

**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, 3045.1, 3043.7
(renumbered to 3044.1),
3043.8 (renumbered to
3044.2), 3046 (unchanged-
shown for reference),
3047 (renumbered to
3046.1)

Repeal sections:

NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE

Government Code Sections 11349.1 and
11349.6(d)

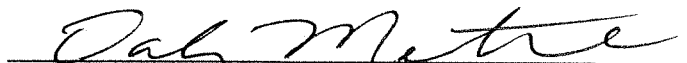
OAL Matter Number: 2022-0627-02

OAL Matter Type: Certificate of Compliance
(C)

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

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: August 8, 2022



Dale P. Mentink
Assistant Chief Counsel

For: Kenneth J. Pogue
Director

Original: Kathleen Allison, Secretary
Copy: Josh Jugum

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2022-0215-10	REGULATORY ACTION NUMBER 2022-0627-02C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Corrections and Rehabilitation			AGENCY FILE NUMBER (If any) 20-0048

ENDORSED - FILED
in the office of the Secretary of State
of the State of California**AUG 08 2022**

Received at 2:05pm

OFFICE OF ADMIN. LAW
2022 JUN 27 PM 3:04**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)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2022, 8-2	PUBLICATION DATE 2/25/2022

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Inmate Credit Earning	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2021-0408-04, 2021-1208-02EON, 2022-0318-02
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) 15	See attachment
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" 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 nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
	<input type="checkbox"/> File & Print
	<input type="checkbox"/> Other (Specify) _____
	<input type="checkbox"/> Print Only
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 checked="" type="checkbox"/> Effective on filing with Secretary of State
	<input type="checkbox"/> \$100 Changes Without Regulatory Effect
	<input type="checkbox"/> Effective other (Specify) _____
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"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Josh Jugum	TELEPHONE NUMBER (916) 445-2266
	FAX NUMBER (Optional)
	E-MAIL ADDRESS (Optional) joshua.jugum@cdcr.ca.gov

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

DATE

*K. Allison**6/17/22*TYPED NAME AND TITLE OF SIGNATORY
KATHLEEN ALLISON, Secretary

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED**AUG 08 2022**

Office of Administrative Law

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)

Title:

15

SECTION(S) AFFECTED:

<u>ADOPT</u>	<u>AMEND</u>	<u>REPEAL</u>
	<ul style="list-style-type: none">• 3043• 3043.2• 3043.3• 3043.4• 3043.5• 3043.6• 3044• 3045.1• 3043.7 (renumbered to 3044.1)• 3043.8 (renumbered to 3044.2)• 3046 (unchanged - shown for reference)• 3047 (renumbered to 3046.1)	

TEXT OF ADOPTED 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.;

unless the inmate is serving a determinate sentence and qualifies under paragraph (5)(B) of this section;

(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) 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~~ cClassification cCommittee, 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 ~~W~~Work ~~g~~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-1~~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) 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.

FINAL STATEMENT OF REASONS

The following documents are incorporated by reference:

The Initial Statement of Reasons.

The first readoption of the emergency regulations (OAL File no. 2021-1208-02).

The second readoption of the emergency regulations (OAL File no. 2022-0318-02).

DETERMINATIONS, ASSESSMENTS, MANDATES, AND FISCAL IMPACT:

The department has determined that no alternative considered would be more effective in carrying out the purpose for which this regulation is proposed, or would be as effective and less burdensome to affected private persons, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law, than the action proposed. No such alternatives were proposed or brought to the department's attention during the adoption of this rulemaking action.

The department has made an initial determination that the action 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 department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4 of the Government Code.

The department has determined that no reasonable alternatives to the regulation have been identified or brought to the attention of the department that would lessen any adverse impact on affected private persons or small businesses than the action planned.

The department, in proposing the adoption of these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document. The department has relied upon the results of the Economic Impact Assessment, which can be found in the Notice of Proposed Regulations and is available for review as part of the rulemaking file.

SUMMARIES AND RESPONSES TO PUBLIC COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD:

EXPLANATORY NOTE: The department received over 5,000 comments during the public comment period. Many of these comments were substantively identical. The department will aggregate repetitive comments, as allowed by Government Code section 11346.9(a)(3), for purposes of clarity and brevity.

