt the proposed regulations substantially as described in this Notice. If the department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

TEXT OF PROPOSED REGULATIONS

In the following, underline indicates newly added text and ~~strikethrough~~ indicates deleted text.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 3.35 Credits. Article number amended; title remains unchanged.

Section 3043. Credit Earning.

Subsection 3043(a) is amended.

(a) General. Inmates are expected to work or participate in rehabilitative programs and activities to prepare for their eventual return to society. Inmates who comply with the regulations and rules of the department and perform the duties assigned to them shall be eligible to earn Good Conduct Credit as set forth in section 3043.2 of this article. Unless otherwise precluded by this article, all inmates who participate in approved rehabilitative programs and activities, including inmates housed in administrative segregation housing units, in security housing units, in psychiatric services units, or in other segregated housing placement units, shall be eligible to earn Milestone Completion Credit, Rehabilitative Achievement Credit, and Educational Merit Credit as set forth in sections 3043.3, 3043.4, and 3043.5 of this article. The award of these credits, as well as Extraordinary Conduct Credit as set forth in section 3043.6 of this article, shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of this section or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole. Inmates who do not comply with the regulations and rules of the department or who do not perform the duties assigned to them shall be subject to credit forfeiture as provided in this article.

Subsection 3043(b) is unchanged.

Subsection 3043(c) is amended.

(c) Release Date Restriction.

(1) The following Release Date Restriction took effect on April 13, 2017. Under no circumstance shall a determinately sentenced inmate be awarded credit or have credit restored by the department which advances ~~his or her~~ their release to a date less than 60 calendar days from the date the award or restoration of such credit is entered into the department's information technology system, except pursuant to a court order.

(2) The following Release Date Restriction shall commence on May 1, 2019 and supersede the Release Date Restriction in subsection (c)(1). Under no circumstance shall

a determinately sentenced inmate be awarded credit or have credit restored by the Department which advances ~~his or her~~ their release to a date less than 15 calendar days from the date the award or restoration of such credit is entered into the Department's information technology system, except pursuant to a court order. This restriction shall instead be 45 calendar days for all inmates convicted of an offense identified in ~~subject to the provisions found in subdivision (a) of~~ section 3058.9 of the Penal Code, and 60 calendar days for all inmates serving a term for a violent felony, defined in subdivision (c) of section 667.5 of the Penal Code, as stated in section 3058.6 of the Penal Code, except pursuant to a court order.

Subsection 3043(d) is amended.

(d) Participation by Inmates Sentenced as Adults and Housed In the Division of Juvenile Justice or Placed In an Alternative Custody Setting. Inmates sentenced as adults and housed in a facility administered by the department's Division of Juvenile Justice or placed in an alternative custody setting prior to parole, including a pre-parole or re-entry program, are eligible to ~~participate in~~ earn Good Conduct Credit, and participate in programs to earn Milestone Completion Credit, Rehabilitative Achievement Credit, Educational Merit Credit, and Extraordinary Conduct Credit. Placement in an alternative custody setting means transfer of an inmate, prior to parole, to serve the remainder of ~~his or her~~ their term of incarceration in a community based re-entry facility administered by the department in lieu of confinement in a state prison or Department of Forestry and Fire Protection fire camp. For purposes of calculating when an inmate's period of incarceration will be completed pursuant to subdivision (c)(3) of section 1731.5 and subdivision (b) of section 1731.7 of the Welfare and Institutions Code, commencing January 1, 2019, the Department shall consider the Good Conduct Credit, Milestone Completion Credit, and Rehabilitative Achievement Credit that may be earned during the inmate's incarceration.

Subsection 3043(e) is unchanged.

Note: Authority cited: Cal. Const., art. 1, sec 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 3041, 3051, 3058.6 and 3058.9, Penal Code.

Section 3043.1. Pre-Sentence Credit. *Remains unchanged.*

Section 3043.2 Good Conduct Credit. *Amended as follows:*

(a) The award of Good Conduct Credit requires that an inmate comply with departmental regulations and local rules of the prison and perform the duties assigned on a regular and satisfactory basis.

(b) Notwithstanding any other authority to award or limit credit, effective May 1, 2017, the award of Good Conduct Credit shall advance an inmate's release date if sentenced to a determinate term or advance an inmate's initial parole hearing date pursuant to

subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole pursuant to the following schedule.:

(1) No credit shall be awarded to an inmate sentenced to death or a term of life without the possibility of parole.;

(2) ~~The following Good Conduct Credit rate One day of credit for every four days of incarceration (20%)~~ shall be awarded to an inmate serving a determinate or indeterminate term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code, unless the inmate qualifies under paragraph (4)(B) of this section or is statutorily eligible for greater credit pursuant to this article or the provisions of Article 2.5 (commencing with section 2930) of Chapter 7 of Title 1 of Part 3 of the Penal Code.;

(A) One day of credit for every four days of incarceration (20%), beginning May, 1, 2017 through April 30, 2021; and then

(B) One day of credit for every two days of incarceration (33.3%), beginning May 1, 2021.

(C) One day of credit for every day of incarceration (credit rate of 50%) for Work Group F.

(3) ~~The following Good Conduct Credit rate One day of credit for every two days of incarceration (33.3%)~~ shall be awarded to an inmate sentenced under the Three Strikes Law, under subdivision (c) of section 1170.12 of the Penal Code, or under subdivision (c) or (e) of section 667 of the Penal Code, who is not serving a term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code.;

(A) One day of credit for every two days of incarceration (credit rate of 33.3%), beginning May 1, 2017 through April 30, 2021; and then

(B) One day of credit for every day of incarceration (credit rate of 50%), beginning May 1, 2021.

