

NOTICE OF PROPOSED REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3000, 3521.1, 3521.2, 3545, 3800.2, repeal Sections 3620, 3625, and Pilot Program 3999.14 Urinalysis Testing Pilot Program (DAPO), and adopt Sections 3620, 3621, 3622, 3623, 3624, 3625, and 3626 of the California Code of Regulations (CCR), Title 15, Division 3, concerning the Urinalysis Testing Program for Parolees.

PUBLIC HEARING:

Date and Time: **September 24, 2014 - 10:00 a.m. to 11:00 a.m.**

Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street – North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close **September 24, 2014 at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**S. Pollock
Regulation and Policy Management Branch
Telephone (916) 445-2308**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Angela Wilson
Division of Adult Parole Operations
(831) 227-5965**

AUTHORITY AND REFERENCE:

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 provides that an Emergency adoption, amendment, or repeal of a regulation by the Director shall be conducted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Current laws, specifically Penal Code Section 3000, provide for urinalysis testing for parolees in order to detect the presence of prohibited substances, however currently no specifications exist with regard to the use of instant test kits or onsite testing that will provide immediate test results. The proposed regulations will provide for more effective methods regarding urinalysis testing for parolees.

The broad objective of the regulation is to reduce recidivism and increase public health and safety, while optimizing cost effectiveness. The specific benefits anticipated from the regulation include immediate intervention for parolees with substance abuse problems, which will assist parolees in their reintegration into society, benefiting parolees and the general welfare of California residents. And, in addition, the regulation will ensure statewide consistency amongst Department staff, and provide a cost effective method for urinalysis testing through less laboratory processing of urinalysis tests, and potentially less parole agent labor costs.

The Department has determined that these proposed regulations are consistent and compatible with existing State laws and regulations. The Department reached this conclusion by reviewing the California Code of Regulations, Title 15, Division 3, and reviewing regulations for urinalysis testing of parolees.

This action provides the following:

- Amends Section 3000, Definitions, to add the definition for “Urinalysis Testing.”
- Amends the Table of Contents Chapter heading to repeal the existing title heading “Article 10. Civil Addicts,” and adopt the new title heading “Article 10. Urinalysis Testing Program.”
- Repeals Section 3620, “Special Requirements of Civil Addict Release or Parole,” and Section 3625, “Civil Addict Program Exclusion.”
- Adopts new Sections 3620-3626 regarding the Urinalysis Testing Program.
- Amends Sections 3521.1, 3521.2, 3545, and 3800.2, by removing language referencing civil addict commitments and the Civil Addict Program, which are no longer in existence.
- Incorporates by reference, three new forms, and revises one existing form into the Title 15; CDCR Form 1527 (Rev. 06/12), Voluntary Statement of Admission, CDCR Form 2249 (06/12), Urinalysis Sample Control Log, CDCR Form 2250 (06/12), Urinalysis Sample Transfer Log, and CDCR Form 1650-D (Rev. 06/12), Record Of Supervision.
- Repeals the Pilot Program 3999.14 Urinalysis Testing Pilot Program (DAPO), currently in effect.

FORMS INCORPORATION BY REFERENCE:

The CDCR Form 1527 (Rev. 06/12), Voluntary Statement of Admission, CDCR Form 1650-D (Rev. 06/12), Record of Supervision, CDCR Form 2249 (06/12), Urinalysis Sample Control Log, and CDCR Form 2250 (06/12), Urinalysis Sample Transfer Log, are incorporated by reference into these regulations and will be made available to the public along with the Notice of Proposed Regulations, Text of Proposed Regulations, and Initial Statement of Reasons.

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

FISCAL IMPACT STATEMENT:

- **Cost to any local agency or school district that is required to be reimbursed:** *none*
- **Cost or savings to any state agency:** *none*
- **Other nondiscretionary cost or savings imposed on local agencies:** *none*
- **Cost or savings in federal funding to the State:** *none*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

The Department has determined that the proposed regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California, because the proposed regulations apply to parolees under the jurisdiction of the CDCR and the testing process of parolees for substance abuse. Furthermore, it has been determined that any cost for procuring of instant test kits will be outweighed by the savings in laboratory testing and parole agent labor costs. The implementation of these proposed regulations will provide for more efficient and effective substance abuse testing procedures for parolees, and create long term recovery from substance abuse by parolees, which will in turn reduce recidivism. Additionally, regarding benefits, the proposed regulations will protect the health and safety of California residents, worker safety, and the State’s environment, by reducing parolee drug use.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations will not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because any reduction in fees paid to businesses for laboratory costs will be offset by increased procurement for instant test kits, and the businesses that provide the laboratory testing also provide the instant kits. The proposed regulations have no other effect on small businesses, as they apply to the testing process for substance abuse for parolees under the jurisdiction of CDCR.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the text, any documents incorporated by reference, and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, documents incorporated by reference, and Notice of Proposed Regulations will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.