Article 3, of Chapter 13, Title 10 of the California Government Code of Regulations is adopted to read:

Chapter 13. Governor's Office of Business and Economic Development

Article 3. California EB-5 Foreign Investment Program

§8200. Definitions

For purposes of this article, the following definitions shall apply:

(a) "Applicant" means the individual or entity utilizing the GO-Biz TEA Interactive Tool to request a TEA certification letter, including, but not limited to, an immigrant seeking an EB-5 visa, an economic development center, a regional center, or a law firm representing such an immigrant or commercial enterprise.

(b) "Census Bureau's Participant Statistical Areas Program" means the process used to review and suggest modifications to the boundaries for block groups, census tracts, census county divisions, and census designated places for reporting data from the decennial census.

(c) "Census tracts" means relatively permanent statistical subdivisions of a county or equivalent entity that are updated by local participants prior to each decennial census as part of the Census Bureau's Participant Statistical Areas Program.

(d) "Commercial enterprise" means any for-profit activity formed for the ongoing conduct of lawful business including, but not limited to:

(1) A sole proprietorship;
(2) Partnership (whether limited or general);
(3) Holding company;
(4) Joint venture;
(5) Corporation; and,
(6) Business trust or other entity, which may be publicly or privately owned as set forth at 8 C.F.R. Section 204.6(e).

(e) "Contiguous census tract" means a census track that is either directly adjacent to the census tract where the project is located or, is adjacent to a census tract that is part of a contiguous area of census tracts that includes the project location. Intervening bodies of water separating census tracts do not necessarily prevent two census tracts from being adjacent.

(f) "EB-5 Program" means the Foreign Investment Program set forth under Section 203(b)(5) of the Immigration and Nationality Act under 8 U.S.C. Sec. 1153(b)(5).

(g) "GO-Biz TEA Interactive Tool" means the online mapping tool on the GO-Biz website designed to:

(1) Identify the census tract and unemployment rate in which the project is located;
(2) Demonstrate if the project census tract(s) qualify as a TEA or special TEA; and,
(3) Submit the request to get a TEA certification.

(h) "GO-Biz" means the California Governor's Office of Business and Economic Development.

(i) "New commercial enterprise" means any commercial enterprise:

(1) Established after November 29, 1990 as set forth under 8 U.S.C. Section 1153(b)(5)(A); or,

(2) Established on or before November 29, 1990, that is:

(A) Purchased and the existing business is restructured or reorganized such that a new commercial enterprise results; or,

(B) Expanded through the investment so that a 40 percent increase in either the net worth or number of full-time employees occurs as set forth under 8 C.F.R. Section 204.6(h).

(j) "Project" means the new commercial enterprise that will receive the foreign investment within the parameters of the EB-5 program.

(k) "Qualifying cities, CDPs, and MSAs" means cities, census designated places, and the metropolitan statistical areas (as designated by the federal Office of Management and Budget), eligible for the TEA certification by meeting the unemployment rate threshold (at least 150 percent of the national average rate) as determined by the California Employment Development Department.

(l) "Regional centers" means any economic unit, public or private, which is involved with the promotion of economic growth, improved regional productivity, job creation, and increased domestic capital investment.

(m)"Request" means the application to obtain a TEA certification made by an applicant to GO-Biz, which shall be submitted by utilizing the GO-Biz TEA Interactive Tool on GO-Biz's EB-5 Program website.

(n) "Rural area" means any area other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more based on the most recent decennial census as set forth under 8 U.S.C. Section 1153(b)(5)(B)(iii).

(o) "Supporting letter" means a letter from a city, county, or regional or local economic development organization concurring that the proposed census tract(s) will reasonably be a source of workforce for the project.

(p) "Special TEA" means the census tract of a project does not meet the existing standard, pre-calculated certification categories as a TEA, but the project is located within an area of twelve or fewer contiguous census tracts with a total average unemployment rate of at least 150% the national average rate.

(q) "Targeted Employment Area" or "TEA" means, at the time of investment, a rural area or an area which has experienced high unemployment of at least 150 percent of the national average rate as set forth under 8 U.S.C. Section 1153(b)(5)(B)(ii).

(r) "TEA certification" means the certification verifying that the commercial enterprise(s) is either made in a TEA, or is qualified to be in a Special TEA.

(s) "TEA certification letter" means a customized letter issued by GO-Biz verifying that a project is located in a designated TEA or Special TEA.

(t) "USCIS" means the United States Citizenship and Immigration Service.

(u) "USCIS designation" means official approval by the USCIS of an EB-5 regional center.

NOTE: Authority cited: Section 6315.1, California Government Code. Reference: Section 6315.1(b), Government Code.