(4) One day of credit for every day of incarceration (credit rate of 50%) shall be awarded to:

(A) An inmate not otherwise identified in paragraphs (1)-(3) above:

(B) An inmate serving a determinate term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code who has successfully completed the requisite physical fitness training and firefighting training to be assigned as a firefighter to a Department of Forestry and Fire Protection fire camp or as a firefighter at a Department of Corrections and Rehabilitation firehouse; or

(C) An inmate serving a determinate term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code who is housed at a Department of Forestry and Fire Protection fire camp in a role other than firefighter.

(5) Two days of credit for every day of incarceration (credit rate of 66.6%) shall be awarded to:

(A) An inmate eligible to earn day-for-day credit (50%) pursuant to paragraph (4)(A) above who is assigned to Minimum A Custody or Minimum B Custody pursuant to section 3377.1; or

(B) An inmate eligible to earn 50% pursuant to paragraph (3)(B) above who is assigned to Minimum A Custody or Minimum B Custody pursuant to section 3377.1.

(BC) An inmate serving a determinate sentence who is not serving a term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code who has successfully completed the requisite physical fitness training and firefighting training to be assigned as a firefighter to a Department of Forestry and Fire Protection fire camp or as a firefighter at a Department of Corrections and Rehabilitation firehouse; or

(CD) An inmate serving a determinate sentence who is not serving a term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code who is housed at a Department of Forestry and Fire Protection fire camp in a role other than firefighter.

(c) For purposes of placement in an alternative custody setting the department shall consider the Good Conduct Credit that may be earned during the inmate's incarceration. An inmate who is placed in an alternative custody setting, including a pre-parole or re-entry program, shall be awarded the same Good Conduct Credit that the inmate earned prior to that placement with the exception of Work Group F. Inmates shall be assigned to Work Group F for at least 12 cumulative months in order to maintain Work Group F Good Conduct Credit earning prior to placement in an alternative custody setting.

(d) Credit Forfeiture and Restoration. Good Conduct Credit shall be forfeited in whole-day increments upon placement in a zero-credit work group pursuant to subsection 3044(b)(4) or 3044(b)(6) or a finding of guilt of a serious rule violation in accordance with section 3323. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 667, 667.5, 1170.2, 2930 and 3041, Penal Code.

Section 3043.3. Milestone Completion Credit. Amended as follows:

Subsections 3043.3(a) and 3043.3(b) are unchanged.

Subsection 3043.3(c) is amended.

(c) Notwithstanding any other authority to award or limit credit, effective August 1, 2017, all inmates eligible for Good Conduct Credit pursuant to section 3043.2 shall be eligible for Milestone Completion Credit pursuant to this section. The award of Milestone Completion Credit shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of section 3043 or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole. Milestone Completion Credit shall be awarded in increments of not less than one week, but no more than twelve weeks in a twelve-month period. Milestone Completion Credit earned in excess of this limit shall be awarded to the inmate on ~~his or her~~ their next credit anniversary, defined as one year after the inmate completes ~~his or her~~ their first Milestone Completion Credit program, and each year thereafter. Upon release to parole, ~~release~~ discharge including discharge to

community supervision ~~and, or discharge from parole~~ based on a court order, any excess credit under this section shall be deemed void. If instead an inmate ~~completes~~ finishes serving one term and immediately begins serving a consecutive term, any excess credit awarded under this section shall be applied to that consecutive term. One week is equivalent to seven calendar days.

Subsections 3043.3(d) through 3043.3(g) are unchanged.

Subsection 3043.3(h) is amended.

(h) Credit Forfeiture and Restoration. Milestone Completion Credit shall be forfeited in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is exhausted. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Retroactive to January 25, 2010, ~~F~~orfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 2933.05 and 3041, Penal Code.

Section 3043.4 Rehabilitative Achievement Credit. Amended as follows:

Subsection 3043.4(a) is unchanged.

Subsection 3043.4(b) is amended

(b) Notwithstanding any other authority to award or limit credit, effective August 1, 2017, all inmates eligible for Good Conduct Credit pursuant to section 3043.2 shall be eligible for Rehabilitative Achievement Credit pursuant to this section. The award of Rehabilitative Achievement Credit shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of section 3043 or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole.

Subsections 3043.4(c) through 3043.4(e)(1) are unchanged.

Subsection 3043.4(e)(2) is amended.

(2) Commencing May 1, 2019, Rehabilitative Achievement Credit earned in excess of 40 calendar days in a twelve-month period, as identified in subsections (c)(2) and (d)(2), shall be awarded to the inmate on ~~his or her~~ their next credit anniversary, defined as one year after the inmate earns ~~his or her~~ their first Rehabilitative Achievement Credit, and each year thereafter. Upon release to parole, ~~release~~ discharge including discharge to

community supervision ~~and, or discharge from parole~~ based on a court order, any excess credit under this section shall be deemed void. If instead an inmate ~~completes~~ finishes serving one term and immediately begins serving a consecutive term, any excess credit awarded under this section shall be applied to that consecutive term.

Subsections 3043.4(f) through 3043.4(h) are unchanged.

Subsection 3043.4(i) is amended.

(i) Credit Forfeiture and Restoration. Rehabilitative Achievement Credit shall be forfeited in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is exhausted. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Retroactive to August 1, 2017, forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Section 3041, Penal Code.

Section 3043.5. Educational Merit Credit. Amended as follows:

Subsection 3043.5(a) is unchanged.

Subsection 3043.5(b) is amended.

