



Department of Corrections and Rehabilitation

**NOTICE OF CHANGE TO  
REGULATIONS**

**Section(s): 3000, 3521.1, 3521.2, 3545, 3620,  
3621, 3622, 3623, 3624, 3625, 3626, and  
3800.2**

**Number:**

**14-08**

**Publication Date:**

**August 1, 2014**

**Effective Date:**

**July 17, 2014**

**INSTITUTION POSTING AND CERTIFICATION REQUIRED**

This Notice announces the proposed amendments to Section(s) 3000, 3521.1, 3521.2, 3545, and 3800.2, the repeal of existing Sections 3620 and 3625, and Pilot Program 3999.14 Urinalysis Testing Pilot Program (DAPO), and the adoption of new Sections 3620, 3621, 3622, 3623, 3624, 3625, and 3626 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into the CCR, provisions concerning Urinalysis Testing Program for Parolees.

**IMPLEMENTATION**

Immediately.

**PUBLIC COMMENT PERIOD**

Any person may submit written comments about the proposed regulations to the California Department of Corrections and Rehabilitation, Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, by fax to (916) 324-6075, or by e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). All written comments must be received by the close of the public comment period **September 24, 2014, at 5:00 p.m.**

**PUBLIC HEARING INFORMATION**

A public hearing regarding these proposed regulations will be held **September 24, 2014, from 10:00 a.m. to 11:00 a.m. in the Kern Room, located at 1515 S Street, North Building, Sacramento, CA 95811.** The purpose of the hearing is to receive oral comments about this action. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or facsimile comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

**POSTING**

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each Department facility and field office not later than five calendar days after receipt. Also, facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies, and shall distribute it to inmate law libraries and advisory councils. CDCR Form 621-A, Certification of Posting, shall be returned to the RPMB electronically, by fax, or by mail. See Department Operations Manual Sections 12010.5.7 and 12010.5.8 for posting and certification of posting procedures.

**CONTACT PERSON**

Inquiries regarding this Notice should be directed to Timothy M. Lockwood, Chief, RPMB, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone (916) 445-2269 or e-mail [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Inquiries regarding the subject matter of these regulations may be directed to Angela Wilson, Division of Adult Parole Operations, at (831) 227-5965.

*Original signed by:*

MARTIN HOSHINO

Undersecretary, Operations

California Department of Corrections and Rehabilitation

Attachments

## 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](mailto: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.

## TEXT OF PROPOSED REGULATIONS

In the following, underline indicates new or additional text and ~~strikethrough~~ indicates deleted text.

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

**TABLE OF CONTENTS, Subchapter 6. ADULT PAROLE, Article 10. Civil Addicts, title heading is repealed.**

~~Article 10. Civil Addicts~~

**TABLE OF CONTENTS, Subchapter 6. ADULT PAROLE, Article 10, title heading is adopted.**

Article 10. Urinalysis Testing Program

**TABLE OF CONTENTS, Subchapter 6. ADULT PAROLE, Article 10, Sections 3620 and 3625 title headings are repealed.**

~~3620 Special Requirements of Civil Addict Release or Parole~~

~~3625 Civil Addict Program Exclusion~~

**TABLE OF CONTENTS, Subchapter 6. ADULT PAROLE, Article 10, Sections 3620 through 3626 title headings are adopted.**

3620 Urinalysis Testing Program Policy

3621 Instant Test Kit

3622 Tracking of Urinalysis Sample and Documentation

3623 Locked Urinalysis Sample Storage Container

3624 Transfer to Vendor Process

3625 Documentation of Laboratory Test Results

3626 Adjudication of a Parole Violation as a Result of Positive Test

**Chapter 1, Rules and Regulations of Adult Operations and Programs**

**Article 1. Behavior**

**3000. Definitions.**

**Section 3000 is amended to alphabetically merge the definitions below with those that exist in the regulations.**

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Urinalysis Testing (previously referred to as Anti-Narcotic Testing) is a process to detect the presence of prohibited substances used by parolees.

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Note: Authority cited: Sections 2717.3, 3000.03, 5058, 5058.3 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 646.9, 653m, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5009, 5050, 5054, 5068, 7000 et seq. and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Section 11007, Health and Safety Code; and *Madrid v. Cate* (U.S.D.C. N.D. Cal. C90-3094 TEH).

## **SUBCHAPTER 6. ADULT PAROLE**

### **Article 2. Preventing Parolee Crime Program**

#### **3521.1 Parolee Service Center Program.**

**Section 3521.1 is unchanged.**

**Subsection 3521.1(a) is amended to read:**

a) PSC facilities are used for residential placement of eligible parolees on a non-sanctioned basis, meaning that the placement was not the result of an adjudicated parole violation. PSC facilities may be used for residential placement of eligible parolees on a sanctioned basis, meaning that the placement was the result of an adjudicated parole violation at the parole unit level, or as a result of an an Board of Parole Hearings action and referral by the parole authority. PSC facilities provide services to newly paroled inmates that do not have available resources, as well as homeless parolees and parolees seeking a positive change to their current situation.

**Subsection 3521.1(b) is unchanged.**

**Subsections 3521.1(c) through 3521.1(c)(2) are unchanged but shown for reference.**

(c) The following parolees will be considered on a case-by-case basis for participation in the PSC Program:

- (1) Parolees who have a past or current violent felony conviction pursuant to PC section 667.5(c).
- (2) Parolees who have a current felony conviction pursuant to PC section 1192.7(c) and/or 1192.8.

**Subsections 3521.1(c)(3)-(7) are amended and renumbered to read:**

~~(3) Civil addict commitments.~~

(43) Parolees with a misdemeanor hold.

(54) Parolees who are designated high notoriety.

(65) Parolees who have a restraining order/court order and/or victim notification in the county of the PSC facility.

(76) Street gang members.

(87) Validated prison gang members.

**Subsections 3521.1(d) through 3521.1(e) are unchanged.**

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 3000.03, 3068 and 5054, Penal Code.

**3521.2 Residential Multi-Service Center Program.**

**Subsections 3521.2(a) through 3521.2(c)(7) are unchanged.**

**Subsections 3521.2(d) through 3521.2(d)(2) are unchanged but shown for reference.**

(d) The following parolees will be considered on a case-by-case basis for participation in the RMSC Program:

(1) Parolees who have a past or current violent felony conviction pursuant to PC section 667.5(c).

(2) Parolees who have a current felony conviction pursuant to PC section 1192.7(c) and/or 1192.8.

**Subsections 3521.2(d)(3)-(8) are amended and renumbered to read:**

~~(3) Civil addict commitments.~~

(43) Parolees with a misdemeanor hold.

(54) Parolees who are designated as a Public Interest Case.

(65) Parolees who have a restraining order/court order and/or victim notification in the county of the RMSC facility.

(76) Street gang members.

(87) Validated prison gang members.

**Subsection 3521.2(e) is unchanged.**

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 3000.03, 3068 and 5054, Penal Code.

**Article 3. Electronic Monitoring**

**3545. Persons to Participate in Continuous Electronic Monitoring.**

**Subsections 3545(a) through 3545(b) are unchanged.**

**Subsections 3545(c) through 3545(c)(2) are unchanged but shown for reference.**

(c) The following target population may be eligible for continuous electronic monitoring:

(1) Parolees classified with a risk number value of 1, 2, 3, 4, or 5, as described in section 3768.1.

(2) Parolees who commit minor violations of the law.

**Subsections 3545(c)(3)-(7) are amended and renumbered to read:**

~~(3) Civil addict parolees.~~

(43) Interstate cases.

(54) Gang members.

(65) Serious and/or violent offenders.

(76) Any offenders not already subject to Global Positioning System (GPS) supervision.