Some commenter numbers are missing (i.e., there may be a commenter #2000 and #2002 but no #2001), as duplicate comments, or comments about other rulemaking actions, were discovered in the process of sorting and responding.

A teleconference public hearing was held on April 14, 2022, at which 138 people commented. Comments received at the hearing have been treated the same as written public comments.

Common acronyms:

APA: Administrative Procedure Act

CDCR or department: California Department of Corrections and Rehabilitation

GCC: Good Conduct Credits

Summaries and Responses to Categorized Comments:

General Comment #1. General opposition to the regulations– no further substantive comment.

Commenters 1 through 1291, plus 4813, 4831, 4834, 4844, 4849, 4870, 4871, 4875, 4876, 4899, 4900, 4901, 4910, 4919, 4922, 4924, 4925, 4927, 4929, 4930, 4935, 4937, 4954, 4955, 4956, 4957, 4962, 4975, 4986, 4987, 4989, 5007, 5011, 5019, 5020, 5029, 5034, 5039, 5047, 5054, and 5055. Also, public hearing commenters 5, 18, 58, 63, 84, 88, and 120.

Summary: Commenter opposes the proposed regulations but does not provide specific comments regarding the regulations or specific requests for accommodation. These comments may include general statements of opposition such as “bad for California” etc.

Response #1: The department acknowledges the commenter's opposition to the proposed regulations, however, the department will continue with this rulemaking action for the reasons described in the Notice of Proposed Regulations and the Initial Statement of Reasons.

General Comment #2. General opposition- cites issues of public safety, recidivism, or reoffending.

Commenters 1292 through 3931, plus 4802, 4803, 4804, 4807, 4808, 4809, 4812, 4822, 4824, 4825, 4827, 4829, 4830, 4833, 4837, 4847, 4848, 4852, 4854, 4855, 4857, 4863, 4869, 4874, 4878, 4879, 4880, 4882, 4883, 4883, 4884, 4885, 4888, 4889, 4897, 4902, 4906, 4936, 4940, 4943, 4945, 4946, 4948, 4949, 4952, 4953, 4958, 4959, 4961, 4964, 4967, 4968, 4969, 4970, 4971, 4972, 4976, 4977, 4979, 4980, 4981, 4982, 4992, 4993, 4998, 5010, 5027, 5031, 5032, 5033, 5036, 5037, 5038, 5040, 5041, 5042, 5043, 5044, 5045, 5049, 5051, 5052, 5056, and public hearing commenters 1, 3, 10, 15, 20, 21, 23, 33, 45, 49, 51, 52, 54, 59, 68, 74, 76, 80, 83, 104, 105, 108, 109, 114, 122, 123, 125, 126, 128, and 131.

Summary: Commenter opposes the proposed regulations for reasons of public safety, but does not provide specific comments regarding the regulations or specific requests for accommodation. These comments may include references to public safety, rising crime rates, specific high-profile crimes, endangering the public, and likelihood of reoffending.

Response #2: Increased credit earning opportunities create additional incentives to avoid violating department rules and regulations. In order to retain any credits earned, inmates must comply with the regulations and rules of the department and perform the duties assigned to them. The department's mission statement is: “To facilitate the successful reintegration of the individuals in our care back to their communities equipped with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, rehabilitative, and restorative justice programs, all in a safe and humane environment.” Consistent with this mission, the department seeks to make our prisons and our communities safer by encouraging and motivating willing inmates to take responsibility for their own rehabilitation, promote public safety, and reduce recidivism by increasing the likelihood that inmates will better prepare themselves for their eventual return to society.

General Comment #3. General opposition- self/friend/family member a victim of crime.

Commenters 3932 through 4098, plus 4814, 4828, 4896, 4951, 4960, 4988, 5001, 5046, 5053, and public hearing commenters 17, 69, 110, and 113.

Summary: The commenter, a family member, or a friend was a victim of crime. Commenter opposes the proposed regulations but does not provide specific comments regarding the regulations or specific requests for accommodation.