(b) Notwithstanding any other authority to award or limit credit, effective August 1, 2017, all inmates eligible for Good Conduct Credit pursuant to section 3043.2 shall be eligible for Educational Merit Credit pursuant to this section. The award of Educational Merit Credit shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of section 3043 or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole. Educational Merit Credit shall be awarded in the increments set forth in the schedule below upon demonstrated completion of the corresponding diploma, certificate, or degree:

Note: the table under subsection 3043.5(b) is unchanged and is omitted for clarity and brevity.

Subsections 3043.5(c) through 3043.5(d) are unchanged.

Subsection 3043.5(e) and 3043.5 (f) are amended.

(e) Upon release to parole, ~~release~~ discharge including discharge to community supervision ~~and, or discharge from parole~~ based on a court order, any excess credit under

this section shall be deemed void. If instead an inmate finishes serving completes one term and immediately begins serving a consecutive term, any excess credit shall be applied to that consecutive term.

(f) Credit Forfeiture and Restoration. Educational Merit Credit shall ~~not~~ be forfeited ~~due to disciplinary action in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is exhausted. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Retroactive to August 1, 2017, forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.~~

Note: Authority cited: Cal. Const., art. 1, sec. 32 (b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 2053.1 and 3041, Penal Code.

Section 3043.6. Extraordinary Conduct Credit. Amended as follows:

Subsection 3043.6(a) is unchanged.

Subsection 3043.6(b) is amended.

(b) The award of such credit shall advance the inmate's release date if sentenced to a determinate term subject to subdivision (c) of section 3043 or advance the inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole.

Subsections 3043.6(c) and 3043.6(d) are amended.

(c) Upon release to parole, ~~release or discharge including discharge to community supervision and, or discharge from parole based on a court order,~~ any excess credit under this section shall be deemed void. If instead an inmate finishes serving completes one term and immediately begins serving a consecutive term, any excess credit shall be applied to that consecutive term.

(d) Credit Forfeiture and Restoration. Extraordinary Conduct Credit shall ~~not~~ be forfeited ~~due to disciplinary action in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is exhausted. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Retroactive to August 1, 2017, forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.~~

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 2935 and 3041, Penal Code.

Section 3043.7, Special Assignments, is renumbered to 3044.1.

Section 3043.8, Impact of Transfer on Credit Earning, is renumbered to 3044.2.

Article 3.4. Inmate Work and Privileges. New Article Title adopted.

Section 3044. Inmate Work Groups and Privilege Groups. Amended as follows:

Subsections 3044(a) through 3044(b)(3) are unchanged

Subsection 3044(b)(4) is amended.

(4) Work Group C (Disciplinary Unassigned; Zero Credit).

(A) Any inmate who twice refuses to accept assigned housing, who refuses to accept or perform in an assignment, or who is deemed a program failure as defined in section 3000 by a classification committee shall be assigned to Work Group C for a period not to exceed the number of disciplinary credits forfeited due to the serious disciplinary infraction(s) or 180 days, whichever is less, except when the inmate qualifies for assignment to Work Group D-2 in accordance with subsection 3044(b)(6)(C).

(B) An inmate assigned to this work group shall not be awarded Good Conduct Credit, as described in section 3043.2, for a period not to exceed the number of disciplinary credits forfeited or 180 days, whichever is less, and shall revert to ~~his or her~~ their previous work group upon completion of the credit forfeiture, unless the inmate no longer qualifies for assignment to Work Group F or Work Group M due to the totality of their case factors. In such exceptional circumstances, the inmate shall be assigned to another work group in accordance with this section. The inmate shall also be referred to a classification committee for placement on an appropriate waiting list.

Subsection 3044(b)(5) is unchanged.

Subsection 3044(b)(6) is amended.

(6) Work Group D-2 (Lockup Status: Zero Credit).

(A) Unless the exceptional criteria specified in subsection 3044(b)(6)(B) are met, an inmate serving an imposed SHU term pursuant to subsection 3341.9(e) in segregated housing shall be assigned to Work Group D-2, effective the date of the Rules Violation Report, for a period not to exceed the number of whole-day credits forfeited for the rule violation or 180 days, whichever is less, up to the Minimum Eligible Release Date or the date the Institution Classification Committee suspends the remainder of the SHU term. Following completion of the period of assignment to Work Group D-2 of credit forfeiture, the inmate shall be re-evaluated by a classification committee for assignment to another work group.

(B) An inmate serving an imposed SHU term pursuant to subsection 3341.9(e) in segregated housing due to a guilty finding for a Division A-1 offense, as designated in subsection 3323(b), and which involved serious bodily injury on a non-prisoner, shall be assigned to Work Group D-2, effective the date of the Rules Violation Report, for a period

not to exceed the number of whole-day credits forfeited for the rule violation or 360 days, whichever is less, up to the Minimum Eligible Release Date or the date the Institution Classification Committee suspends the remainder of the SHU term. Following completion of the period of assignment to Work Group D-2 credit forfeiture, the inmate shall be re-evaluated by a classification committee for assignment to another work group.

(C) An inmate in ASU, SHU, PSU, or other segregated housing, who is deemed a program failure as defined in section 3000, may be assigned Work Group D-2 for non-SHU assessable Rules Violation Report(s) by a classification committee for a period not to exceed the number of credits forfeited for the rules violation(s) or 180 days, whichever is less. An inmate assigned to Work Group C at the time of placement in ASU, SHU, PSU, or other segregated housing, or who refuses to accept or perform work assignments, shall be assigned Work Group D-2. An inmate released from ASU, SHU, PSU, or other segregated housing, may be assigned Work Group C by a classification committee, not to exceed the remaining number of disciplinary credits forfeited due to the serious disciplinary infraction(s) or 180 days, whichever is less.

