

P.O. Box 942883
Sacramento, CA 94283-0001



January 20, 2012

NOTICE OF CHANGE TO TEXT AS ORIGINALLY PROPOSED

You are receiving this notice because you provided comments or expressed an interest in receiving notice of changes to the California Department of Corrections and Rehabilitation (CDCR) amendments to the California Code of Regulations (CCR) concerning residence restrictions imposed upon paroled sex offenders.

As these regulations have been adopted and are currently in temporary, emergency effect, the full text of the amendments to the CCR is provided as adopted without the original underline/strikethrough formatting. Changes to this adopted text being proposed in this notice are indicated by **bold double underline** for additional added text and **bold double strikethrough** for text deleted from the adopted text. These proposed changes are being made available for public comment.

As determined by the CDCR, the attached text contains the following changes:

Subsection 3571(a)(1) is amended to replace the term “maintained” with “used” to avoid ambiguity regarding the meaning of the term “maintained.” The term “maintained” could cause CDCR enforcement staff to mistakenly believe that an area must be taken care off or kept up to some standard in order to meet the definition of a park. Replacing “maintained” with “used” eliminates this possible misinterpretation by clarifying it is how the area is “used” that is important in determining whether it is a park for purposes of this section.

Also, the word “primarily” is added after “used” to distinguish between areas that are parks and areas that have park-like features but are used primarily for other purposes such as landscaped outdoor portions of properties containing government buildings.

Additionally, this subsection is amended to add the sentence “A determination of whether an area is a park shall not be limited to a consideration of whether the area includes a play structure, athletic field or court, or any other particular characteristic, but shall be based on an overall evaluation of whether the area is used for recreational purposes.” This amendment is necessary in order to provide improved clarity and specificity regarding the definition of the term “park.” This additional clarity is needed because of the wide variety of outdoor areas (green strips, landscaped medians, etc.) that could be considered parks.

During the period in which the Department has had emergency authority to enforce these regulations, CDCR enforcement staff have encountered many outdoor areas which may or may not be considered “parks” based on the current definition in Subsection 3571(a)(1). In order to eliminate this ambiguity and ensure consistent determinations are made and enforced statewide, it is necessary to provide a more

specific definition of the term “park.” The purpose of the additional clarification is to make clear that this determination shall be based on how the outdoor area is actually used, rather than an attempt to ascertain the purpose of the outdoor area based on any particular characteristic.

Subsection 3571(a)(2) is amended to replace the term “consistent” with “recurring” to make the meaning of the text clearer. This is necessary because the term “consistent” as used in the context of this regulatory text might be subject to differing interpretations or definitions. The use of the term “recurring” will eliminate this potential ambiguity.

Subsection 3571(a)(4) is amended to delete the term “consistently” in order to make the meaning of the text clearer. This is necessary because the term “consistently” as used in the context of this regulatory text might be subject to differing interpretations or definitions.

Subsection 3571(b) is amended to merge previous subsection 3582(b)(1) into this subsection. The purpose of this amendment is to improve the clarity of the text. The amendment does not change the meaning or impact of the subsection.

Subsection 3571(b)(1) is now merged into subsection 3571(b) for improved clarity (see above).

Subsection 3582(b) is amended to merge previous subsection 3582(b)(1) into this subsection. The purpose of this amendment is to improve the clarity of the text. The amendment does not change the meaning or impact of the subsection.

Subsection 3582(b)(1) is now merged into subsection 3582(b) for improved clarity (see above).

Subsection 3582(c)(1) is renumbered to 3582(d) and amended. The subsection is renumbered for improved clarity. The subsection is amended to add the text “who is required to register pursuant to PC sections 290 through 290.023, inclusive, and” to the first sentence of the subsection to make the text consistent with other subsections within this section and for improved clarity. This amendment does not change the meaning or impact of the subsection.

Subsection 3582(d) is renumbered to 3582(e) due to renumbering of preceding subsections.

Subsection 3582(d)(1) is renumbered to 3582(f) due to renumbering of preceding subsections and for improved clarity.

Subsection 3582(e) is renumbered to 3582(g) due to renumbering of preceding subsections.

Subsection 3582(f) is renumbered to 3582(h) due to renumbering of preceding subsections.

Subsection 3590.1(a) is renumbered to Section 3590.1 Initial Paragraph for improved clarity.

Subsection 3590.1(a)(1) is renumbered to 3590(a) due to renumbering of preceding subsections.

Subsection 3590.1(a)(2) is renumbered to 3590(b) due to renumbering of preceding subsections.

Subsection 3590.1(a)(3) is renumbered to 3590(c) due to renumbering of preceding subsections.

Subsection 3590.1(a)(4) is renumbered to 3590(d) due to renumbering of preceding subsections.

Subsection 3590.3(a) is amended to delete the text “with the following exception” and replace it with “except that” and to merge previous subsection 3590.3(a)(1) into this subsection. The purpose of this amendment is to improve the clarity of the subsections. The amendments do not change the meaning or impact of these subsections.

Subsection 3590.3(a)(1) is now merged into subsection 3590.3(a) for improved clarity (see above).

Subsection 3590.3(a)(2) is renumbered to 3590.3(b) for improved clarity.

Subsection 3590.3(b) is renumbered to 3590.3(c) due to renumbering of preceding subsections.

The comment period for these revisions will close on February 15, 2012. Please submit comments to Timothy M. Lockwood, Chief, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA, 94283-0001; by fax to (916) 324-6075; or by e-mail to rpmb@cdcr.ca.gov before the close of the public comment period. Comments must be received no later than 5:00 p.m. on February 15, 2012. Only those comments relating directly to the enclosed post-hearing changes that are indicated by bold double underline or ~~double strikethrough~~ will be considered.

Original Signed By:

TIMOTHY M. LOCKWOOD, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation

Attachment