§8210. Designation and Certification of Qualified TEAs

(a) An individual or entity may establish that the location in which the new commercial enterprise is going to principally do business in, is a TEA, by submitting evidence to USCIS that the metropolitan statistical area, the specific county within a metropolitan statistical area, or the county in which a city or town with a population of 20,000 or more is located, had an average unemployment rate of at least 150% of the federal Bureau of Labor Statistics' most recently published national average unemployment rate before the date of the application.
(b) Alternatively, an individual or entity can establish that the location, in which the new commercial enterprise is going to principally do business in, is a TEA, by obtaining a TEA certification letter.
(c) If an individual or entity seeks to receive a TEA certification letter from GO-Biz, the applicant must use the GO-Biz TEA Interactive Tool located on GO-Biz's EB-5 Program website to determine whether the project is located in a designated TEA and therefore qualified to receive a TEA certification letter from GO-Biz.
(d) The GO-Biz TEA Interactive Tool will require that an applicant provide:
(1) The name of the investor or entity entering the information;
(2) The name of the new business or project;
(3) The project's address, including street, city, state, and zip code; and,
(4) The email address of the person to whom the TEA certification letter will be emailed.
(e) After entering in the required information regarding the project, an applicant must select "Go To Address." This will take the applicant to a census tract map with the currently applicable unemployment figures for the census tract where the project is located and the surrounding area.
(f) If the GO-Biz TEA Interactive Tool identifies the census tract in which the project is located as a designated high unemployment census tract, then the applicant shall follow the GO-Biz TEA Interactive Tool to request a TEA certification letter from GO-Biz by selecting "Generate Submission." This will send GO-Biz a request with the map indicating that the project is located in a TEA. If the project does qualify for a TEA certification letter, it is the applicant's responsibility to ensure that all the information requested by the GO-Biz TEA Interactive Tool is provided in order for GO-Biz to issue a TEA certification letter to the applicant.
(g) If the GO-Biz TEA Interactive Tool does not indicate that the address qualifies for a TEA, then the applicant can select the "Request Special TEA" button.
(h) After the "Request Special TEA" button is selected, the applicant can select up to 11 additional contiguous census tracts to form the Special TEA area to achieve an average unemployment rate greater than 150% of the national average rate in order to select the "Request Special TEA."
(i) The applicant must then select the "TEA Support Contact List" button to obtain the TEA support contact for the county where the project will be located and select the "TEA Support Letter" button in order to obtain the template for the supporting letter that will need to be filled out by the applicable city, county, or regional or local economic development organization. Once completed, applicant must follow the directions on the TEA Interactive Tool for submission of the supporting letter to GO-Biz.
(j) The supporting letter must be filled out by the applicable city, county, or regional or local economic development organization and indicate that the entity concurs that the proposed census tract(s) will reasonably be a source of workforce for the project.

(k) After GO-Biz receives the required supporting letter, GO-Biz will process and send the TEA certification letter to the applicant via the email address provided.
(l) All State of California TEA certification letters are valid for one year from the date issued.
(m)If the project is not a TEA or Special TEA, then the project does not qualify for certification from the state. However, the applicant can still apply to USCIS without the state certification and provide evidence of its own, showing that the new commercial enterprise is in a high unemployment area.
(n) This section shall be construed so as to not conflict with, and be applied consistent with, federal law.

NOTE: Authority cited: Section 6315.1, California Government Code. Reference: Section 6315.1(b), Government Code.

§8220. Renewal of State Designated TEA Certification

(a) State designated TEA certification letters will not be renewed automatically.
(b) An applicant with on-going projects that require a continuing TEA designation and certification must submit a new TEA certification request by using the GO-Biz TEA Interactive Tool and following the process described in Section 8210.

NOTE: Authority cited: Section 6315.1, California Government Code. Reference: Section 6315.1(b), Government Code.

§8230. EB-5 Survey

(a) On an annual basis, the GO-Biz International Trade and Investment Program shall survey the EB-5 regional centers located in California for statistical and reporting purposes.
(b) If EB-5 regional centers located outside California wish to participate in the survey, they can request to be included in the survey by emailing GO-Biz at eb5info@gov.ca.gov.
(c) The information solicited by the EB-5 survey will be solely determined by the GO-Biz International Trade and Investment Program each calendar year and provided to each EB-5 regional center. Such information may include, but is not limited to:

(1) Name of the regional center;
(2) Address of the regional center's principal place of business;
(3) Name of the regional center's CEO, President or equivalent position;
(4) Contact person for the regional center;
(5) Email of the contact person;
(6) Website address of the regional center, if applicable;
(7) Copy of the USCIS letter designating and approving the regional center to participate in EB-5 program;
(8) A complete list of the completed projects in the calendar year prior to when the survey is conducted;
(9) Total completed projects since the regional center's establishment;

(10) Total direct jobs created since the regional center's establishment;
(11) Number of indirect and induced jobs created since the regional center's establishment;
(12) Amount of investment in US dollars raised since the regional center's establishment through the EB-5 program;
(13) The identity of all investors attracted since the regional center's establishment;
(14) Copies of all Form I-526 filed between the date of USCIS designation and the year prior to when the survey is conducted;
(15) Copies of all Form I-829 filed between the date of USCIS designation and the year prior to when the survey is conducted;
(16) Total Form I-526 approval rate since the regional center's establishment;
(17) Total Form I-829 approval rate since the regional center's establishment;
(18) Contact information of any international office(s) established; and,
(19) Each investor's nationality.

(d) Any survey information posted on the GO-Biz website concerning the survey results is limited to the data solely provided by the regional centers.

NOTE: Authority cited: Section 6315.1, California Government Code. Reference: Section 6315.1(c), Government Code.