(D) If the administrative finding of misconduct is overturned or if the inmate is criminally prosecuted for the misconduct and is found not guilty, Good Conduct Credit shall be restored.

Subsection 3044(b)(7) is amended.

(7) Work Group F (Minimum B Custody and Firefighting or Non-Firefighting Camp Placement). Assignment to Work Group F awards Good Conduct Credit pursuant to subsections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B), and 3043.2(b)(5)(C), or 3043.2(b)(5)(D).

(A) An inmate assigned to Minimum B Custody who has successfully completed the requisite physical fitness training and firefighting training to be assigned as a firefighter to a Department of Forestry and Fire Protection fire camp or as a firefighter at a Department of Corrections and Rehabilitation firehouse shall be assigned to Work Group F.

(B) An inmate assigned to Minimum B Custody who is placed in a Department of Forestry and Fire Protection fire camp for assignment to a non-firefighter position shall be assigned to Work Group F.

(C) An inmate placed in Work Group F who is ~~1) found guilty of a serious rule violation as defined in subsections 3323(b), 3323(c), or 3323(d);~~ ~~2) found guilty of a rule violation involving use or possession of any unauthorized communication device or of any narcotic, drug, drug paraphernalia, controlled substance, alcohol, or other intoxicant, as defined in subsections 3323(e), 3323(f), 3323(g), or 3323(h);~~ ~~3) placed in a zero-credit w~~Work Group C pursuant to subsections 3044(b)(4) or Work Group D2 pursuant to subsection 3044(b)(6); ~~or 4) otherwise removed from this assignment due to safety or security considerations, shall be assigned to another work group consistent with the remaining provisions of this section and shall be ineligible to receive Good Conduct Credit pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B), or 3043.2(b)(5)(C), or 3043.2(b)(5)(D).~~ An inmate who has been removed from this assignment under the circumstances described above may be re-assigned to Work Group F, after an appropriate period of time, by a classification committee.

(D) An inmate assigned to Work Group F who 1) is temporarily placed in an ASU or other segregated housing placement unit; 2) designated by the Institution Classification Committee as non-disciplinary segregation pursuant to subsection 3335(a); and 3) who otherwise remains eligible for continued assignment to Work Group F pursuant to subsections 3044(b)(7)(A) or 3044(b)(7)(B), shall continue to be assigned Work Group F for the duration of ~~his or her~~ their non-disciplinary segregation.

(E) An inmate initially assigned to Work Group D-1 by the Institution Classification Committee due to placement in ASU, SHU, PSU, or other segregated housing unit pursuant to subsection 3044(b)(5) and who 1) was not designated for non-disciplinary segregation by the Institution Classification Committee; 2) otherwise eligible for the assignment to Work Group F pursuant to subsections 3044(b)(7)(A) or 3044(b)(7)(B) during the period of segregated housing; and 3) was not found guilty of the serious rule violation which was the reason for ASU or other segregated housing placement, shall be made whole by retroactive assignment to Work Group F beginning with the effective date that Work Group D-1 was originally imposed and for the same number of days that ~~he or she was~~ they were assigned to Work Group D-1.

(F) An inmate assigned to Work Group F pursuant to subsection 3044(b)(7) for a cumulative period of twelve months or more on ~~his or her~~ their current term of incarceration shall continue to earn Good Conduct Credit pursuant to subsections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B), or 3043.2(b)(5)(C), or 3043.2(b)(5)(D) upon transfer to an alternative custody setting as defined in subsection 3043(d).

Subsection 3044(b)(7)(G) is unchanged.

Subsections 3044(b)(7)(F)1. through 3044(b)(7)(F)4. (formerly 3044(b)(7)(G)1. through 3044(b)(7)(G)4.) are unchanged.

Subsection 3044(b)(8) is amended.

(8) Work Group M (Minimum Custody or otherwise eligible for Minimum Custody). Assignment to Work Group M awards Good Conduct Credit pursuant to subsections 3043.2(b)(5)(A) and 3043.2(b)(5)(B).

(A) Effective January 1, 2018, an inmate assigned to Minimum A Custody or Minimum B Custody who does not qualify for assignment to Work Group F pursuant to subsection 3044(b)(7) shall be assigned to Work Group M. Work Group M may be assigned retroactively to May 1, 2017. However, Good Conduct Credit awarded pursuant to subsections 3043.2(b)(5)(A) and 3043.2(b)(5)(B) shall be limited in accordance with subsection 3043(c).

(B) Effective January 1, 2018, an inmate otherwise eligible for assignment to Minimum A Custody or Minimum B Custody whose eligibility for such assignment is limited solely due to their 1) placement in the Mental Health Services Delivery System at the Enhanced Outpatient level of care or higher level and/ or 2) medical or mental health status which requires additional clinical and custodial supervision as determined by the ~~Institution~~ classification committee, shall be assigned to Work Group M. Work Group M may be

assigned retroactively to May 1, 2017. However, Good Conduct Credit awarded consistent with subsections 3043.2(b)(5)(A) and 3043.2(b)(5)(B) shall be limited in accordance with subsection 3043(c).

(C) Effective January 1, 2018, an inmate may be assigned Minimum A or Minimum B Custody and/ or Work Group M, which may be applied retroactively to May 1, 2017, if the inmate meets the criteria noted above and all of the following, are true:

1. The inmate is wanted for a felony by an out-of-state law enforcement agency (other than a Federal agency).
2. The agency does not have a detainer placed with the department for the felony.
3. The inmate's central file documents that the agency communicated to the department that they will not extradite the inmate for the purpose of prosecution of the felony.
4. The totality of the inmate's remaining case factors does not preclude the assignment of Minimum A and Minimum B Custody or the inmate is otherwise eligible for assignment to Minimum A or Minimum B Custody as described in section 3044(b)(8)(B).