**Subsection 3545(d) is unchanged.**

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004, 3010, 3010.1, 3010.2, 3010.3, 3010.4, 3010.5, 3010.6, 3010.7, 3010.8, 3010.9 and 5054, Penal Code.

**Existing Article 10 title is repealed.**

~~Article 10. Civil Addicts~~

**New Article 10 title is adopted.**

Article 10. Urinalysis Testing Program

**Existing Section 3620 title heading and contents are repealed.**

**~~3620. Special Requirements of Civil Addict Release or Parole.~~**

~~A parole agent may impose special requirements necessary for a civil addict releasee's or parolee's successful adjustment to their release or parole. Any such requirements which are to remain in effect for more than seven days shall be given to the releasee or civil addict parolee in writing. Any such conditions to remain in effect for more than 30 days shall be submitted to the Board of Parole Hearings as a recommendation to impose as a special condition of release or parole.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Sections 3151 and 3201(c), Welfare and Institutions Code; and Section 5054, Penal Code.~~

**Existing Section 3625 title heading and contents are repealed.**

**~~3625. Civil Addict Program Exclusion.~~**

~~(a) A civil addict parolee or releasee who is determined by the department to be unfit for the civil addict program shall be returned to the court in which the case originated for further proceedings on the criminal charges that the court may deem warranted.~~

~~(b) Such a determination may be based upon any of the following reasons:~~

~~(1) The person engaged in any of the following activities:~~

~~(A) Extensive criminal behavior.~~

~~(B) Serious criminal behavior unrelated to addiction or substance abuse.~~

~~(C) Sales, or possession for sale, of drugs valued at more than \$10,000.~~

~~(D) Repeated possession of a controlled substance in quantities considered excessive for personal use.~~

~~(E) A pattern of using or threatening to use force.~~

~~(2) The person commits an act which involved violence or the use of a deadly weapon.~~

~~(3) The person refuses to participate in department prescribed programming.~~

~~(4) The person repeatedly absconds from supervision.~~

~~(5) The person continues in a pattern of criminal activity not likely to change as a result of supervision.~~

~~(6) The person has a long term medical or psychiatric problem which renders them unsuitable for outpatient supervision.~~

~~(7) The person is not available for supervision because of deportation or a felony commitment to a state or federal prison.~~

~~(8) The person has been at large for more than six months and has a prior conviction for violence, sales of drugs, robbery, or possession of a weapon.~~

~~(9) The person has been at large for more than 12 months.~~

~~(c) The decision to exclude a civil addict parolee from the Civil Addict Program will be the result of a case conference between the parole agent and the unit supervisor.~~

~~(d) When it is determined exclusion procedures will commence, the parole agent shall send the releasee or civil addict parolee a notification letter advising him or her that an exclusion letter will be sent to the committing court in 15 calendar days if they do not report to the parole agent in person. The letter shall be sent to the releasee or civil addict parolee's last known address. If the releasee or civil addict parolee so reports, the parole agent will case conference with the unit supervisor. Based upon the facts and~~

~~circumstances surrounding the parolee's unavailability for parole supervision, the unit supervisor will decide whether or not to proceed with the exclusion letter.~~

~~(e) The parole agent shall prepare an exclusion letter for the signature of the Warden of the California Rehabilitation Center. The exclusion letter shall include the following information:~~

~~(1) Date releasee or civil addict parolee's parole status was suspended by the Board of Parole Hearings.~~

~~(2) Efforts made to locate the releasee or civil addict parolee.~~

~~(3) Any arrests made prior to or after suspension.~~

~~(4) Last known address prior to suspension.~~

~~(5) Date parole agent sent releasee or civil addict parolee a notification letter as per subsection 3625(d).~~

~~(f) Upon receipt of a minute order from the originating court vacating the commitment, the parole agent shall cancel the warrant if issued by the Board of Parole Hearings.~~

~~(g) When the parole agent becomes aware that a releasee or parolee at large has been arrested, and an exclusion letter has already been sent, the parole agent shall contact the committing court to determine whether that court has vacated the civil addict commitment.~~

~~(1) If the committing court has vacated the civil commitment, a detainer shall not be placed on the releasee at large or parolee at large.~~

~~(2) If it cannot be determined whether or not the committing court has acted on the exclusion letter, a detainer shall not be placed until such time as confirmation can be obtained.~~

~~(3) If it is confirmed that the committing court has not yet vacated the civil commitment, a detainer may be placed while a decision is made whether or not to rescind the exclusion letter.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Section 3053, Welfare and Institutions Code; and Section 5054, Penal Code.~~

**New Subsections 3620 through 3626 title headings and contents are adopted to read:**

### **3620. Urinalysis Testing Program Policy.**

All parolees may be subject to Urinalysis (UA) Testing for prohibited substances, pursuant to section 3504. All confirmed positive UA test results must be addressed by intervention and/or sanctions to promote positive lifestyle changes.

(a) Parolees with a narcotic-related conviction within five years of incarceration for their current offense, or who have a history of alcohol or substance abuse, may have a special condition of parole imposed requiring UA testing at the direction of the Parole Agent (PA). Upon approval by the field Parole Unit Supervisor (US), the special condition of parole to participate in UA testing shall be imposed and documented on the CDCR Form 1515 Addendum (Rev. 04/13), Special Conditions of Parole. If reasonable belief exists that a prohibited substance was recently used, the CDCR Form 1515 Addendum is not required for the PA to instruct the parolee to provide a UA specimen for testing.

(1) The frequency in which UA testing is administered shall be determined by the supervision requirements, pursuant to Section 3504, and/or any imposed special conditions of parole set by the parole US, the court authority, or the Board of Parole Hearings (BPH).

(2) The UA test is conducted when the PA obtains a random, unscheduled urine sample from the parolee.

(b) Prior to collecting the urine sample, the PA shall inquire of the parolee whether the parolee is taking any prescription or over-the-counter medications which may result in a positive UA test result. The PA shall document the parolee's response to the inquiry on the CDCR Form 1650-D (Rev. 06/12), Record of Supervision, which is incorporated by reference, only when the parolee declares that he or she is taking prescription medication. If the parolee admits to taking prescription medication, and/or the PA suspects that the type of medication may indicate a positive UA test result for a prohibited substance, the PA shall instruct the parolee to provide proof of the current and valid prescription. This information shall be documented on the CDCR Form 1502 (Rev. 10/06), Activity Report, and a copy shall be placed in the parolee's field file.

(c) The UA sample shall be taken under direct observation of the PA whenever possible, where he or she can clearly observe the flow of urine into the approved specimen bottle. During the collection of the UA sample, the PA shall adhere to the following:

(1) Check the restroom for contraband and conduct a visual search of the parolee's person prior to administering the test.

(2) Conduct a pat down search when necessary to ensure parolee is not in possession of any contraband, only when safe to do so (e.g., in the parole office, or when in the community in the presence of another law enforcement officer).

(3) Prohibit the parolee from taking anything other than the test kit into the restroom, and note the temperature and color of the sample immediately following the test.

(4) In the event that direct observation is not possible, further steps may be taken to reduce the chance of manipulation (e.g., no running water or flushing the toilet).

(5) Documentation and placement of the sample into the locked UA sample storage container pursuant to section 3623.

(d) The UA samples being sent to the laboratory for confirmation must include the security labels provided by the contracted laboratory, and must be completed by the PA who collected the UA sample. The PA must clearly indicate the type of UA tests to be completed. The security label shall be placed on the sample bottle, and shall include the following:

(1) The date the sample was obtained.

(2) The parolee's CDC number.

(3) The parole unit's identification or billing number.

(4) The name or initials of the PA who collected the UA sample.

