

TEXT OF PROPOSED REGULATIONS

In the following, underline indicates additional added text, and ~~striketrough~~ indicates additional deleted text.

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

Subchapter 4, General Institution Regulations

Article 2. Security

§ 3290. Methods for Testing of Controlled Substances or for Use of Alcohol.

Subsection 3290(a) is unchanged but included as reference.

(a) The department shall prescribe the products, equipment, and methods for testing suspected controlled substances or for the use of alcohol. “Field” or on-site testing shall be conducted only by trained personnel.

Subsection 3290(b) is amended to read:

(b) Field tests may be performed on any suspected substance found on institution property or in the possession or under the control of any inmate, or in the possession or under the control of persons other than inmates who come on institution property. Field tests of urine samples may be performed as a screening process prior to laboratory testing.

Subsections 3290(c) through 3290(c)(3) remain unchanged but are included for reference.

(c) The securing of a urine sample from an inmate, for the purpose of testing for the presence of controlled substances or for use of alcohol may be done for the following reasons:

- (1) When there is reasonable suspicion to believe the inmate has possessed, distributed, used, or is under the influence of a controlled substance or alcohol.
- (2) When mandatory random testing is known to the inmate to be a condition for the inmate's participation in a specific program, assignment, or activity.
- (3) As part of an authorized disposition of a disciplinary hearing.

Subsection 3290(c)(4) is amended to read:

(4) The inmate is selected by the ~~institution's/facility's~~ department's mandatory standardized random drug testing selection process.

(A) A small percentage of inmates will be randomly selected at predetermined regular intervals (e.g. weekly) from a data file produced from the department's Strategic Offender Management System.

(B) Inmates shall be tested each time they are selected; however, shall not be subject to additional disciplinary action for a positive test if that positive test is cumulative evidence of a previously charged disciplinary action.

Subsection 3290(d) remains unchanged.

New Subsection 3290(e) is adopted to read:

(e) On-site testing of urine samples are presumptive in nature; however, the results may be used to charge an inmate with a serious rules violation. Disciplinary action for possession of a controlled substance or use of a controlled substance based solely on the field test shall not include the loss of work/behavior credits or pay, or loss of a paid work assignment unless a laboratory has confirmed the results of a positive field test or the inmate has admitted to possessing the controlled substance, accepts the results of a positive field test, waives the requirement of testing by a laboratory, and has signed a CDCR 128-B, General Chrono to that effect.

Existing subsection 3290(e) is renumbered and amended to read:

~~(e)~~ (f) Field testing of seized substances that are suspected of being a controlled substance ~~shall be conducted for “screening” purposes only~~ are presumptive, however the results may be used to charge an inmate with a serious rules violation. Disciplinary action for possession of a controlled substance based solely on a field or on-site test shall not include the loss of work/behavior credits, or pay, or loss of paid work assignment unless a laboratory has confirmed that the suspected substance is in fact a controlled substance, or the inmate has admitted to possessing the controlled substance, accepts the results of a field test, and waives the requirement of testing by a laboratory, and has signed a document to that effect.

Existing subsections 3290(f) through 3290(h) are renumbered:

~~(f)~~ (g)
~~(g)~~ (h)
~~(h)~~ (i)

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2932, 4573.6 and 5054, Penal Code.

Article 5. Inmate Discipline
§ 3315. Serious Rule Violations.

Subsections 3315(a) through 3315(f)(5)(I)(3) remain unchanged.

Subsection 3315(f)(5)(J) is amended to read:

(J) Violation of subsections 3016(a), 3016(c), and 3290(d) shall result in:

1. For the first offense the inmate shall be required to attend Alcoholic Anonymous or Narcotic Anonymous meetings or assigned to a substance abuse education and/or treatment programs to the extent such programs are available in the institution/facility and loss of pay for 90 days from a paid work assignment.
2. For the second offense, the inmate shall be referred for endorsement to a substance abuse treatment program, provided that program eligibility criteria is met and loss of pay for 180 days from a paid work assignment.
3. For the third offense, the inmate shall be referred for endorsement to a substance abuse treatment program, provided that program eligibility criteria is met, and mandatory treatment shall be a condition of parole. Additionally, the inmate shall be referred for removal from paid work assignment for one year for the third offense.

Subsections 3315(f)(5)(K) through 3315(g) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 295-300.3, 314, 530, 532, 646.9, 647, 653m, 2931, 2932, 2933, 4501.1, 4573.6, 4576, 5054, 5068 and 12020, Penal Code.