

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 4.5. CALIFORNIA VOLUNTEER AND EMPLOYEE CRIMINAL HISTORY

SERVICE (CalVECHS) PROGRAM

ADDENDUM TO INITIAL STATEMENT OF REASONS

The Department of Justice (DOJ) reviewed all comments received during the public comment period. In response to these public comments, and to clarify the regulations as originally proposed, DOJ has modified its proposed regulations, and has prepared this Addendum (Addendum) to the Initial Statement of Reasons (ISOR). This Addendum explains the purpose and necessity of the modifications and the reasons for these modifications below. This statement of necessity is intended to supplement and/or add additional reasons to the original statement of necessity set forth in the ISOR published on March 7, 2025.

PURPOSE AND NECESSITY OF MODIFICATIONS TO PROPOSED REGULATIONS

Article 1. General

§ 401. Definitions of Key Terms.

Subdivision (a) was amended to specify that a qualified entity is a human resource agency or employer, as they are defined in subdivisions (j) and (k). This amendment is necessary to avoid expanding the pool of entities eligible for CalVECHS participation beyond the limitations of Penal Code section 11105.3.

Subdivision (d) was amended non-substantively to specify that “elderly” refers to a person. This amendment was made in response to a comment.

Subdivision (f), paragraphs (1) and (2), was amended to establish who is a “covered individual.” This amendment is necessary because in its administration of the federal criminal history response authorized under United States Code, title 34, section 40102, the Federal Bureau of Investigation (FBI) allows applicants to submit fingerprints only as employees or volunteers and the category of individuals must fit within those terms. Additionally, because Penal Code section 11105.3, subdivision (i) includes administrators in the individuals who must undergo a background check, the amendment clarifies that those involved in the operation as an owner or administrator of qualified entities are considered employees for purposes of these regulations.

These subdivisions were also amended to replace “prospective” with “applicant” in response to a comment. This change was necessary because the term “prospective” employee or volunteer could have been interpreted to be overly broad to include those who have not yet applied. Additionally, this amendment was necessary to conform to the terms used in Penal Code section 11105.3.

Subdivision (i) was added to define “authorized applicant agency.” This amendment is necessary to establish a distinction between DOJ approval as an authorized applicant agency and enrollment in the CalVECHS Program, as described in section 402.

Subdivision (j) was added to define “employer.” This amendment is necessary to ensure the definition of “qualified entity” is consistent with the eligibility standards in Penal Code section 11105.3. Because employer can include any other organization as decided by the Attorney General, the definition of an employer also includes any public, private, for profit, not-for-profit, or voluntary cooperation or organization. This definition is necessary because the types of entities that have supervisory or disciplinary power over children can vary and the purpose of the background checks is to protect children.

Subdivision (k) was added to define “human resource agency.” This amendment is necessary to ensure the definition of “qualified entity” is consistent with the eligibility standards in Penal Code section 11105.3.

Article 2. Procedures for CalVECHS Program Participation

§ 402. Enrollment in CalVECHS

This section was amended to clarify that enrollment in the CalVECHS Program is contingent upon approval by DOJ as an authorized applicant agency. This amendment is necessary to distinguish the general applicant agency authorization process, which is not the subject of these regulations, from the CalVECHS enrollment process, which is the subject of these regulations.

§ 403. Determination by the Department.

Subdivision (b) was amended to clarify that DOJ will deny CalVECHS enrollment when an agency’s applicants are already required to undergo fingerprint-based state and national criminal history background checks under a statute other than Penal Code section 11105.3 that has been approved by the FBI for a federal response. This amendment is necessary because agencies may already have a type of applicant that is approved by the FBI to conduct federal background checks, and receive that information, under Public Law 92-544, and if so, they would not fall within the CalVECHS program. These regulations implement the CalVECHS program. Penal Code section 11105.3, subdivision (b) allows DOJ to disseminate federal-level criminal information to qualified entities under the authority of United States Code, title 34, section 40102, which is separate and distinct from FBI review and approval of statutes authorizing access to federal criminal history information for non-criminal justice purposes under Public Law 92-544.

§ 404. Compliance Audit.

This section was not revised in the text. This is an expansion of the description provided in the ISOR. The purpose of this section is to establish DOJ’s responsibility to complete regular compliance audits. This section is necessary to comply with applicant agency auditing requirements set forth in Penal Code section 11105.3, subdivision (b), and the FBI’s CJIS

Security Policy. Auditing applicant agencies is crucial for maintaining the integrity of the systems supporting fingerprint-based criminal history background checks for employment, licensing, and certification, and the FBI requires all state identification bureaus that access the Interstate Identification Index and Next Generation Identification System for non-criminal justice purposes to complete triennial audits of authorized applicant agencies.

This section ensures that CalVECHS participating agencies are audited periodically for adherence to the CalVECHS regulations (e.g., maintenance of the CalVECHS Waiver Agreement). The three-year audit cycle is how DOJ chose to define what “periodically” means.

A three-year audit cycle matches DOJ’s auditing schedule of all authorized applicant agencies and conforms with the requirements of state and federal laws governing CORI security. The FBI requires all state identification bureaus that access the Interstate Identification Index and Next Generation Identification System for non-criminal justice purposes to complete triennial audits of authorized applicant agencies.