Note: Authority Cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3060.9, 3063.1, 3063.2, 3068, and 5054, Penal Code.

### **3621. Instant Test Kit.**

Collection of the UA test sample shall first be obtained by utilizing an onsite testing device which is an instant test kit. A positive or negative test result shall determine the next course of action.

(a) In the event of a negative instant test result, the PA shall have the parolee discard the sample and the test kit.

(1) No further laboratory confirmation is required.

(2) The negative test result shall be recorded on the CDCR Form 2249 (06/12), Urinalysis Sample Control Log, which is incorporated by reference, and shall also be documented on the CDCR Form 1650-D (Rev. 06/12), Record of Supervision.

(b) In the event of an undisputed presumptive positive instant test, the PA shall record the instant test result on the CDCR Form 2249 and obtain a signed CDCR Form 1527 (Rev. 06/12), Voluntary Statement of Admission, which is incorporated by reference.

(1) The PA shall have the parolee discard the sample and the test kit.

(2) No further laboratory confirmation is required.

(3) The PA shall adjudicate the presumptive positive test utilizing swift and certain interventions which may include immediate community drug treatment.

(c) In the event of a disputed positive instant test result, the PA shall record the instant test results on the CDCR Form 2249. The PA shall adhere to the following steps to preserve the chain of custody of the UA sample:

(1) Process the sample in the contract laboratory-approved specimen bottle.

(2) Process the identification label and instruct the parolee to place the label on the specimen bottle in the PA's presence.

(3) Ensure that the bottle shall be sealed by the parolee and placed into the individual specimen bag.

(4) Secure the sample in accordance with section 3623(b).

(d) Upon laboratory confirmation, the PA shall ensure that the positive test result shall be adjudicated to include immediate interventions.

(e) If the parolee admits to use of a prohibited substance, the PA shall obtain a CDCR Form 1527, signed by the parolee indicating a voluntary admission for the use of a prohibited substance.

Note: Authority Cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3060.9, 3063.1, 3063.2, 3068, and 5054, Penal Code.

### **3622. Tracking of Urinalysis Sample and Documentation.**

(a) In order to maintain the integrity of the chain of custody from point of receipt of the sample, the PA shall log every sample received by the parolee, and take the following steps:

(1) Enter the UA test sample on the CDCR Form 2249 (06/12), Urinalysis Sample Control Log, to include the parolee's name, parolee's signature, CDC number, PA's initials, collection date and time, and UA test results.

(2) For disputed positive test results requiring laboratory confirmation, the PA shall deposit the sample into the locked UA sample storage container pursuant to section 3623, and make an indication on the CDCR Form 2249 verifying that the sample was sent to the contract laboratory.

(3) Enter the sample collection event, the test result, and the outcome on the CDCR Form 1650-D (Rev. 06/12), Record of Supervision.

(4) Submit the CDCR Form 2249 to the US for processing.

(b) The PA shall deposit collected UA samples into the locked UA sample storage container upon returning to the parole unit, prior to the end of his or her shift, but no later than close of business the next business day.

Note: Authority Cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3060.9, 3063.1, 3063.2, 3068, and 5054, Penal Code.

### **3623. Locked Urinalysis Sample Storage Container.**

(a) To ensure the integrity of the UA sample is not compromised in temporary storage, the US or designee must maintain security of the UA sample from the point of collection and storage to the subsequent transfer to the contract courier.

(1) Each parole unit shall maintain the locked UA sample storage container in a fixed location. This is to be an area where parolees are not allowed unattended access.

(2) Only the US or designee shall be granted access to the locked UA sample storage container to retrieve the UA samples for transfer to the courier service employee.

(3) The US or designee shall maintain the storage container key.

(b) The UA sample, in the labeled bottle and individually sealed in the bag, shall be secured in the locked UA sample storage container; this shall serve to maintain the chain of custody of the UA sample.

(1) The transportation bag shall be maintained inside the locked UA sample storage container until the transportation bag/s (to include the UA samples) are transferred to the courier service employee by the US or designee.

Note: Authority Cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3060.9, 3063.1, 3063.2, 3068, and 5054, Penal Code.

### **3624. Transfer to Vendor Process.**

(a) Upon arrival of the laboratory courier, the US or designee shall:

(1) Unlock the locked UA sample storage container and remove the plastic transportation bag containing the individually packaged UA samples.

(2) Secure the bag and transfer the sealed bag to the vendor courier service employee.

(3) Print his or her name and sign the CDCR Form 2250 (06/12), Urinalysis Sample Transfer Log, which is incorporated by reference.

(4) Obtain the vendor courier service employee printed name and signature documenting the date and time of pick-up on the CDCR Form 2250.

(5) Place a new plastic transportation bag in the locked UA sample storage container and lock the container.

Note: Authority Cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3060.9, 3063.1, 3063.2, 3068, and 5054, Penal Code.

### **3625. Documentation of Laboratory Test Results.**

(a) The laboratory responsible for analyzing the UA samples shall provide each parole unit with the test results for all submitted UA samples. Typically, the test results are sent to the parole unit via facsimile. Laboratory test results shall be logged, maintained, and processed by designated parole unit support staff. A legible copy of each individual test result shall be kept in the parolee's field file for use at a later date, if needed. The parole unit support staff shall:

(1) Maintain one copy of all test results for the parole unit in a central location, accessible to all staff.

(2) Provide the US with one copy of the test results.

(3) Verify the Parole Agent of Record (AOR) assignment for each parolee with a positive UA test result, and provide that AOR with a copy of the test results of the affected parolee.

Note: Authority Cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3060.9, 3063.1, 3063.2, 3068, and 5054, Penal Code.

### **3626. Adjudication of a Parole Violation as a Result of Positive Test.**

In the event of a positive test result, the PA shall case conference the violation with the US or PAII (Supervisor) to determine the appropriate interventions and/or sanctions based on the case factors and available resources. The PA shall document the results on the CDCR Form 1650-D (Rev. 06/12), Record of Supervision, and complete a CDCR Form 1500 (05/13), Parole Violation Decision Making Instrument, identifying appropriate resources and/or interventions based on identified criminogenic needs. The US or PA II (Supervisor) must verify that all positive test results have been adjudicated pursuant to section 3768.

Note: Authority Cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3060.9, 3063.1, 3063.2, 3068, and 5054, Penal Code.

## **Article 21. PC 3050 Residential Aftercare Program**

### **3800.2. Treatment Incentive Program Exclusionary Criteria.**

**Subsections 3800.2(a) through 3800.2(a)(2) are unchanged but shown for reference.**

(a) An inmate is excluded from Treatment Incentive Program participation if any of the following conditions exist:

- (1) The inmate is currently serving time as a parole violator who has been returned to custody.
- (2) The inmate was convicted on or after January 1, 1997 of Corporal Injury pursuant to PC section 273.5; Violation of a Protective Order pursuant to PC section 273.6; or Stalking pursuant to PC section 646.9, where they are required to complete a 52-week batterer's program as outlined in PC Section 3053.2.

**Subsections 3800.2(a)(3)-(5) are amended and renumbered to read:**

~~(3) The inmate is currently serving a Civil Addict commitment as described in Welfare and Institutions Code section 3051.~~

(43) The inmate is currently serving or has served a prior indeterminate sentence or a sentence for:

- (A) A violent felony of any of the crimes listed as a violent felony in PC section 667.5(c).
- (B) A serious felony of any of the crimes listed as a serious felony in PC sections 1192.7(c) and 1192.8.
- (C) A crime that requires him or her to register as a sex offender pursuant to PC section 290.

(54) The inmate is eligible to participate in non-revocable parole status pursuant to Institution Classification action and as noted on CDC Form 128-B (Rev. 04/74), General Chrono.

