

**State of California  
Office of Administrative Law**

**In re:**  
**Department of Corrections and  
Rehabilitation**

**Regulatory Action:**

**Title 15, California Code of Regulations**

**Adopt sections:**

**Amend sections: 3043, 3043.2, 3043.3,  
3043.4, 3043.5, 3043.6,  
3044, 3044.1, 3044.2, 3045,  
3045.1, 3046.1**

**Repeal sections: 3043.7**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL Matter Number: 2022-0318-02**

**OAL Matter Type: Emergency Readopt (EE)**

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In this action, the Department of Corrections and Rehabilitation readopts without change emergency amendments to regulations concerning inmate credit earning.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 3/29/2022 and will expire on 6/29/2022. The Certificate of Compliance for this action is due no later than 6/28/2022.

Date: March 28, 2022

  
Dale Mentink  
Assistant Chief Counsel

For: Kenneth J. Pogue  
Director

Original: Kathleen Allison, Secretary  
Copy: Josh Jugum

# EMERGENCY

DocuSign Envelope ID: 1B33E9F6A49... 2-2A8... 13-18

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2022-0318-02EE</b>
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For use by Secretary of State only

**ENDORSED - FILED**

Secretary of State  
of California

**MAR 28 2022**

*Received at  
1:52pm*

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

OFFICE OF ADMIN. LAW  
2022 MAR 18 AM 11:41

AGENCY WITH RULEMAKING AUTHORITY  
**California Department of Corrections and Rehabilitation**

AGENCY FILE NUMBER (If any)  
**20-0048**

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) <b>Inmate Credit Earning</b>	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) <b>2021-0408-04, 2021-1208-02EON</b>
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	REPEAL
TITLE(S) <b>15</b>	<b>3043, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3044.1, 3044.2, 3045, 3045.1, <del>3046</del>, 3046.1</b> <b>3043.7</b> <span style="float: right;">per agency request</span>

3. TYPE OF FILING	<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only
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4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective other (Specify) <b>March 29, 2022</b>

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____

7. CONTACT PERSON <b>Josh Jugum</b>	TELEPHONE NUMBER <b>(916) 445-2266</b>	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) <b>joshua.jugum@cdcr.ca.gov</b>
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Kathleen Allison</i>	DocuSigned by: <b>Kathleen Allison</b>	DATE <b>3/2/2022</b>
TYPED NAME AND TITLE OF SIGNATORY <b>KATHLEEN ALLISON, Secretary</b>		

For use by Office of Administrative Law (OAL) only
<b>ENDORSED APPROVED</b>
<b>MAR 28 2022</b>
<b>Office of Administrative Law</b>

## **TEXT OF PROPOSED REGULATIONS**

### **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.**

##### **Section 3043. Credit Earning.**

(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.

(b) Inmate Participation in Credit Earning Programs and Activities. All eligible inmates shall have a reasonable opportunity to earn Good Conduct Credit, Milestone Completion Credit, Rehabilitative Achievement Credit, and Educational Merit Credit in a manner consistent with the availability of staff, space, and resources, as well as the unique safety and security considerations of each prison. No credit shall be awarded for incomplete, partial, or unsatisfactory participation in the credit earning programs or activities described in this article, nor shall credit be awarded for diplomas, degrees, or certificates that cannot be verified after due diligence by Department staff.

(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 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 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 section 3058.9 of the Penal Code, and 60 calendar days for all inmates convicted of a violent offense 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.

(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 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 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.

(e) Participation by Inmates Housed In A Different Jurisdiction. Inmates serving criminal sentences under California law but housed in a different jurisdiction, including those participating in the Western Interstate Corrections Compact, participating in the Interstate Corrections Compact Agreement, housed in a facility administered by a county sheriff, housed in a facility administered by the California Department of State Hospitals, or housed in a facility administered by the Federal Bureau of Prisons, are only eligible to participate in Good Conduct Credit, Educational Merit Credit, and Extraordinary Conduct Credit as described in this article, subject to the criteria set forth in subsection (b).

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 3043.2. Good Conduct Credit.**

(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 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) Credit rate of 20%, beginning May 1, 2017 through April 30, 2021; and then

(B) Credit rate of 33.3%, beginning May 1, 2021.

(C) Credit rate of 50% for Work Group F.