(D) An inmate assigned to Work Group M who is 1) found guilty of a serious rule violation as defined in sections 3323(b), 3323(c), or 3323(d), 2) found guilty of a rule violation involving use or possession of any unauthorized communication device or of any narcotic, drug, drug paraphernalia, controlled substance, alcohol, or other intoxicant, as defined in sections 3323(e), 3323(f), 3323(g), or 3323(h), 3) placed in a zero-credit ~~Work Group C~~ pursuant to subsections 3044(b)(4) or Work Group D2 pursuant to subsection 3044(b)(6), or 4) otherwise removed from this assignment due to safety or security considerations, shall be re-assigned to another work group consistent with the remaining provisions of this section and shall be ineligible to receive Good Conduct Credit pursuant to subsections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B), or 3043.2(b)(5)(C), or 3043.2(b)(5)(D). An inmate who has been removed from this assignment under the circumstances described above may be assigned to Work Group M again, after an appropriate period of time, by a classification committee.

(E) An inmate eligible for initial assignment to Work Group M or who is assigned to Work Group M who 1) is temporarily placed in an ASU or other segregated housing placement unit; 2) designated by the Institution Classification Committee as non-disciplinary segregation pursuant to subsection 3335(a); and 3) who otherwise remains eligible for initial or continued assignment to Work Group M pursuant to subsections 3044(b)(8)(A) or 3044(b)(8)(B), shall be assigned Work Group M for the duration of ~~his or her~~ their non-disciplinary segregation.

(F) An inmate initially assigned to Work Group D-1 by the Institution Classification Committee due to placement in ASU, SHU, PSU, or other segregated housing unit pursuant to subsection 3044(b)(5) and who 1) was not designated for non-disciplinary segregation by the Institution Classification Committee; 2) was otherwise eligible for the assignment to Work Group M pursuant to subsections 3044(b)(8)(A) or 3044(b)(8)(B) during the period of segregated housing; and 3) was not found guilty of the serious rule violation which was the reason for ASU or other segregated housing placement, shall be made whole by retroactive assignment to Work Group M beginning with the effective date that Work Group D-1 was originally imposed and for the same number of days ~~he or she~~ was they were assigned to Work Group D-1.

(G) Except when otherwise precluded by this section, an inmate 1) who undergoes reception center processing with a permanent disability that impacts placement or who is receiving dialysis treatment; 2) who, as determined by a classification committee, experienced an extended stay in the reception center beyond 60 days solely due to the disability; and 3) qualifies for the assignment of Work Group M pursuant to this section, shall be assigned Work Group M effective the 61st day of the stay at the reception center. Work Group M may be assigned retroactively to May 1, 2017. However, Good Conduct Credit awarded consistent with subsections 3043.2(b)(5)(A) and 3043.2(b)(5)(B) shall be limited in accordance with subsection 3043(c).

Subsections 3044(b)(9) through 3044(j) are unchanged.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 2700, 2701 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); Sections 2932, 2933, 2933.05, 2933.3, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal.App.3d 1224 (1988).

Section ~~3043.7~~ 3044.1. Special Assignments. Section moved from Section 3043.7; title remains unchanged. Amended as follows:

Subsections 3044.1(a) through 3044.1(c) are unchanged.

Subsection 3044.1(d) is amended.

(d) Medical or mental health care status determination:

(1) When an inmate has a disability that limits ~~his or her~~ their ability to participate in a work, academic, Career Technical Education program or other such program, medical or mental health staff shall document the nature, severity, and expected duration of the inmate's limitations on a CDC Form 128-C (Rev. 1/96), ~~Chrono-Medical, Psychiatric, Dental~~ (Chrono). The medical or mental health staff shall not make program assignment recommendations or decisions on the form. The CDC Form 128-C shall then be forwarded to the inmate's assigned correctional counselor who shall refer the inmate to a classification committee for review. The classification committee shall have sole responsibility for making program assignment and work group status decisions. Based on the information on the CDC Form 128-C and working in conjunction with staff from the affected work area, academic program, Career Technical Education program, and the Inmate Assignment Lieutenant, the classification committee shall evaluate the inmate's ability to participate in work, academic, Career Technical Education program, or other programs and make a determination of the inmate's program assignment and work group status.

(2) Only when the inmate's documented limitations are such that the inmate, even with reasonable accommodation, is unable to perform the essential functions of any work, academic, Career Technical Education or other such program, will the inmate be placed in one of the two following categories by a classification committee:

(A) Temporary medical or psychiatric unassignment. Except as provided in section ~~3043.7~~ 3044.1(e)(2)(A), when a disabled inmate is unable to participate in any

work, academic, Career Technical Education program or other program, even with reasonable accommodation, because of a medically determinable physical or mental impairment that is expected to last for less than six months, the classification committee shall place the inmate on temporary medical or psychiatric unassignment. An inmate on temporary medical or psychiatric unassignment status shall be scheduled for classification review any time there is a change in ~~his or her~~ their physical or mental impairment, or no less than every six months for reevaluation. The ~~credit-earning work group~~ status of an inmate on temporary medical or psychiatric unassignment for less than six months shall be in accordance with section 3044(b)(2), Work Group A-2, unless the inmate is assigned Work Group M in accordance with section 3044(b)(8). If the inmate's condition lasts six months and the classification committee still cannot assign the inmate due to ~~his or her~~ their impairment, the ~~credit-earning work group~~ status shall be changed to be in accordance with subsection 3044(b)(1), Work Group A-1 and appropriate privilege group retroactive to the first day of the temporary medical or psychiatric unassignment, unless the inmate is assigned Work Group M in accordance with subsection 3044(b)(8).