**Subsection 3800.2(b) is unchanged.**

**Note Section is amended to read:**

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 273.5, 273.6, 290, 646.9, 667.5(c), 667.59(c), 1192.7(c), 1192.8, 3050, 3053.2 and 5054, Penal Code; ~~and Section 3051, Welfare and Institutions Code.~~

## **INITIAL STATEMENT OF REASONS:**

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend Sections 3000, 3521.1, 3521.2, 3545, and 3800.2, repeal Sections 3620 and 3625, and adopt new Sections 3620, 3621, 3622, 3623, 3624, 3625, and 3626 of the California Code of Regulations (CCR), Title 15, Division 3, concerning the Division of Adult Parole Operations' (DAPO) Urinalysis (UA) Testing Program.

DAPO is obligated pursuant to Penal Code Section 3000 to supervise all offenders subject to parole. All parolees who have a history of alcohol or substance abuse are subject to urinalysis (UA) testing for prohibited substances. DAPO utilizes UA testing, to ascertain and detect the presence of prohibited substances used by parolees. The purpose of UA testing, as well as the implementation of interventions and sanctions, is to provide those under supervision the opportunities for long-term recovery from addiction, to increase public safety, and to assist parolees in their reintegration into society by reducing drug use and holding individuals accountable for their actions.

The DAPO UA Testing Program implements the use of instant test kits and seeks to increase the use of the Voluntary Statement of Admission form. The utilization of onsite testing coupled with increased acknowledgment of substance abuse via the Statement of Admission will significantly reduce the number of samples being submitted to the contract laboratory, wherein the only sample warranting a laboratory confirmation is the instant positive result that is disputed by the parolee. The circumstances where the sample is not forwarded to the contract laboratory are as follows: 1) Instant test kit providing a positive result coupled with a signed Voluntary Statement of Admission form, 2) Instant test kit providing a negative test sample.

The instant test kit provides accurate fast results and can be administered anywhere in the community. With an instant test kit, the rapid results reduce laboratory processing costs because all admitted positive and negative samples do not proceed for laboratory testing. The Voluntary Statement of Admission eliminates the need for laboratory confirmations, and/or possibly having to conduct a UA test at all if the parolee admits to use of a prohibited substance. This results in savings as the laboratory testing process is the most expensive component of the drug testing program. When laboratory testing is required, a specimen is collected, sealed, bagged, and shipped utilizing a chain of custody log. In addition, this process further requires a response from the supervising Parole Agent (PA) upon receiving laboratory results. Any savings from contract lab testing will be offset however, by the cost of purchasing the instant text kits for field testing.

The instant test kit yields a far higher percentage of the use of the Voluntary Statement of Admission. This was determined upon review of UA testing records at the original pilot program sites. This enables the PA to intervene immediately utilizing evidence based best practices for recidivism reduction. When the parolee has knowledge he or she will be held immediately accountable for a specimen testing positive for the use of prohibited substance(s), a measure of deterrence occurs. Instant testing on a random basis clearly establishes that there are no "safe" times to use drugs, nor does it afford the opportunity for any attempts to circumvent drug use detection. With delayed results, an offender (parolee) has the ability to continue his or her drug abuse and/or associated criminal activities until he or she is held accountable. Immediate results afford the ability to immediately intervene in criminal behavior, offering a higher degree of community protection.

With instant testing, the PA knows definitively that the parolee is clean and sober, and can offer rewards to support that sobriety. The role of drug testing can be used as a positive treatment modality. When the results are delayed, the PA's assessment of parolee drug abuse may be uncertain, until verified through

laboratory testing, causing delayed rewards for positive behavior. In order to be effective, a process must keep offenders “guessing.” When drug test panels (substances being tested) are certain and predictable, offenders are known to find drugs they can use which are “safe” from detection. Instant tests enable the ability to change drug panels; thus, customizing panels to target drug trends seen in particular geographic areas. Also, it assists in more accurate program placement based on parolee needs.

The DAPO UA Testing Program includes the introduction of a new system that provides a tracking log to be utilized by DAPO staff to substantially improve the tracking of urine samples. The new system also includes the placement of a locking storage container in each parole office or complex, allowing the securing of the samples until the vendor courier service pickup and delivery to the contract laboratory is accomplished. The system is designed to improve upon the security of urine samples so that the sample is treated as evidence, offering a higher level of security, where the chain of custody is maintained by Departmental staff.

### **Consideration of Alternatives:**

The Department must determine that no reasonable alternative considered, 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 this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Currently, no reasonable alternatives have been brought to the attention of the Department that would alter the Department’s initial determination.

### **ECONOMIC IMPACT ASSESSMENT:**

The Department believes there will not be a significant economic impact with these proposed regulations. The laboratories which do the urinalysis testing also sell the instant test kits, so while there may be reduced laboratory testing needed, there will be increased sales of the instant test kits. The Department predicts that any costs to the State (instant test kits) will be offset by the savings (less lab processing, less parole agent labor costs); therefore no fiscal impact is expected. In addition, costs associated with UA testing are trending downward due to the ongoing decrease in the overall parolee population, which is due in part to Assembly Bill 109, “Realignment,” which redirected specified lower level offenders to be supervised by the counties.

In accordance with Government Code Section 11346.3(b), the CDCR has made the following assessments regarding the proposed regulations:

#### **Creation or Elimination of Existing Jobs within the State of California**

The Department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing jobs within California. While the Department realizes that some fluctuation may occur in the use of labs for processing urine samples and the procuring of instant test kits, the implementation of these regulations will not cause any significant impact on the creation or elimination of existing jobs within the State of California.

#### **Creation of New Businesses or the Elimination of Existing Businesses within the State of California**

The Department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing businesses within California. While the Department realizes that some

fluctuation may occur in the use of labs for processing urine samples and the procuring of instant test kits, the implementation of these regulations will not cause any significant impact on the creation of new businesses or elimination of existing businesses within the State of California.

### **Expansion of Businesses currently doing business within the State of California**

The Department has determined that the proposed regulations will not have an impact on the expansion of businesses currently doing business within the State of California. While the Department realizes that some fluctuation may occur in the use of labs for processing urine samples and the procuring of instant test kits, the implementation of these regulations will not cause any significant impact on the expansion of businesses currently doing business within the State of California.

### **Benefits of the Regulations**

The proposed regulatory action will benefit DAPO staff by ensuring statewide consistency, and will act as a directive concerning the Urinalysis Testing Program. In addition, with the ability to use immediate intervention for parolees with substance abuse problems, the proposed regulations will promote recidivism reduction. This will benefit parolees and the general welfare of California residents.

The proposed regulation will have no effect on the health of California residents, worker safety, or the State's environment.

### **Materials Relied Upon:**

The Department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

### **Local Mandates**

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

### **Specific Purpose and Rationale for each Section, per Government Code 11346.2(b)(1):**

#### **Chapter 1. Rules and Regulations of Adult Operations and Programs**

##### **Article 1. Behavior**

##### **3000. Definitions.**

**Section 3000 is amended** to add the definition for "Urinalysis Testing Program." This is necessary to clarify the meaning of this reference as used throughout these regulations.

##### **Subchapter 6. Adult Parole**

##### **Article 2. Preventing Parolee Crime Program**

##### **3521.1. Parolee Service Center Program.**

**Subsection 3521.1(a) is amended** to remove language which is no longer applicable. Reference to “Board of Parole Hearings” is deleted and replaced with “by the parole authority.” This is because as of July 1, 2012 the Board of Parole Hearings’ authority does not extend to all offenders placed on parole supervision, and functions and determinations have been revised, to extend only to persons placed on parole pursuant to PC 3000.01 et al.