Response #3: See response to General Comment #2. Additionally, CDCR's Office of Victim and Survivor Rights and Services (OVSRS) maintains a comprehensive victim services program and established restorative justice practices to ensure crime victims and survivors are afforded the utmost respect in exercising their legal rights. To this end, OVSRS is responsible for providing information, coordinating notification of release and notification of parole board hearings, restitution collection, outreach, training, referral and support services to crime victims, their next-of-kin, immediate family members and witnesses.

General Comment #4. General support for the regulations.

Commenters 4099 through 4671, plus 4813, 4815, 4816, 4817, 4818, 4819, 4821, 4838, 4839, 4840, 4841, 4842, 4845, 4846, 4851, 4853, 4858, 4859, 4860, 4861, 4862, 4864, 4865, 4866, 4867, 4868, 4881, 4887, 4891, 4893, 4894, 4898, 4903, 4907, 4908, 4909, 4911, 4912, 4913, 4914, 4915, 4916, 4917, 4918, 4920, 4921, 4938, 4939, 4944, 4950, 4965, 4970, 4973, 4974, 4984, 4990, 5009, 5035, 5047, 5050 and public hearing commenters 2, 4, 6, 7, 8, 9, 11, 12, 13, 14, 16, 19, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 50, 53, 55, 56, 57, 60, 61, 62, 64, 65, 66, 67, 70, 71, 72, 73, 75, 77, 78, 79, 81, 82, 85, 86, 87, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 107, 111, 112, 115, 116, 117, 118, 119, 121, 124, 127, 129, 130, 132, 133, 134, 135, 136, 137, and 138.

Summary: The commenter supports increased credit earning rates or states general support for CDCR's actions. Commenter states credits incentivize inmates to participate in rehabilitative programs.

Response #4: The department acknowledges the commenter's support for the proposed regulations.

General Comment #5. Opposition to proposed regulations – current credit earning rates are sufficient. Increasing credit earning rates further does not allow adequate time for rehabilitation.

Commenters 4672 through 4765 and public hearing commenter 106.

Summary: The commenter is opposed to the proposed regulations and makes a specific reference to credit earning rates.

Response #5: See response to General Comment #2. Additionally, upon arrival at a reception center, inmates are evaluated to determine their rehabilitative needs. From their first day in CDCR custody, inmates are provided access to educational opportunities, various self-help groups, mental health services, and an orientation program to equip them with skills which will aid them in finding gainful employment and successful reintegration into society upon their release from prison.

General Comment #6. Opposition to proposed regulations – CDCR shouldn't determine credit earning rates.

Commenters 4766 through 4798.

Summary: The commenter specifically states that CDCR should not set credit earning rates. Judges and the legislature have determined credit earning rates and CDCR shouldn't change them. CDCR should not shorten sentences determined by judges or the legislature. This is overreach.

Response #6: See response to General Comment #2. Additionally, the Public Safety and Rehabilitation Act of 2016 (Proposition 57) was overwhelmingly approved by California voters on November 8, 2016. Pursuant to this proposition, the California Constitution was amended to include Section 32 of Article 1. Subdivision 32(a)(2) reads as follows: *(2) Credit Earning: The Department of Corrections and Rehabilitation shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements.*

This provision of law gives CDCR explicit authority to determine credit earning rates. The department cannot change the inmate's sentence as determined by the courts. However, Good Conduct Credits, which must be earned by complying with the regulations and rules of the department and performing assigned duties, may reduce an inmate's time to serve. These credits may be forfeited if the inmate is found to have violated department rules.

General Comment #7. Commenter/family member would like to know how credit earning affects them.

Commenters 4799, 4800, 5006 and 5048.

Summary: The comment is from an inmate or friend/family member of an inmate who would like to know how changes to credit earning rates affect the inmate.

Response: This comment is not relevant to the proposed regulations. However, any inmate may direct their inquiry regarding the effect of changes to credit earning rates to their assigned correctional counselor.

Irrelevant Comments. These comments are either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or are generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore these comments are irrelevant pursuant to Government Code Section 11346.9(a)(3).

Commenters 4810, 4820, 4843, 4892, 4947, 4995, 4999, and 5014.

