

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, in order to implement, interpret, and make specific PC Section 5054, proposes to amend Sections 3000, 3173.2, 3287, and 3410.1 and adopt Section 3410.2 in the California Code of Regulations, Title 15, Division 3, concerning the use of canines for searches of all individuals.

PUBLIC HEARING: December 16, 2014 9:00 a.m. to 10:00 a.m.
Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street – North Building
Sacramento, CA 95811
Purpose: To receive comments about Canine Searches

PUBLIC COMMENT PERIOD:

The public comment period will close **December 16, 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 Department of Corrections and Rehabilitation, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

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

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

G. Long
Regulation and Policy Management Branch
Telephone (916) 445-2276

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

John Peterson
Correctional Administrator, General Population, DAI
Telephone (916) 324-1653

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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.

This action:

- Establishes the use of passive canines as an additional method to search all individuals coming onto institution grounds.
- Provides an enhanced drug and contraband interdiction strategy to reduce drugs and contraband within the prisons.
- Enables the Department to identify individuals who may be using illegal substances or attempting to traffic drugs into the prison.
- Enables the Department to conduct enhanced inspections on all employees, inmates, and visitors.
- Creates a safer environment for inmates, visitors, and employees.

FORMS INCORPORATED BY REFERENCE:

CDCR 837-A (Rev. 07/05) CRIME / INCIDENT REPORT PART A-COVER SHEET

CDC 887-B (01/03) NOTICE OF VISITOR WARNING/TERMINATION/SUSPENSION/DENIAL/REVOCATION

CDC 888 (Rev.01/03) NOTICE OF REQUEST FOR SEARCH

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The Department has determined these proposed regulations will be an additional method to prevent the introduction of drugs and contraband into the institutions, eliminate the potential strife between inmates trying to profit from illegal activities, and provide a safer environment for inmates, visitors, staff, all employees, and volunteers.

EVALUATION OF INCONSISTENCY / INCOMPATIBILITY WITH EXISTING REGULATIONS:

During the process of amending and developing these regulations, the Department has researched existing regulations and determined that these proposed regulations are not inconsistent or incompatible with existing State laws and regulations.

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 local agency or school district that is required to be reimbursed pursuant to 17500 et seq.: *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 THE ECONOMIC IMPACT ASSESSMENT:

The Department has determined that the proposed regulations will have no impact in 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.

The Department has determined that the proposed regulations promote worker safety, and benefits the health and welfare of California residents and the State’s environment with the use of enhanced drug and contraband interdiction strategies to reduce drugs and contraband within the institutions.

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 may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of State prisons.

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 statutory policy or other provision of law. 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 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, and Notice of Proposed Action will also be made available on the Department’s website http://www.cdcr.ca.gov/Regulations/Adult_Operations/.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons will be available on the Department's website at http://www.cdcr.ca.gov/Regulations/Adult_Operations/index.html and may also be obtained from the Department's contact person.

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.