**Subsections 3521.1(c)(3)-(7) are amended** to remove the reference to “Civil addict commitments,” and renumbering of the subsections has occurred as a result. Removal of all references to “Civil Addict/s” is necessary as this term and/or program is no longer used.

### **3521.2. Residential Multi-Service Center Program.**

**Subsections 3521.2(d)(3)-(8) are amended** to remove the reference to “Civil addict commitments,” and renumbering of the subsections has occurred as a result. Removal of all references to “Civil Addict/s” is necessary as this term and/or program is no longer used.

## **Article 3. Electronic Monitoring**

### **3545. Persons to Participate in Continuous Electronic Monitoring.**

**Subsections 3545(c)(3)-(7) are amended** to remove the reference to “Civil addict parolees,” and renumbering of the subsections has occurred as a result. Removal of all references to “Civil Addict/s” is necessary as this term and/or program is no longer used.

**Existing Article 10, title heading is repealed** to delete “Civil Addicts,” and **adopt** the new title heading “Urinalysis Testing Program.” This is necessary as the Civil Addict term and/or program is no longer used, and is now replaced with the Urinalysis Testing Program.

**Existing Section 3620 title heading and contents are repealed** to remove all references to the Civil Addict program as it is no longer used.

**New Section 3620 title heading and contents are adopted** to provide for the Urinalysis Testing Program Policy. This new section establishes that all parolees may be subject to UA testing for prohibited substances, pursuant to Section 3504, and that all confirmed positive UA test results must be addressed by intervention and/or sanctions to promote positive lifestyle changes. This is necessary to comply with statute, and to set forth the new Urinalysis Testing Program.

**Subsection 3620(a) is adopted** to establish that those parolees with a narcotic related conviction within five years of incarceration for their current offense, or who have a history of alcohol or substance abuse, may have a special condition of parole imposed requiring UA testing. In addition, CDCR Form 1515 Addendum (Rev. 04/13), Special Conditions of Parole, is the form that shall document the participation in the Urinalysis Testing Program. Form 1515 Addendum is already established in regulations therefore no copy is being made available to the public. Further, this section establishes that if reasonable belief exists that a prohibited substance was recently used, the CDCR Form 1515 Addendum is not required for the PA to instruct the parolee to provide a UA specimen for testing. This language is necessary to enforce statute, and to provide as a directive to staff and parolees.

**Subsections 3620(a)(1)-(2) are adopted** to establish: 1) The frequency in which UA testing is administered, and that it shall be determined by the supervision requirements, and/or any imposed special conditions of parole set by the parole Unit Supervisor (US), the court authority, or the Board of Parole

Hearings (BPH); and 2) The UA test is conducted when the PA obtains a random, unscheduled urine sample from the parolee. This language is necessary for parolees' understanding regarding the frequency that UA testing may be required. A random unscheduled urine sample is necessary to ensure valid test results so that the program remains a true successful tool in testing for substance abuse.

**Subsection 3620(b) is adopted** to establish that prior to collecting the urine sample, the PA shall inquire of the parolee whether the parolee is taking any prescription or over-the-counter medications which may result in a positive UA test result. CDCR Form 1650-D (Rev. 06/12), Record of Supervision, is introduced as the form which shall document the parolee's response to the inquiry, only if the parolee declares that he or she is taking prescription medication. This form is incorporated by reference into these regulations and a copy is made available to the public. If the parolee admits to taking prescription medication, and/or the PA suspects that the type of medication may indicate a positive UA test result for prohibited substances, the PA shall instruct the parolee to provide proof of the current and valid prescription. The CDCR Form 1502, Activity Report, is the form that shall document proof of a current and valid prescription, and a copy shall be placed in the parolee's field file. Form 1502 is already established in regulations therefore no copy is being made available to the public. This language is necessary to ensure that test results are valid and legitimate, and to provide proper documentation for future reference.

**Subsections 3620(c), and 3620(c)(1)-(5) are adopted** to establish that the UA sample shall be taken under direct observation of the PA whenever possible, where he or she can clearly observe the flow of urine into the approved specimen bottle. The PA shall adhere to the following steps during the collection of the UA sample: 1) Check the restroom for contraband and conduct a visual search of the parolee's person prior to administering the test; 2) Conduct a pat down search when necessary to ensure parolee is not in possession of any contraband, only when safe to do so (i.e., in the parole office, or when in the community in the presence of another law enforcement officer); 3) Prohibit the parolee from taking anything other than the test kit into the restroom, and note the temperature and color of the sample immediately following the test; 4) In the event that direct observation is not possible, further steps may be taken to reduce the chance of manipulation (e.g., no running water or flushing toilet); 5) Documentation and placement of the sample into the locked UA sample storage container pursuant to Section 3623. This language is necessary to ensure the safety and security of the sample collection process, as well as the safety of the PA.

**Subsections 3620(d), and 3620(d)(1)-(5) are adopted** to establish that UA samples being sent to the laboratory for confirmation must include security labels provided by the contracted laboratory, and must be completed by the PA who collected the UA sample. The PA must clearly indicate the type of UA tests to be completed. The security label shall be placed on the sample bottle, and shall include: 1) The date the sample was obtained; 2) The parolee's CDC number; 3) The parole unit's identification or billing number; and 4) The name or initials of the PA who collected the UA sample. This language is necessary to ensure proper identification and security of the UA sample.

**New Section 3621 title heading and contents are adopted** to establish the new section "Instant Test Kit," which provides that collection of the UA test sample shall first be obtained by utilizing an onsite testing device, which is an instant test kit; and, that a positive or negative test result shall determine the next course of action. This language is necessary to clarify and set forth the process regarding the instant test kit.

**Subsections 3621(a), and 3621(a)(1)-(2) are adopted** to specify the procedures for a negative instant test result. On negative test results the PA shall have the parolee discard the sample and the test kit; 1) No further laboratory confirmation is required; 2) The CDCR Form 2249 (06/12), Urinalysis Sample Control Log, is introduced as the form in which the negative test result shall be recorded, and it shall also be

recorded on the CDCR Form 1650-D, Record of Supervision. This language is necessary as a directive to staff regarding processing of negative test results, and to ensure the security and integrity of the Urinalysis Testing Program. Form 2249 is incorporated by reference and a copy is made available to the public.

**Subsections 3621(b), and 3621(b)(1)-(3) are adopted** to specify the procedures for an undisputed presumptive positive instant test result. The test result is recorded on the CDCR Form 2249, Urinalysis Sample Control Log, and the PA obtains a signed CDCR Form 1527 (06/12), Voluntary Statement of Admission, from the parolee, which is utilized for the purposes of voluntary admission by the parolee of the use of prohibited substances. This form is incorporated by reference and a copy is made available to the public. The following steps are then taken by the PA: 1) The PA shall have the parolee discard the sample and test kit; 2) No further laboratory confirmation is required; 3) The PA shall adjudicate the presumptive positive test utilizing swift and certain interventions which may include immediate community drug treatment. This language is necessary to provide as a directive to parolees and staff, for the procedures regarding an undisputed presumptive positive instant test result.

**Subsections 3621(c), and 3621(c)(1)-(4) are adopted** to specify the procedures in the event of a disputed positive instant test result. Language specifies that the PA shall record the instant test results on the CDCR Form 2249, and adhere to the following steps to preserve the chain of custody of the UA sample: 1) Process the sample in the contract laboratory approved specimen bottle; 2) Process the identification label and instruct the parolee to place the label on the specimen bottle in the PA's presence; 3) Ensure that the bottle shall be sealed by the parolee and placed into the individual specimen bag; and 4) Secure the sample in accordance with Section 3623(b). This language is necessary to ensure security, and provide as a directive to staff, the steps to be taken in regards to a disputed positive instant test result.