Summaries and Responses to Uncategorized Comments:

This section contains comments received from public officials and/or advocacy groups, comments that made a specific request for accommodation in the proposed regulations, or comments that don't fit into another category for whatever reason (e.g., commenter supported some provisions of the regulations but opposed others).

Commenters #4805 and #4985

Comment #1: Since Assembly Bill 109 "Criminal Justice Realignment" was passed in 2011, non-violent, non-serious, and non-sex offenders are only sentenced to County jail rather than state prison. This means that nearly 100% of state prisoners over the past 11 years are those who committed violent, serious, and sex offenses. Only the most dangerous felons are sentenced to state prison. Therefore, every time your agency increases credits given to prison inmates, you are allowing serious, violent, and/or sex criminals early release into our communities, without any Judge determining that the individual is suitable to be released earlier. This has led to many crimes being committed by these released inmates that they would not have committed if they were still serving their entire properly imposed sentence. Violent offenders are just that – violent. They have earned a sentence given by a judge and their sentences should not be reduced by regulations rather than duly passed statutes. Under California law, "non-violent" felonies include domestic violence, rape of an unconscious person, human trafficking, assault with a deadly weapon and felons in possession of a firearm. "Second strike" refers to an inmate who was previously convicted of a serious or violent felony. Many of these inmates are career criminals with lengthy and violent criminal histories – including murder, robbery, carjacking, felony domestic violence, sexual assault, and gun violence. There are numerous examples where inmates from counties across our entire state were released early and have been re-arrested. Those convicted of "non-violent" felonies could now be released after serving only one-third of their sentence.

Response: See response to General Comment #2.

Comment #2: Since May 1, 2021, how many prison inmates were eligible for and have been earning these increased credits? (Please breakdown the numbers by type of crime and type of strike prior – serious, violent, etc.) Since May 1, 2021, how many inmates convicted of murder have been eligible and have earned these increased credits? Since May 1, 2021, how many victims of crime has the CDCR notified that the inmate who victimized them are now receiving increased credits that will lead to an earlier release than when the sentence was issued?

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Commenter #4806

Comment: Serious and violent felons should not be given a get-out-of-jail-free card after serving only a third of their sentence. These reckless policies do nothing to enhance public safety and only serve to re-traumatize the very victims who have had to endure countless court hearings to see these criminals finally sentenced to state prison only to watch them walk right back out years before they should. These are not "non-violent" criminals. These are violent felons who will be released back into our neighborhoods after being deprived of the benefit of effective rehabilitation. Commenter provides examples of inmates who were released early and then committed additional offenses. The proposed dramatic and permanent increase in credits to serious and violent felons is reckless and does nothing to enhance public safety.

Response: See response to General Comment #2.

Commenter #4826

Comment #1: I don't think criminals who are in prison for violent crimes should have a greater chance of early release. A judge should look at their crimes and have the flexibility to determine if an early release from prison would endanger society.

Response: See response to General Comment #2.

Comment #2: However, I do think non-violent criminals who have three strikes against them should have a better chance of early release.

Response: The department acknowledges the commenter's support for this provision of the proposed regulations.

Commenter #4836:

Comment #1: Commenter opposes the proposed regulations. Violent offenders have earned their sentences and those sentences should only be reduced by statute rather than by regulations. "Non-violent" felonies include domestic violence, rape of an unconscious person, human trafficking, assault with a deadly weapon and felons in possession of a firearm. "Second strike" refers to an inmate who was previously convicted of a serious or violent felony. Many of these inmates have long and violent criminal histories – including murder, robbery, carjacking, felony domestic violence, sexual assault, and gun violence. There are many Sacramento case examples where inmates were released early and have been re-arrested. Those convicted of "non-violent" felonies could now be released after serving only one-third of their sentence. Commenter provides examples of inmates who were released early and then committed additional offenses.

Response: Regarding reduction of time to serve by regulation, see response to General Comment #6. Definitions of violent vs non-violent crimes are contained in statutes. CDCR does not have authority to rewrite or change these definitions. By CDCR increasing the Good Conduct Credit (GCC) credit earning

rate, 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. Additionally, please see response to General Comment #2.