(B) Medically disabled. When an inmate is unable to participate in any assigned work, academic, Career Technical Education program, or other such program activity, even with reasonable accommodation, because of a medically determinable physical or mental impairment that is expected to result in death or last six months or more, the classification committee shall place the inmate on medically disabled status. The inmate ~~credit-earning work group~~ status shall be in accordance with section 3044(b)(1), Work Group A-1 and Privilege Group A, unless the inmate is assigned Work Group M in accordance with subsection 3044(b)(8).

Subsections 3044.1(e) through 3044.1(h) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2933, 2933.05, 2933.3, 2933.6, 5054 and 5068, Penal Code.

Section ~~3043.8~~ 3044.2. Impact of Transfer on Work Groups ~~on Credit Earning.~~ Section renumbered from Section 3043.8; Title amended. Section amended as follows:

Subsections 3044.2(a) and 3044.2(a)(1) are unchanged.

Subsection 3044.2(a)(2) is amended.

(2) With the exception of inmates assigned to Work Group F, an inmate transferred for non-adverse reasons shall retain their work and privilege group status. Inmates assigned to Work Group F shall revert to Work Group A-4M effective the date removed from camp or institution fire fighter assignment or as appropriate per CCR 3044.

Subsections 3044.2(a)(3) through 3044.2(b)(2) are unchanged.

Subsection 3044.2(c) is amended.

(c) Adverse transfers.

(1) Adverse transfers are defined as a transfer resulting from any in-custody documented misbehavior or disciplinary that may or may not have resulted in an inmate's removal from current program.

(2) If an inmate is removed from a program for adverse reasons and is subsequently exonerated of the charges, the ~~credit earning status~~ work group shall be designated as though the inmate had not been removed from the assignment.

(3) Effective on the date of transfer an inmate in Work Group A-1 or F who receives an adverse transfer shall be reclassified to Work Group A-2 by the sending institution. The inmate shall remain in Work Group A-2 until reclassified by the receiving institution.

(4) An inmate in Work Group A-2, C or D at the time of transfer shall be retained in that group status until reclassified at the receiving institution.

Subsection 3044.2(d) is unchanged

Subsection 3044.2(e)(2) is amended.

(e) Special housing unit transfers.

(1) Inmates found guilty of a credit loss offense which could result in a security housing unit (SHU) determinate term shall be evaluated for SHU assignment by a classification committee.

(2) Inmates placed in a SHU, PSU, or in ASU shall be placed in Work Group D-2 upon determination by a Classification Committee. ~~for reasons specified in section 3043.4 shall be placed in workgroup D-2.~~ All other inmates in SHU, PSU, or ASU shall be placed in Work Group D-1. ~~The effective date of both workgroups shall be the first day of placement into SHU, PSU, or ASU.~~

Subsection 3044.2(f) is unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 1203.8, 1364, 2684, 2690, 2933, 2933.05, 2933.3, 2933.6, 5054 and 5068, Penal Code.

Article 3.5. Inmate Work Timekeeping. *Article added.*

Section 3045. Timekeeping and Reporting. Shown for reference; Title and text remain unchanged.

Note: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.05, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal.App.3d 1224.

Section 3045.1. Timekeeping for Inmates in Administrative Segregation. Amended as follows:

(a) A classification committee shall evaluate the reasons for an inmate's administrative segregation (ASU) placement to ensure appropriate credits are awarded the inmate. If the placement was for:

(1) A disciplinary infraction for which the finding was not guilty or pending an investigation where the inmate was released, the inmate shall retain their work group status at the time of their placement in ASU unless otherwise impacted by a classification or disciplinary action.

(2) A disciplinary infraction for misconduct described in section ~~3043.4~~ 3044 for which the finding was guilty, the inmate shall remain in Work Group D-2 for the period of the credit loss assessment effective the date of their placement in ASU, whether or not a SHU term was assessed.

Note: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.05, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal. App. 3d 1224.

Article 3.6. Inmate Work Benefits. *Article added.*

Section 3046. Workers' Compensation for Inmates. Shown for reference; title and text remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2601(i), 5054 and 5069, Penal Code; and Sections 3370 and 3351, Labor Code.

Section ~~3046.1.3047.~~ Unemployment Compensation and Disability Insurance. [Repealed] Section number amended; title and text remain unchanged.

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend sections 3043, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045.1 and to renumber and amend sections 3043.7 to 3044.1, 3043.8 to 3044.2, and 3047 to 3046.1, of the California Code of Regulations, Title 15, Division 3, Chapter 1, regarding Inmate Credit Earning. The proposed regulations will clarify the good conduct credit earning rates for various classifications of eligible offenders in addition to simplifying the methodology used to calculate release dates. This will allow for a projected release date for all offenders that enables placement in specific programs and institutions that require precise timeframes for release.

CONSIDERATION OF ALTERNATIVES:

CDCR must determine that no reasonable alternatives considered, or that have otherwise been identified and brought to the attention of CDCR, 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.

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

ECONOMIC IMPACT ASSESSMENT:

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

Significant Adverse Economic Impact on Business

The department has made an initial determination the proposed regulations will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the department's initial determination. The proposed regulations affect the internal management of CDCR only, and place no requirements or restrictions on businesses.