**Subsection 3621(d) is adopted** to specify that upon laboratory confirmation, the PA shall ensure that the positive test result shall be adjudicated to include immediate interventions. This is necessary in order to complete the UA Testing Program, and ensure successful results.

**Subsection 3621(e) is adopted** to provide that if the parolee admits to use of a prohibited substance, the PA shall obtain a CDCR Form 1527, signed by the parolee indicating a voluntary admission for the use of a prohibited substance. This language is necessary to clarify the process surrounding a voluntary admission for the use of a prohibited substance, and provides as a directive to parolees and staff, for the procedures regarding a voluntary admission.

**New Section 3622 title heading is adopted** to establish the new section "Tracking of Urinalysis Sample and Documentation."

**Subsection 3622(a) is adopted** to provide that in order to maintain the integrity of the chain of custody from point of receipt of the sample; the PA shall log every sample, and take the steps as set forth in the following subsections. This is necessary to ensure the security of the Urinalysis Testing Program.

**Subsections 3622(a)(1)-(4) are adopted** to establish the steps that the PA needs to take when processing the UA sample. These include: 1) Entering the UA test sample on the CDCR Form 2249, Urinalysis Sample Control Log, with the parolee's name, signature, CDC number, PA's initials, collection date and time, and UA test result; 2) Depositing disputed positive tests that require laboratory confirmation into the locked UA sample storage container, and making an indication on the CDCR Form 2249 that the sample was sent to the contract laboratory; 3) Entering the sample collection event, which describes the circumstances in which the urine sample is collected (i.e., sample collected in the residence, in parole office, or during booking at the local jail facility), the test result, and the outcome on the CDCR Form 1650-D, Record of Supervision; and 4) Submitting the CDCR Form 2249 to the US for processing. This

language is necessary to provide instruction to staff, and enforce the process for tracking and documentation of the UA sample. Tracking/documentation is an important part of the UA testing process to ensure proper identification of samples, prevent tampering, mishandling, etc.

**Subsection 3622(b) is adopted** to establish that the PA shall deposit collected UA samples into the locked UA sample storage container upon returning to the parole unit, prior to the end of his or her shift, but no later than close of business the next business day. This is necessary to ensure the security of the UA samples, and to provide as a directive to staff.

**New Section 3623 title heading is adopted** to establish the new section “Locked Urinalysis Sample Storage Container.”

**Subsection 3623(a) is adopted** to establish that to ensure that the integrity of the UA sample is not compromised in temporary storage, the US or designee must maintain security of the UA sample from the point of collection and storage to the subsequent transfer to the contract courier. This is necessary to ensure security of the UA samples.

**Subsection 3623(a)(1) is adopted** to establish that each parole unit shall maintain the locked UA sample storage container in a fixed location. This is to be an area where parolees are not allowed unattended access. This is necessary to ensure security of the UA samples.

**Subsection 3623(a)(2) is adopted** to establish that only the US or designee shall be granted access to the locked UA sample storage container to retrieve the UA samples for transfer to the courier service employee. This is necessary to ensure the security of the UA samples, and the integrity of the UA Testing Program.

**Subsection 3623(a)(3) is adopted** to establish that the US or designee, shall maintain the storage container key. This is necessary to ensure the security of the UA samples.

**Subsection 3623(b) is adopted** to establish that the UA sample, in the labeled bottle and individually sealed in the bag, shall be secured in the locked UA sample storage container; and, that this shall serve to maintain the chain of custody of the UA sample. This is necessary to provide as a directive to staff, and to ensure the security of the UA sample, and the UA Testing Program.

**Subsection 3623(b)(1) is adopted** to establish that the transportation bag shall be maintained inside the locked UA sample storage container until the transportation bag/s (to include the UA samples) are transferred to the courier service employee by the US or designee. This is necessary to ensure the security of the UA sample/s, and to provide as a directive to staff.

**New Section 3624 title heading is adopted** to establish the new section “Transfer to Vendor Process.”

**Subsections 3624(a), and 3624(a)(1)-(5) are adopted** to establish the process for transferring of the UA sample/s to the laboratory courier. These sections specify that upon arrival of the laboratory courier, the US or designee shall: 1) Unlock the locked UA sample storage container and remove the plastic transportation bag containing the individually packaged UA samples; 2) Secure the bag and transfer the sealed bag to the vendor courier service employee; 3) Print his or her name and sign the CDCR Form 2250; and 4) Place a new plastic transportation bag in the locked UA sample storage container and lock the container. This language is necessary to provide as a directive to staff, and to ensure security of the UA sample/s. Form 2250 is incorporated by reference into these regulations and a copy is made available to the public.

**New Section 3625 title heading is adopted** to establish the new section “Documentation of Laboratory Test Results.”

**Subsection 3625(a) is adopted** to establish that the laboratory responsible for analyzing the UA samples shall provide each parole unit with the test results for all submitted UA samples. Typically, the test results are sent to the parole unit via facsimile. Laboratory test results shall be logged, maintained, and processed by designated parole unit support staff. A legible copy of each individual test result shall be kept in the parolee’s Field File for use at a later date, if needed. This language is necessary to provide as a directive to staff, and/or the contract laboratory, for the procedures to be followed.

**Subsections 3625(a)(1)-(3) are adopted** to establish the other necessary steps that the parole unit support staff shall take regarding processing of laboratory test results, which are as follows: 1) Maintain one copy of all test results for the parole unit in a central location, accessible to all staff; 2) Provide the US with one copy of the test results; 3) Verify the Parole Agent of Record (AOR) assignment for each parolee with a positive UA test result, and provide that AOR with a copy of the test results of the affected parolee. This language is necessary to provide as a directive to staff for the procedures to be followed; and to ensure that the test results are accessible to parole staff, the Unit Supervisor has a copy of the results, and that the correct Parole Agent of Record is given the test results.

**New Section 3626 title heading and contents are adopted** to establish the new section “Adjudication of a Parole Violation as a Result of Positive Test.” This section provides that in the event of a positive test result, the PA shall case conference the violation with the US or PAII (Supervisor) to determine the appropriate interventions and/or sanctions based on the case factors and available resources. The PA shall document the results on the CDCD Form 1650-D, Record of Supervision, and complete a CDCR Form 1500, Parole Violation Decision Making Instrument, identifying appropriate resources and/or interventions based on identified criminogenic needs. Form 1500 is already established in regulations therefore no copy is being made available to the public. The US or PAII (Supervisor) must verify that all positive test results have been adjudicated pursuant to Section 3768. This is necessary to complete the Urinalysis Testing Program process, and is the key component for providing the parolee with resources for recovery from addiction to increase their chances of success in society, providing safety of the public, and also achieving the goal of reducing recidivism.

## **Article 21. PC 3050 Residential Aftercare Program**

### **3800.2. Treatment Incentive Program Exclusionary Criteria.**

**Subsections 3800.2(a)(3)-(5) are amended** to remove the reference to “Civil addict commitments,” and renumbering of the subsections has occurred as a result. Removal of all references to “Civil Addict/s” is necessary as this term and/or program is no longer used.