Comment #2: It must be emphasized that gun violence is at alarming rates in California and across this country. The number of illegal guns possessed by felons and prohibited persons has increased dramatically across the state. As a result, we have seen a dramatic increase in violent crime. Addressing gun violence and illegal guns is critical in keeping Californians safe. Inmates sent to prison for felon in possession of a firearm with a prior violent or serious strike (a non-violent crime under California law) are dangerous. Many have extensive histories of violent crime. Releasing them early after serving only 1/3 of their sentence fails to hold these dangerous individuals accountable and further endangers public safety.

Response: See response to this commenter's Comment #1 above.

Comment #3: These regulations ignore victims' rights. Victims have a right to have the perpetrators of their crimes held accountable. Reducing the sentences of convicted felons only further abandons victims' rights and does not further public safety.

Response: See response to General Comment #3.

Comment #4: Does CDCR take the position that Proposition 57 gives them unfettered discretion to award credits at any rate it deems appropriate?

Response: See response to General Comment #6.

Comment #5: Does CDCR take the position that awarding 66% credits to inmates with violent criminal records, including murder, rape, child molestation, domestic violence, human trafficking and gun related convictions, furthers public safety?

Response: Violent offenders, as defined in the Penal Code, are not eligible for the 66.6% credit earning rate.

Comment #6: Does CDCR take the position that the Governor's 2020/2021 budget proposal in regards to reducing the prison population constitutes an emergency? If so, what is the emergency?

Response: The department's reasoning for adopting these regulations on an emergency basis is contained in the Certification of Operational Necessity signed by the Secretary and filed with and approved by the Office of Administrative Law.

Comment #7: As of May 1, 2021, how many convicted sex offenders (290 registration required) are incarcerated in CDCR who are eligible to receive enhanced credits pursuant to these regulations?

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Comment #8: As of May 1, 2021, how many sex offender treatment programs, specific to sex offender treatment, exist within all CDCR facilities? Please name them and their location(s).

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Comment #9: How many inmates in the program(s) described in questions 1 and 2, can participate in the program at one time?

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Comment #10: What prevents CDCR from expanding the sex offender treatment programs within CDCR?

Response: This comment is not relevant to the proposed regulations.

Commenter #4856:

Comment #1: Commenter provides a list of inmates who were re-arrested after release and asks the following questions: In certifying that these regulations protect and enhance public safety, please provide documentation as to how each of the above inmates' releases furthered public safety.

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Comment #2: In certifying that the release of these inmates comply with the regulations to protect and enhance public safety, please provide any written documentation of the following: The factors and findings considered in evaluating the inmate for "non-violent" offender parole; The inmate's institutional adjustment including any rules violations and/or loss of credits; The inmate's rehabilitative programs completed prior to release to address his criminogenic needs.

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Comment #3: Commenter requests that the department inform the public what credits a specific offender received from CDCR while incarcerated since 2018 until his release. Also, when this offender was received by the department, what was his Estimated Parole Release Date?

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Commenter #4872

Comment: Commenter cites rising crime in California. Existing statutes contain more than enough incentives for prison inmates to behave in prison. California already has a prison incarceration rate significantly below the national average. The state's inmate population has fallen significantly in recent years and you have proposed to close two prisons. There is no budgetary or policy reason why the department should expand the early release of inmates. Particularly in the current climate, accelerating the release of the most serious and violent felons jeopardizes public safety. It also makes a mockery of the concept of truth-in-sentencing when inmates serve a small fraction of their court-ordered sentences.

Response: See response to General Comment #2.

Commenter #4877

Comment #1: Commenter cites several current and prior provisions of law related to inmate credit earning and states, "The proposed regulatory changes described in NCR 22-03 are not supported by legal authority since regulations must be subservient to the requirements of the Californian Constitution and California Statutes. Moreover, a change to any law authorized by Proposition 184 requires consent of the electorate or a two thirds majority of the legislature."

Response: See response to General Comment #6.

Comment #2: Commenter cites the California Constitution regarding crime victims and states, “I believe the proposed regulation changes to custody credits [...] blatantly disregard California’s Constitutional duties to victims of crime.”

Response: The proposed regulations only modify existing credit earning rates, as allowed by Prop. 57. Earning these credits requires that inmates comply with the rules and regulations of the department and perform the duties assigned to them.