(3) The following Good Conduct Credit rate 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 unless the inmate is serving a determinate sentence and qualifies under paragraph (5)(B) of this section:

(A) Credit rate of 33.3%, beginning May 1, 2017, through April 30, 2021; and then

(B) Credit rate of 50%, beginning May 1, 2021.

(4) 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) Credit rate of 66.6% shall be awarded to:

(A) An inmate eligible to earn 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.

(C) 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

(D) 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.**

(a) The award of Milestone Completion Credit (MCC) requires the achievement of a distinct objective of approved rehabilitative programs, including academic programs, social life skills programs, Career Technical Education programs, Cognitive Behavioral Interventions (CBI)

programs, Enhanced Outpatient Program group module treatment programs, or other approved programs with similar demonstrated rehabilitative qualities. To be awarded such credit, the inmate shall participate in all required program activities for the duration of the program, to include any subcomponents required in the curriculum for that program. Passing an exam alone shall not qualify for the award of such credit.

(b) Milestone Completion Credit for completing academic courses related to a high school diploma shall not be awarded to inmates already possessing a high school diploma, high school equivalency approved by the California Department of Education, or college degree.

(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 their next credit anniversary, defined as one year after the inmate completes their first Milestone Completion Credit program, and each year thereafter. Upon release to parole, discharge including discharge to community supervision and discharge based on a court order, any excess credit under this section shall be deemed void. If instead an inmate 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.

(d) A Milestone Completion Credit Schedule (REV. 10/20) is hereby incorporated by reference. The schedule identifies all of the approved Milestone Completion Credit programs, the corresponding credit reduction for successful completion of each program, and whether credit for repeating the program is authorized. The department may authorize a program be repeated for credit if there are significant rehabilitative benefits to be gained by those inmates who retake the program.

(e) Standard Performance Criteria. Standard performance criteria for the award of Milestone Completion Credit include the mastery or understanding of course curriculum by the inmate as demonstrated by completion of assignments, instructor evaluations, and testing processes. Within ten business days of completion of an approved credit earning program under this section, the instructor shall verify completion of the program in the department's information technology system. Within ten additional business days, a designated system approver shall verify the inmate's eligibility for such credit.

(f) Modified Performance Criteria.

(1) In lieu of the standard performance criteria, inmates housed in a facility administered by the Department's Division of Juvenile Justice, in an approved prison housing unit with structured, full-time rehabilitative programming, or in an approved alternative custody setting shall be awarded credit under this section in the following increments: three weeks of credit (the equivalent of 21 calendar days) for completion of every three months of program plan activities up to a maximum of twelve weeks of credit in a twelve-month period. Within ten business days of completing three months of program plan activities under this subsection a designated system approver shall be responsible for verifying and awarding credit to such participants.

(2) In lieu of the standard performance criteria, Enhanced Outpatient Program participants, Developmentally Disabled Program participants, and participants in an approved mental health inpatient program, excluding those in a mental health crisis bed, shall be awarded credit under this section upon successfully completing scheduled, structured therapeutic activities in accordance with their mental health treatment plan or, if applicable, their Developmentally Disabled Program, in the following increments: one week of credit (the equivalent of seven

calendar days) for every 60 hours completed up to a maximum of six weeks of credit for 360 hours completed in a twelve-month period. Within ten business days of completing 60 hours of scheduled, structured therapeutic activities under this subsection the Chief of Mental Health at each institution shall be responsible for verifying and awarding credit to such participants.

(g) For purposes of placement in an alternative custody setting the department shall consider the Milestone Completion Credit that may be earned during the inmate's incarceration.

(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, 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 2933.05 and 3041, Penal Code.

#### **Section 3043.4. Rehabilitative Achievement Credit.**

(a) The award of Rehabilitative Achievement Credit requires verified attendance and satisfactory participation in approved group or individual activities which promote the educational, behavioral, or rehabilitative development of an inmate. To qualify for credit under this section, the purpose, expected benefit, program materials, and membership criteria of each proposed activity, as well as any affiliations with organizations or individuals outside of the department, must be pre-approved by the institution. The meeting frequency and location of each activity shall only be approved under safe and secure conditions. Inmate participation in such activities shall be consistent with his or her custodial classification, work group assignment, privilege group, and other safety and security considerations.

(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.