- Adopt -

CDC NUMBER	PAROLEE NAME (Print or type Last, First M.I.)	PAROLE UNIT	MONTH AND YEAR

PAROLEE SIGNATURE	THIS SECTION IS FOR PAROLE AGENT USE ONLY			
	SAMPLE COLLECTED ON DATE AND TIME	AGENT'S INITIALS	INSTANT TEST RESULTS	SENT TO LAB FOR CONFIRMATION
			<input type="checkbox"/> POSITIVE <input type="checkbox"/> NEGATIVE	<input type="checkbox"/> YES <input type="checkbox"/> N/A
			<input type="checkbox"/> POSITIVE <input type="checkbox"/> NEGATIVE	<input type="checkbox"/> YES <input type="checkbox"/> N/A
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PAROLE AGENT NAME (PRINT)	SIGNATURE	BADGE NUMBER	DATE

SUPERVISOR NAME (PRINT)	SIGNATURE	BADGE NUMBER	DATE

DISTRIBUTION: ORIGINAL TO UNIT SUPERVISOR  
 COPY TO AGENT OF RECORD FOR FIELD-FILE  
 COPY TO PAROLEE UPON REQUEST





- Adopt -

**VOLUNTARY STATEMENT OF ADMISSION**

I, \_\_\_\_\_, CDC Number \_\_\_\_\_  
on this \_\_\_\_\_ day of \_\_\_\_\_, make the following statement  
freely and voluntarily, free of coercion or duress, with the knowledge that it will be used  
to adjudicate a parole violation. There has been no force, fear, or intimidation used  
upon my person, nor threats made against my family, nor any promise of immunity or  
reward made to me for making this statement. All those involved in the taking of this  
statement have fully identified themselves as official representatives of the Division of  
Adult Parole Operations.

I hereby freely admit to the use of alcohol or drugs on the following dates:  
\_\_\_\_\_ (date)

The type(s) of drug(s) or alcohol used was/were the following:  
\_\_\_\_\_

\_\_\_\_\_  
Parolee or Releasee Signature

\_\_\_\_\_  
CDC Number

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date Signed









Title 15. Crime Prevention and Corrections  
Division 3. Adult Institutions, Programs and Parole  
Chapter 1. Rules and Regulations of Adult Operations and Programs  
Subchapter 8. Pilot Programs  
Article 1. Pilot Programs

**3999.14. Urinalysis Testing Pilot Program (DAPO). (Repealed)**

**~~State of California Department of Corrections and Rehabilitation  
Memorandum~~**

**~~Date: December 16, 2012~~**

**~~To: Regional Parole Administrators~~**

**~~District Administrators, Region II~~**

**~~South Bay District~~**

**~~Central Coast District~~**

**INSTRUCTIONAL MEMORANDUM**

**~~Subject: THE DIVISION OF ADULT PAROLE OPERATIONS PILOT PROGRAM FOR  
THE URINALYSIS TESTING PROGRAM~~**

~~The purpose of this instructional memorandum is to announce the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) pilot program for the Urinalysis (UA) Testing Program. The purpose of UA testing (previously referred to as Anti Narcotic Testing) is to detect the presence of prohibited substances used by parolees and respond to positive tests with sanctions and/or interventions.~~

~~The UA Testing Program has been developed in the continued effort to improve procedures by incorporating best practices that promote effective supervision strategies. The UA Testing Program provides parolees with opportunities for long-term recovery from addiction, assists in their reintegration back into the community, and increases public safety by reducing drug use and holding individuals accountable for their actions.~~

~~*The UA Testing Program introduces a new collection process requiring a higher degree of tracking and staff accountability and will be evaluated to determine if the new tracking processes improve the integrity of the UA chain of custody. Additionally, the pilot program will be evaluated to determine the merits and feasibility of immediate intervention utilizing the Instant Test component as outlined in the following procedures.*~~

**~~Pilot Program Locations~~**

~~The pilot program for the UA Testing Program will be implemented in four parole units in Region II. The pilot locations include Santa Cruz, Salinas 1 & 2, and San Luis Obispo parole units. All parolees assigned to the parole units designated as the pilot program locations shall be subject to participation in the UA Testing Program.~~

**~~Pilot Program Structure and Training~~**

~~Prior to implementation of the UA Pilot Testing Program, locked UA sample storage containers will be placed within each parole unit. Facilitated training will be provided to all staff at each pilot location and will introduce two new tracking forms. Staff will receive training on the utilization of the Instant Test to facilitate intervention through the placement of sanctions on the parolee. In addition, the facilitators will meet with the Parole Agent III, Unit Supervisor (US) and Parole Agent II (Supervisor) for discussion relevant to their roles and responsibilities for the case review/audit component.~~

### **Pilot Program Policy**

~~All parolees and Civil Addicts may be subject to UA testing for prohibited substances, pursuant to the California Code of Regulations, Title 15, Section 3504. All confirmed positive UA test results must be addressed by intervention and/or sanctions to promote positive lifestyle change.~~

~~The frequency in which UA testing is administered shall be determined by the supervision specifications, and/or any imposed special conditions of parole set by the US or the Board of Parole Hearings (BPH). The UA test is conducted by obtaining a random, unscheduled urine sample from the parolee.~~

~~Parolees with a narcotic-related conviction within five years of incarceration for their current offense, or who have a history of alcohol or substance abuse, may have a special condition of parole imposed requiring UA testing at the direction of the PA. Upon US approval, the special condition of parole to participate in UA Testing shall be stated in the parole plan and documented on the CDCR Form 1515 Addendum (Rev. 12/10), Special Conditions of Parole. If reasonable belief exists that a prohibited substance was recently used, the CDCR Form 1515 Addendum is not required for the PA to order the parolee to provide a UA sample.~~

~~*The Drug Awareness Recognition Technique of identifying and/or drawing upon a conclusion that a parolee may be under the influence of a controlled substance is not authorized by DAPO.*~~

### **Urinalysis Collection Procedure**

~~Prior to collecting the urine sample, the PA shall inquire of the parolee whether the parolee is taking any prescription or over-the-counter medications which may result in a positive UA test result. The PA shall document the parolee's response to the inquiry on the CDCR Form 1650-D (Rev. 06/12), Record of Supervision only when the parolee declares that he or she is taking prescription medication. If the parolee admits to taking prescription medication, and/or the PA suspects that the type of medication may indicate a positive UA test result for a prohibited substance, the PA shall instruct the parolee to provide proof of the current and valid prescription. This information shall be documented on the CDCR Form 1502 (Rev. 10/06), Activity Report, and a copy shall be placed in the parolee's Field File. This activity shall also be documented on the CDCR Form 1650-D.~~

~~The UA sample shall be taken under direct observation of the PA when possible, where he or she can clearly observe the flow of urine into the sample test kit. During the collection of the UA sample, staff shall adhere to the following:~~

- ~~Check the restroom for contraband and conduct a visual search of the parolee's person prior to administering the test.~~
- ~~Conduct a pat down search when necessary, only when safe to do so.~~
- ~~Prohibit the parolee from taking anything other than the test kit into the restroom, and note the temperature and color of the sample immediately following the test.~~
- ~~In the event that direct observation is not possible, further steps may be taken to reduce the chance of manipulation; e.g., no running water or flushing the toilet.~~
- ~~The parole staff obtaining the sample from the parolee is responsible for documentation and placement of the sample into the locked UA sample storage container as outlined in this memorandum.~~

~~Staff shall adhere to the following procedures when collecting, packaging, and shipping UA samples to the laboratory as described in this instructional memorandum.~~

~~The UA samples being sent to the laboratory for confirmation must include the security labels provided by the contracted laboratory, and must be completed by the PA who collected the urinalysis sample. The PA must clearly indicate the type of UA tests to be completed. The label shall include the following:~~

- ~~The date the sample was obtained.~~
- ~~The parolee's CDC number.~~
- ~~The parole unit's identification or billing number.~~
- ~~The name or initials of the PA who **collected** the UA sample.~~
- ~~The security seal to be placed on the sample bottle.~~

### **Instant Test Kit**

~~Collection of the UA test sample shall first be obtained by utilizing the instant test kit. A positive or negative test result shall determine the next course of action.~~