Comment #3: Commenter cites the intent of Prop. 57 and states the proposed regulations violate this intent. Commenter states, “Two of the five stated purposes of Proposition 57 include protecting and enhancing public safety and preventing courts from indiscriminately releasing prisoners.”

Response: The proposed regulations do not allow the “indiscriminate” release of any inmates. These regulations only increase earned credit earning rates which may shorten the inmate’s time to serve. Earning these credits requires that inmates comply with the rules and regulations of the department and perform the duties assigned to them.

Commenter #4917

Comment: Extraordinary Conduct Credits and Educational Merit Credits should not be forfeitable. These credits are not earned passively by avoiding rules violations (RVRs) but by proactively and affirmatively participating in rehabilitative programming and prosocial conduct. CDCR staff frequently issue false, retaliatory, and inappropriate RVRs against *Armstrong* and *Coleman* class members in an effort to cover up their own misconduct and punish those who report such misconduct.

Response: Extraordinary Conduct Credits (ECC) and Educational Merit Credits (EMC) are only forfeited in cases wherein an inmate has been found guilty of a serious rule violation, has forfeited all GCC, and ECC and/or EMC are the only credits left. Pursuant to Penal Code section 2933 “Credit is a privilege, not a right. Credit must be earned and may be forfeited pursuant to the provisions of Section 2932.” Additionally, the proposed regulations establish that forfeited ECC and EMC may be restored to the inmate. These provisions help to incentivize good behavior. The comment regarding false or retaliatory RVRs is not related to the proposed regulations.

Commenter #4932

Comment #1: Commenter requests information about the reason for the release of a specific former inmate and this inmate’s credit earning.

Response: This comment is not relevant to the proposed regulations.

Comment #2: Commenter states, “So you were given ‘Emergency Regulations’ during COVID to release certain criminals early. And now you want this ‘power’ to be permanent. Why? What is your reasoning for wanting and needing these ‘Emergency Regulations’ to be a permanent thing? How would it benefit us, the people of California?”

Response: This rulemaking is not related to the inmate releases under COVID protocols. The department’s reasoning for adopting these regulations on an emergency basis is contained in the Certification of Operational Necessity signed by the Secretary and filed with and approved by the Office of Administrative Law.

Comment #3: Is it true that the "Emergency Regulations" allowed violent felons and Three Strike criminals to earn a greater percentage off of their prison sentences? Why do you want this to continue now? Is it true you still are planning to release 76,000 more inmates into our communities? If so, why?

Response: See response to General Comment #2. Regarding the commenter's question about the release of 76,000 inmates, this number was a point-in-time number of inmates who were eligible to earn credit rather than a number of inmates who would be released.

The changes to the Good Conduct Credits are not an early release program and do not result in the automatic release of any incarcerated individuals. Due to the fluid nature of credit earning based on an individual's housing level, programming participation, and disciplinary actions, credits may be added or reduced accordingly. This effort incentivizes incarcerated individuals to have sustained good behavior and encourages them to participate in rehabilitative and educational programs, which can help reduce recidivism and make our communities safer. Our department's focus is on a person's rehabilitation and accountability in a manner that is consistent with public safety.

Comment #4: Commenter states, "The CA legislature is refusing to designate certain offenses as violent" and asks questions about this process.

Response: This comment is outside the scope of the proposed regulations. The department does not have authority to direct the Legislature to act.

Comment #5: Commenter states, "Is it true that Mr. Smiley Martin is also slated to get from Sacramento County \$7,500 as a settlement because he was mistreated in jail? What about the people he has hurt, abused and now, even killed? Who is going to pay them for his misconduct? Come on! You make California look ridiculous! Who is in charge here?"

Response: This comment is outside the scope of the proposed regulations. The department has no involvement with Sacramento County jail lawsuits.

Comment #6: Commenter states the leadership of California doesn't care about its citizens.

Response: This comment is outside the scope of the proposed regulations.

Commenter #4941

Comment #1: Commenter states, "To expand credits to those who may not receive meaningful rehabilitation programs in higher level prisons leaves a dangerous question mark on their rehabilitation. Allowing violent offenders to earn 33% and the loosely defined nonviolent offenders 66% good conduct credits drastically shortens their rehabilitative dosage."