Creation of New, or Expansion or the Elimination of Jobs within the State of California

The department has determined that the proposed regulations will not have an impact on the creation of new or elimination of existing jobs within California as the proposed regulations affects the internal management of prisons only.

Creation of New, or Expansion or Elimination of Existing Businesses Currently Doing Business within the State of California

The department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing businesses within California, or affect the expansion of businesses currently doing business in California as the proposed regulations affect the internal management of prisons only.

BENEFITS OF THE REGULATIONS:

The Department anticipates these proposed regulations will benefit our criminal justice system and communities by continuing to create incentives and opportunities for inmates to positively participate in rehabilitative programs.

MATERIALS RELIED UPON:

The Department, 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 Section 11346.2(b)(1))

Section 3043. Credit Earning.

Subsection 3043(a) is amended to add a reference to a subsection within this section. This amendment is necessary for clarity only and does not change the meaning or effect of these provisions.

Subsections 3043(c) and 3043(c)(1) are amended to make minor changes for clarity or equity reasons only.

Subsection 3043(c)(2) is amended. Referenced subsection 667.5(c) of the California Penal Code is more specific as it defines violent offenses. This is necessary to provide clarity to, and avoid confusion by, inmates, the public and departmental staff.

Subsection 3043(d) is amended for clarity only. Good Conduct Credit is awarded for time served, as described in section 3043.2, while earning other forms of credit identified in this subsection requires participation in programs.

Section 3043.2. Good Conduct Credit.

Subsections 3043.2(a) through 3043.2(b)(1) are unchanged except for non-substantive changes to capitalization.

Subsection 3043.2(b)(2) is amended and subsections 3043.2(b)(2)(A) and 3043.2(b)(2)(B) are adopted to establish that the Good Conduct Credit rate for violent offenders that took effect on May 1, 2017 will remain in effect through March 31, 2021. This amendment is necessary so staff and inmates are aware the original credit rate criteria will remain in effect through March 31, 2021. This amendment increases Good Conduct Credits for violent offenders, effective April 1, 2021. Providing violent offenders a higher credit earning rate will result in earlier releases and potentially a reduced inmate population.

Subsection 3043.2(b)(2)(C) is adopted to establish a defined credit earning rate for inmates assigned to Work Group F.

Subsection 3043.2(b)(3) is amended and subsections 3043.2(b)(3)(A) and (b)(3)(B) are adopted to establish that the Good Conduct Credit rate for non-violent offenders sentenced

under the Three Strikes Law, under subdivision (c) of section 1170.12 of the Penal Code, or under subdivision (c) or (e) of section 667 of the Penal Code that took effect on May 1, 2017, will remain in effect through March 31, 2021. This amendment is necessary so staff and inmates are aware the original credit rate criteria will remain in effect through March 31, 2021. This amendment increases Good Conduct Credits for non-violent offenders sentenced under the Three Strikes Law, under subdivision (c) of section 1170.12 of the Penal Code or under subdivision (c) or (e) of section 667 of the Penal Code, effective April 1, 2021. Currently, non-violent offenders sentenced under the Three Strikes Law earn 50% good time credit on their actual time served in custody prior to being sentenced to state prison. Once the inmate is sentenced, the offender's credit earning amount reduces to 33.3%. By CDCR changing the credit earning of the good conduct credit from 33.3% to 50%, the credit earning will be consistently applied for all non-violent offenders once they are sentenced to serve a state prison term regardless of serving the time in state prison or the county jail. Providing non-violent offenders sentenced under the Three Strikes Law a higher credit earning rate will result in earlier releases and potentially a reduced inmate population.

New subsection 3043.2(b)(5)(B) is adopted to establish a Good Conduct Credit earning rate and the eligibility criteria for inmates to be awarded such rate. These inmates are not serving a term for a violent felony as defined in Penal Code section 667.5. These inmates are eligible for a higher credit earning rate if assigned to a fire camp.

Subsection 3043.2(c) is amended. This is necessary to clarify the Good Conduct Credit rate earned based on their Work Group designation prior to placement into an Alternative Custody Program, with the exception of Work Group F. Inmates shall be assigned to Work Group F for at least 12 cumulative months. It is necessary to have the 12-month cumulative requirement for Work Group F inmates in order to further incentivize participation at fire camps.

Section 3043.3. Milestone Completion Credit.

Subsection 3043.3(c) is amended to add a reference for clarity to establish that the application of credits shall advance an inmate's release date as long as their release date is not within the release date restriction timeframe as set forth in subdivision (c) of section 3043. Additional amendments to this subsection are for improved grammar and clarity only and do not alter the meaning or effect of the provisions.

Subsection 3043.3(h) is amended to incorporate a retroactive date of January 25, 2010 for restoration of Milestone Completion Credits. January 25, 2010 was chosen because it was the initial effective date of credit earning for Milestone Completion Credits. This is necessary for ease and consistency of sentence calculation, and to simplify the process for an inmate to have forfeited Milestone Completion Credits restored based on positive behavior.

Section 3043.4. Rehabilitative Achievement Credit.

Subsection 3043.4(b) is amended to add a reference for clarity to establish that the application of credits shall advance an inmate's release date as long as their release date is not within the release date restriction timeframe as set forth in subdivision (c) of section 3043.

Subsection 3043.4(e)(2) is amended for improved grammar and clarity only and do not alter the meaning or effect of the provisions

Subsection 3043.4(i) is amended to incorporate a retroactive date of August 1, 2017 for restoration of Rehabilitative Achievement Credits. August 1, 2017 was chosen because it was the initial effective date of credit earning for Rehabilitative Completion Credits. This is necessary for ease and consistency of sentence calculation and to simplify the process for an inmate to have forfeited Rehabilitative Achievement Credits restored based on positive behavior.