~~In the event of a negative result, the PA shall have the parolee discard the sample in the toilet, and discard the test kit in a trash receptacle. No further lab confirmation is required. The negative test result shall be recorded on the CDCR Form 2249 (06/12), Urinalysis Sample Control Log (draft attached), and shall also be documented on the CDCR Form 1650-D.~~

~~In the event of an undisputed presumptive positive instant test, the PA shall record the test result on the CDCR Form 2249. The PA shall have the parolee discard the sample in the toilet, and~~

~~discard the test kit in a trash receptacle. No further lab confirmation is required. The PA shall adjudicate the presumptive positive test utilizing swift and certain interventions which may include immediate community drug treatment.~~

~~In the event of a disputed positive instant test result, the PA shall have the parolee discard the sample as articulated above. The PA shall obtain a separate sample in the contract laboratory approved specimen bottle. In the event that the PA is unable to obtain a separate second sample on the same day, the PA shall case conference with the US as soon as possible to determine how and when to obtain the second sample. The PA shall process the identification label and instruct the parolee to place the label on the specimen bottle in the PA's presence. The bottle shall be sealed by the parolee and placed into the individual specimen bag. The PA shall record the collection of the sample on the CDCR Form 2249 and secure the sample in accordance to this policy. Upon laboratory confirmation, the positive test result shall be adjudicated according to current policy.~~

### **Tracking of Urinalysis Sample and Documentation**

~~The PA shall log every sample received by the parolee as follows:~~

- ~~• Enter the UA test sample on the CDCR Form 2249, to include the parolee's name, parolee's signature, CDC number, PA's initials, collection date and time, and UA test results.~~
- ~~• For undisputed or disputed positive test results requiring laboratory confirmation, the PA shall drop the sample into the locked UA sample storage container as described in this instructional memorandum, and make an indication in the laboratory confirmation box on the CDCR Form 2249 verifying that the sample was sent to the lab.~~
- ~~• Enter the sample collection event, the test result, and the outcome on the CDCR Form 1650-D.~~
- ~~• Submit the CDCR Form 2249 to the US, along with end of month reports.~~

### **Locked Urinalysis Sample Storage Container**

~~To ensure the integrity of the UA sample is not compromised in temporary storage, staff must maintain security of the UA sample from the point of collection and storage to the subsequent transfer to the contract courier. Each parole unit shall maintain the locked UA sample storage container in a fixed location. This is to be an area where parolees are not allowed unattended access. Only the US or designee shall be granted access to the locked UA sample storage container to retrieve the UA samples for transfer to the courier. The US or designee, shall maintain the storage container key in the parole unit safe.~~

~~The UA sample, in the labeled bottle and individually sealed in the bag, shall be secured in the locked UA sample storage container; this shall serve to maintain the chain of custody of the UA sample. The transportation bag shall be maintained inside the locked UA sample storage container until the transportation bag to include the UA samples are transferred to the courier by the US or the US's designee.~~

~~For UA tests conducted in the field, the PA shall deposit the collected UA samples into the locked UA sample storage container upon returning to the parole unit, prior to the end of his or her shift but no later than close of business the next business day.~~

### **Transfer to Vendor Process**

~~Upon arrival of the laboratory courier, the US or designee shall:~~

- ~~• Unlock the locked UA sample storage container and remove the plastic transportation bag containing the individually packaged UA samples.~~
- ~~• Secure the bag and transfer the sealed bag to the courier.~~
- ~~• Print his or her name and sign the CDCR Form 2250 (06/12), Urinalysis Sample Transfer Log (draft attached).~~
- ~~• Obtain the courier's printed name and signature **documenting the date and time of pick-up** on the CDCR Form 2250.~~
- ~~• Place a new plastic transportation bag in the locked UA sample storage container and lock the container.~~

### **Documentation of Laboratory Test Results**

~~The laboratory responsible for analyzing the UA samples shall provide each parole unit with the test results for all submitted UA samples. Typically, the test results are sent to the parole unit via facsimile. Laboratory test results shall be logged, maintained, and processed by designated staff. A legible copy of each individual test result shall be kept in the parolee's Field File for use at a later date, if needed. The parole unit support staff shall:~~

- ~~• Maintain one copy of all test results for the parole unit in a central location, accessible to all staff.~~
- ~~• Provide the US with one copy of the test results.~~
- ~~• Verify Agent of Record (AOR) assignment to each parolee with a positive UA test result, and provide that AOR with a copy of the test results of the affected parolee.~~

~~The current practice of attaching the pink quarter slip (hereafter referred to as a "pink slip") titled "Positive Urinalysis Results" shall continue. These slips are used to help readily identify positive test results. Support staff shall affix a pink slip to the positive test result received from the laboratory prior to forwarding the results to the AOR. The pink slip shall reflect:~~

- ~~• The date of discovery of the positive UA test by the parole unit.~~

- ~~The AOR's name.~~
- ~~The parolee's.~~
- ~~The parolee's/civil addict's CDC number.~~

### **~~Adjudication of a Parole Violation as a Result of Positive Test~~**

~~In the event of a positive test result, the PA shall case conference the violation with the US or PAII (Supervisor) to determine the appropriate interventions and/or sanctions based on the case factors and available resources. The PA shall document the results on the CDCR Form 1650-D, and complete a CDCR Form 1500 (08/08), Parole Violation Decision Making Instrument, identifying appropriate resources and/or interventions provided based on identified criminogenic needs. The US or AUS must verify that all positive test results have been adjudicated pursuant to current policy and procedures.~~

### **~~Unit Supervisor/Parole Agent II (Supervisor)~~**

~~The US or PAII (Supervisor) shall ensure the parole unit maintains copies of the CDCR Forms 2249 and 2250 documenting proof of all UA sample collections and transfers.~~

~~The US or PAII (Supervisor) shall collect all the CDCR Form 2249s from the PAs at the end of the reporting month utilizing the CDCR Form 2249 during the comprehensive case review process to ensure case supervision specifications were met. The US or AUS shall utilize the Form 2249 to compare the samples listed against the laboratory results if the need arises to verify the samples.~~

### **~~Conclusion and Follow Up~~**

~~The pilot program shall remain in effect for at least 90 days after certification by the Office of Administrative Law and filing with the Secretary of State. The pilot authority will expire by operation of law two years from the date this pilot was initially filed with the Secretary of State (October 25, 2014), unless this pilot is adopted into regulations pursuant to the Administrative Procedures Act. The DAPO management shall conduct a quality assurance audit every 30 days until the conclusion of the pilot, and will evaluate the effectiveness of the program based on the following factors:~~

- ~~Reduction of parolee recidivism from decreased substance abuse.~~
- ~~Increased security of the sample collection process.~~
- ~~Overall cost savings to the State of California attributed to the use of the Instant Test.~~

~~Some or all of the components outlined in this memorandum may be regulatory in nature, may not exist in the current California Code of Regulations (CCR), Title 15, Division 3, and shall be subject to promulgation into the CCR, Title 15, Division 3, according to the Administrative~~

~~Procedures Act upon the conclusion of the pilot program and subsequent statewide implementation of the UA Testing Program.~~

~~If you have any questions or concerns, please contact the Policy and Procedures Unit, DAPO, by e-mail at [ParolePolicyandProcedure@cdcr.ca.gov](mailto:ParolePolicyandProcedure@cdcr.ca.gov).~~

*Original signed by:*

~~DANIEL P. STONE~~

~~Director~~

~~Division of Adult Parole Operations~~

~~Attachments~~

~~Image 1 (6.41" X 8.44") Available for Offline Print~~

~~Image 2 (8.44" X 6.73") Available for Offline Print~~

~~Image 3 (8.44" X 6.68") Available for Offline Print~~

Note: Authority cited: Section 5058.1, Penal Code. Reference: Sections 3063.2 and 5058.1, Penal Code.