

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 (GC) 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 3290 and 3315, of the California Code of Regulations (CCR), Title 15, Division 3, concerning the implementation of a Mandatory Random Urinalysis Program and revisions to Inmate Discipline by increasing sanctions for drug use in prison.

PUBLIC HEARING:

Date and Time: May 27, 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.

INFORMATIVE DIGEST

Current departmental regulations provide for methods for testing of controlled substances, as well as for use of alcohol. There are currently no regulations for mandatory random urinalysis testing. In this regulatory action, the Secretary proposes to amend regulatory provisions by identifying and implementing a department- wide/ standardized Mandatory Random Urinalysis Program (MRUP), and increase sanctions for drug use in prison, thereby enhancing the safety and security of CDCR institutions, staff, and inmate population and increasing the inmates' abilities to successfully complete substance abuse treatment programs. The proposed regulations are intended to provide guidance and clarity to staff and inmates by identifying a Mandatory Random Urinalysis Program (MRUP), and resulting disciplinary measures that may act as a deterrent to the use of illicit drugs.

This action provides the following:

- Amends Subsection 3290 by implementing a statewide mandatory random urinalysis testing program, which includes allowing an inmate the option of accepting the results of urine field test, and specifies that inmates will not be subject to additional disciplinary action for a positive test if that positive test is cumulative evidence of a previously charged disciplinary action.
- Amends Section 3315 by adding new language to establish and incorporate additional progressive disciplinary actions for drug related offenses. These actions will provide additional deterrents to in prison drug use and will help incentivize those inmates who chose to remain drug free.

POLICY STATEMENT OVERVIEW

The anticipated benefits of the proposed regulations will enhance the safety and security of CDCR institutions, staff, and inmate population by providing a consistent means for testing inmates for controlled substances and increase sanctions for drug use in prison. Increased random urinalyses in the institutions, coupled with other drug and contraband interdiction strategies, will act as a deterrent to the use of illicit drugs, and can increase the inmates' abilities to successfully complete substance abuse treatment programs. The Department believes that these regulations may promote continued rehabilitation and positive programming.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. Pursuant to this evaluation, the Department has reviewed existing regulations pertaining to the testing of controlled substances and inmate disciplinary measures within CCR, Title 15, Division 3 and determined that these proposed regulations are not inconsistent or incompatible.

LOCAL MANDATES:

The Department has determined that these regulations do not impose a mandate 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

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.

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.

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

These regulations are directed at the internal management of State prisons and do not impose any obligations, duties, fees, costs, responsibilities, reporting requirements, etc. on California businesses, large or small. No economic impacts have been brought to the attention of the Department. The Department has therefore concluded that these 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. Regarding benefits, these regulations will protect the health and safety of California residents, worker safety, and the State’s environment by providing a safe environment that will encourage visitation for families, which will have a positive impact on inmates, and increase worker safety.

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.

EFFECT ON HOUSING COSTS

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

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.

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:

Anthony Carter
Regulation and Policy Management Branch
Telephone (916) 445-2220

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

John Peterson, Correctional Administrator
General Population- Males,
Division of Adult Institutions
(916) 324-1653

WRITTEN COMMENT PERIOD:

The public comment period will close May 27, 2014 at 5:00 p.m. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action (by mail, by fax, or by e-mail) to CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

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 will be available on the Department's website at <http://www.cdcr.ca.gov>, and may also be obtained from the Department's contact person.