Section 3043.5. Educational Merit Credit.

Subsection 3043.5(b) is amended to add a reference for clarity to establish that the application of credits shall advance an inmate's release date as long as their release date is not within the release date restriction timeframe as set forth in subdivision (c) of section 3043.

Subsection 3043.5(e) is amended. The changes are for improved grammar and clarity only and do not alter the meaning or effect of the provisions.

Subsection 3043.5(f) is amended to establish that Educational Merit Credits will be treated the same as other credits. Inmates can earn them, forfeit them, and have them restored. This subsection is also amended to incorporate a retroactive date of August 1, 2017 for restoration of Educational Merit Credits. August 1, 2017 was chosen because it was the initial effective date of credit earning for Educational Merit Credits. This is necessary for ease and consistency of sentence calculation and to simplify the process for an inmate to have forfeited Educational Merit Credits restored based on positive behavior.

Section 3043.6. Extraordinary Conduct Credit.

Subsection 3043.6(b) is amended to add a reference for clarity to establish that the application of credits shall advance an inmate's release date as long as their release date is not within the release date restriction timeframe as set forth in subdivision (c) of section 3043.

Subsection 3043.6(c) is amended. The changes are for improved grammar and clarity only and do not alter the meaning or effect of the provisions.

Subsection 3043.6(d) is amended to establish that Extraordinary Conduct Credits will be treated the same as other credits. Inmates can earn them, forfeit them, and have them restored. The subsection is also amended to incorporate a retroactive date of August 1, 2017 for restoration of Extraordinary Conduct Credits. August 1, 2017 was chosen because it was the initial effective date of credit earning for Extraordinary Conduct Credits. This is necessary for ease and consistency of sentence calculation and to simplify the process for an inmate to have forfeited Extraordinary Conduct Credits restored based on positive behavior.

Sections 3043.7 and 3043.8 are renumbered to 3044.1 and 3044.2 respectively.

Section 3044. Inmate Work Groups and Privilege Groups.

Subsections 3044(a) through 3044(b)(3) are unchanged.

Subsection 3044(b)(4), 3044(b)(4)(A) and 3044(b)(4)(B) are amended. These are minor changes for equity and clarity reasons only and do not alter the meaning or effect of the provisions.

Subsections 3044(b)(6) through 3044(b)(6)(D) are amended. These are minor changes for equity and clarity reasons only and do not alter the meaning or effect of the provisions.

Subsection 3044(b)(7) is amended to add a subsection to the list of cited subsections. This is necessary due to renumbering of this cited subsection.

Subsection 3044(b)(7)(C) is amended to establish Group C and D-2 as zero credit earning. These work group designations were changed in a previous rulemaking action and are amended here to ensure the correct reference citations. Other amendments to this subsection are for clarity only. Additionally, language is amended to add a subsection to the list of cited subsections. This is necessary due to renumbering of this cited subsection.

Subsections 3044(b)(7)(D), 3044(b)(7)(E), and 3044(b)(7)(F) are amended. These are minor changes for equity and clarity reasons only and do not alter the meaning or effect of the provisions. Subsection 3044(b)(7)(F) is amended to add a subsection to the list of cited subsections. This is necessary due to renumbering of this cited subsection.

Subsections 3044(b)(8) through 3044(b)(8)(C) are amended to add a subsection to the list of cited subsections. This is necessary due to renumbering of this cited subsection. Additional amendments make minor changes for equity and clarity reasons only and do not alter the meaning or effect of the provisions.

Subsection 3044(b)(8)(D) is amended to establish Group C and D-2 as zero credit earning. These work group designations were changed in a previous rulemaking action and are amended here to ensure the correct reference citations. This subsection is also amended to add a subsection to the list of cited subsections. This is necessary due to renumbering of this cited subsection.

Subsections 3044(b)(8)(E), 3044(b)(8)(F), and 3044(b)(8)(G) are amended. These amendments make minor changes for equity and clarity reasons only and do not alter the meaning or effect of the provisions. Subsection 3044(b)(8)(G) is also amended to add a subsection to the list of cited subsections. This is necessary due to renumbering of this cited subsection.

Section 3044.1. Special Assignments.

Subsection 3044.1(d) is amended. Credit earning status is changed to work group status because work group status will affect credit earning. These are minor changes for equity and

clarity reasons only and do not alter the meaning or effect of the provisions. A form title and reference citation are corrected.

Section 3044.2. Impact of Transfer on Work Groups.

Subsections 3044.2(a)(2) is amended to revise a Work Group reference and add a citation to section 3044. These amendments are needed to establish that an inmate removed from Work Group F (firefighter/fire camp assignment) for non-adverse reasons will revert to Work Group M.

Subsection 3044.2(c) is amended to replace “credit earning status” with work group Credit earning because work group status will affect credit earning.

Subsection 3044.2(e)(2) is amended to ensure the proper credit earning status is afforded to inmates placed in the Security Housing Unit, Psychiatric Services Unit, or Administrative Segregation Unit. This is necessary as Work Group D-2 is established as zero credit earning. Inmates housed in these units are not eligible to earn credit. Classification committee review is necessary to ensure these inmates are placed in the proper work group consistent with their case factors.

Article 3.5. Inmate Work Timekeeping.

Section 3045.1. Timekeeping for Inmates in Administrative Segregation.

Subsection 3045.1(a)(2) is amended to correct an outdated reference citation.