(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 their next credit anniversary, defined as one year after the inmate earns their first Rehabilitative Achievement Credit, and each year thereafter. Upon release to parole, discharge including discharge to community supervision and discharge based on a court order, any excess credit under this section shall be deemed void. If instead an inmate 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.

(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.**

(a) The award of Educational Merit Credit requires the achievement of a significant academic accomplishment which will provide inmates with life-long rehabilitative benefits. Specifically, the achievement of a high school diploma (or high school equivalency approved by the California Department of Education), a collegiate degree (at the associate, bachelor, or post-graduate level), or a professional certificate as an Alcohol and Drug Counselor shall entitle an inmate to the benefits of this credit.

(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) were unchanged in the initial emergency filing and remain unchanged.**

(e) Upon release to parole, discharge including discharge to community supervision and discharge based on a court order, any excess credit under this section shall be deemed void. If instead an inmate finishes serving 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 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 Sections 2053.1 and 3041, Penal Code.

### **Section 3043.6. Extraordinary Conduct Credit.**

**Subsection 3043.6(a) was unchanged in the initial emergency filing and remains unchanged.**

(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.

(c) Upon release to parole or discharge including discharge to community supervision and discharge based on a court order, any excess credit under this section shall be deemed void. If



instead an inmate finishes serving 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 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 Sections 2935 and 3041, Penal Code.

**Section 3043.7 is deleted in its entirety.**

**Article 3.4. Inmate Work and Privileges.**

**Section 3044. Inmate Work Groups and Privilege Groups.**

**Subsections 3044(a) through 3044(b)(3) were unchanged in the initial emergency filing and remain unchanged.**

(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 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) was unchanged in the initial emergency filing and remains unchanged.**

(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 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 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.

(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), 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 found guilty of a serious rule violation as defined in subsections 3323(b), 3323(c), or 3323(d); 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); placed in a zero credit Work Group C pursuant to subsection 3044(b)(4) or Work Group D2 pursuant to subsection 3044(b)(6); or 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 subsections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B), 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 is temporarily placed in an ASU or other segregated housing placement unit; designated by the Institution Classification Committee as non-disciplinary segregation pursuant to subsection 3335(a); and 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 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 was not designated for non-disciplinary segregation by the Institution Classification Committee; 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 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 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 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), 3043.2(b)(5)(C), or 3043.2(b)(5)(D) upon transfer to an alternative custody setting as defined in subsection 3043(d).

(G) An inmate may be assigned Minimum B Custody and Work Group F, 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 B Custody.

(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 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 found guilty of a serious rule violation as defined in subsections 3323(b), 3323(c), or 3323(d); 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); placed in zero credit Work Group C pursuant to subsection 3044(b)(4) or Work Group D2 pursuant to subsection 3044(b)(6); or 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 subsection 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B), 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 is temporarily placed in an ASU or other segregated housing placement unit; designated by the Institution Classification Committee as non-disciplinary segregation pursuant to subsection 3335(a); and 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 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 was not designated for non-disciplinary segregation by the Institution Classification Committee; 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 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 they were assigned to Work Group D-1.

(G) Except when otherwise precluded by this section, an inmate who undergoes reception center processing with a permanent disability that impacts placement or who is receiving dialysis treatment; who, as determined by a classification committee, experienced an extended stay in the reception center beyond 60 days solely due to the disability; and 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)(4) were unchanged in the initial emergency filing and remain 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 3044.1. Special Assignments.**

**Subsections 3044.1(a) through 3044.1(c) were unchanged in the initial emergency filing and remain unchanged.**

(d) Medical or mental health care status determination:

(1) When an inmate has a disability that limits 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), 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 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 their physical or mental impairment, or no less than every six months for reevaluation. The 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 their impairment, the 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 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) were unchanged in the initial emergency filing and remain unchanged.**

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

**Section 3044.2. Impact of Transfer on Work Groups.**

**Subsections 3044.2(a) and 3044.2(a)(1) were unchanged in the initial emergency filing and remain unchanged.**

(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 M 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) were unchanged in the initial emergency filing and remain unchanged.**

(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 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) was unchanged in the initial emergency filing and remains unchanged.**

(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 workgroup D-2 upon determination by a Classification Committee. All other inmates in SHU, PSU, or ASU shall be placed in Work Group D-1.

**Subsection 3044.2(f) was unchanged in the initial emergency filing and remains 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.**

**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.**

(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 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.**

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