Response: See response to General Comment #5. Also, only nonviolent offenders assigned to work groups M or F, as described in section 3044, are eligible to earn 66.6%.

Comment #2: This new proposed expansion of credits lacks true and meaningful engagement with crime victims. One of the principal rights for victims is the right to information and to be heard in proceedings that directly impact victims and survivors to provide substantive input. Due to their complexity the current credit earning schemes can hardly be explained by most corrections officials. Expanding these credits to violent offenders who serve their sentence on California's highest level prison yards is dangerous and ill advised. If the proposed credit expansion is successful, I would ask, can an average citizen or victim in California clearly understand how much time a person is going to spend in prison for committing a violent crime. It's imperative everyone understands the credit an individual will earn based on the crime they committed. To expand credits beyond the original intent is very much premature. To leave victims guessing or to receive a notice of release earlier than anticipated is not acceptable.

Response: The department notified the public of the proposed regulations and provided 45 days in which members of the public may submit a public comment. Additionally, the department held a public hearing

via teleconference. The department received over 5,000 written public comments and over 100 people commented at the public hearing.

Regarding the clarity of the proposed regulations, the department contends the regulations meet the clarity standard of the APA and can be clearly understood by directly affected parties. Additionally, see response to General Comment #3.

Comment #3: Please cite dates and examples where victims' groups were engaged to seek input and recommendations on these new proposed regulations.

Response: The APA does not require that rulemaking agencies consult with advocacy groups prior to promulgating regulations. However, CDCR's Office of Victim and Survivor Rights and Services (OVSRS) maintains a comprehensive victim services program and established restorative justice practices to ensure crime victims and survivors are afforded the utmost respect in exercising their legal rights. To this end, OVSRS is responsible for providing information, coordinating notification of release and notification of parole board hearings, restitution collection, outreach, training, referral and support services to crime victims, their next-of-kin, immediate family members and witnesses. Also, see response to this commenter's Comment #2 above.

Comment #4: What is the current recidivism data on those who serve 36 months or less and have received the benefit of the initial proposition 57 credits?

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Comment #5: What data exists that demonstrates an individual is less likely to recidivate if they only remain disciplinary free in prison?

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Comment #6: Which custody level will be the highest benefactors of the new proposed credit expansion?

Response: This comment is not relevant to the proposed regulations. The commenter may choose to file a request pursuant to the California Public Records Act to obtain this data.

Commenter #4996

Comment #1: Commenter opposes the adoption of the permanent regulations and requests the reinstatement of the 2017 regulations on inmate credit earning. The significant increase of credit rates proposed will lead to the early release of thousands of inmates including those serving violent offenses and those with violent offenses in their criminal histories. This jeopardizes the public safety of our community and of the crime victims and will set a negative precedent in our Criminal Justice System.

Response: See response to General Comment #2.

Comment #2: Under California law, domestic violence, rape of an unconscious person, human trafficking, assault with a deadly weapon and possession of a firearm are considered non-violent crimes, yet they are violent under the simplest of definitions. Second strike refers to an inmate who was previously convicted of a serious or violent felony. Many of these inmates have long and violent criminal histories, including felony domestic violence, sexual assault, and gun violence. Commenter states the proposed regulations are inefficient and jeopardize public safety. Commenter cites a US DOJ study which shows a 71% recidivism rate across 34 states including CA. The proposed regulations violate victims' right to have the

perpetrators of their crimes held accountable. Furthermore, public and victims' safety must be considered before any post-judgment release decision is made.

Response: Definitions of violent vs non-violent crimes are contained in statutes. CDCR does not have authority or responsibility for these definitions. By CDCR increasing the GCC credit earning rate, 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. Additionally, please see response to General Comment #2.

Commenter #5025

Comment #1: The proposed rule changes allowing swifter release further exacerbates an already growing gap between an actual sentence imposed and time actually served, bringing California even further from the promise of providing victims with truth in sentencing. CDCR is seeking to make permanent the very provisions that have contributed to increases in victimization.

Response: See response to General Comment #2.

Comment #2: Commenter provides a list of provisions of law that allows some offenders to serve less time than they would have prior to these provisions of law being enacted.

Response: The provisions of law are outside of the authority of CDCR, with the exception of Proposition 57.

Comment #3: Public safety and victim's rights have hit a crisis point, and this regulation, combined with all the other laws mentioned above, pushes us further toward the brink of unaccountability and increased crime wrought by recidivist offenders that are being taught that crime really does pay. Please do not take us further down this path. Enough is enough.

Response: See responses to General Comment #2.

Public Hearing Commenter #3

Comment: Commenter opposes the proposed regulations for reasons of public safety. Commenter states the definition of violent crime is different than the definition society understands to be violent.

Response: See response to General Comment #2. Additionally, definitions of violent vs non-violent crimes are contained in statutes. CDCR does not have authority or responsibility for these definitions. By CDCR increasing the GCC credit earning rate, 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.

Public Hearing Commenter #15

Comment: Commenter states violent crime is up and that "what CDCR considers non-violent is up. There is a lack of programs in CDCR for sex offenders. CDCR lacks the will and ability to hold parolees accountable when they commit parole violations."

Response: See response to General Comment #2. Regarding "what CDCR considers non-violent," definitions of violent vs non-violent crimes are contained in statutes. CDCR does not have authority or responsibility for these definitions. By CDCR increasing the GCC credit earning rate, 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. The comments regarding lack of programs for specific offenders and parole supervision are outside the scope of the proposed regulations.

Public Hearing Commenter #23:

Comment: Commenter states the proposed regulations undermine the rule of law and endanger the public. Crime victims deserve justice. Whether prison deters or rehabilitates, an incarcerated person cannot commit a crime while incarcerated. By shortening sentences the proposed regulations endanger the community.

Response: See response to General Comment #2.

Public Hearing Commenter #33:

Comment: Commenter states “The early release of convicted criminals is a terrible idea.” Early release is a slap in the face to victims and will teach criminals there’s no real consequences for their crimes.

Response: See response to General Comment #2.

Public Hearing Commenter #108

Comment: Commenter states that nine years ago a prior CDCR Secretary opposed increased credit earning on grounds of public safety. The current Secretary has certified that these regs protect and enhance public safety. Nothing has changed in this period. CDCR states the inmate population will be reduced by nearly 10,000 by FY 23-24. The lower risk inmates have already been released- those who remain are more violent and/or dangerous. The CA Leg provided that violent felons should receive no more than 15% credit earning. There is no need to go beyond this when the inmate population is below the level ordered by the federal court.

Response: See responses to General Comment #2 and General Comment #6.

Public Hearing Commenter #109:

Comment #1: The majority of inmates remaining incarcerated under CDCR’s authority have violent histories and very high-risk factors. Rehabilitation requires evidence-based programs that address criminal thinking and anti-social behavior. “There is no mechanism in the proposed regulations to ensure that each inmate is being assessed and a case plan developed and executed in the proper sequential manner.”

Response: CDCR provides evidence-based programs including education, substance abuse disorder treatment, and cognitive therapy among others, however credits awarded for successful completion of these programs are separate from GCCs and not part of this rulemaking action. Rehabilitative programs are the responsibility of the Division of Rehabilitative Programs, whose mission is “To facilitate the successful reintegration of the individuals in our care back to their communities equipped with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, rehabilitative, and restorative justice programs, all in a safe and humane environment.”

Comment #2: What validated assessment tools are used by trained staff? What is the average risk factor of the current inmate population? Is the Hare Psychopathy Assessment Toll being utilized? What is the average Hare Psychopathy score of the current inmate population? What process does CDCR have to ensure that the inmates have the appropriate motivation to engage in these valued programs?

Response: The commenter’s questions are outside the scope of the proposed regulations. The commenter may choose to file a request pursuant to the Public Records Act to obtain this data.

Public Hearing Commenter #123:

Comment: The increased credits do not require the inmate to rehabilitate but simply attend classes or programs. Inmates can “stack” credits without actually working toward rehabilitation. Commenter references recent high profile crimes. The regulations are harmful to public safety.

Response: See responses to General Comment #2 and response to Hearing Comment #109.