

RECEIVED AUG 16 2018

**State of California  
Office of Administrative Law**

**In re:**  
Department of Corrections and  
Rehabilitation

**Regulatory Action:**

**Title 15, California Code of Regulations**

**Adopt sections:**  
**Amend sections:** 3000, 3190, 3213  
**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2018-0706-02**

**OAL Matter Type: Regular (S)**

---

This rulemaking action by the California Department of Corrections and Rehabilitation amends sections to revise and standardize the process by which inmates purchase and possess religious items, and to establish a single statewide departmentally approved religious vendor list.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2018.

**Date:** August 13, 2018

  
Beverly J. Johnson  
Deputy Director

**For:** Debra M. Cornez  
Director

**Original:** Scott Kernan, Secretary  
**Copy:** Anthony Carter

NOTICE PUBLICATION/REGULATION SUBMISSION

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2018-0119-02	REGULATORY ACTION NUMBER 2018-0706-025	EMERGENCY NUMBER
------------------	--------------------------------------	---	------------------

For use by Office of Administrative Law (OAL) only

ENDORSED - FILED  
in the office of the Secretary of State  
of the State of California

AUG 13 2018

2:00PM

2018 JUL -6 P 3:13  
OFFICE OF  
ADMINISTRATIVE LAW

NOTICE	REGULATIONS
--------	-------------

AGENCY WITH RULEMAKING AUTHORITY  
Corrections and Rehabilitation

AGENCY FILE NUMBER (if any)  
17-0039

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Religious Property Vendors	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
--	--

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 3000, 3190, 3213
TITLE(S) 15	REPEAL

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

per agency request 4/13/2018-4/30/2018

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))

Effective on filing with Secretary of State

\$100 Changes Without Regulatory Effect

Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)

Fair Political Practices Commission

State Fire Marshal

Other (Specify)

7. CONTACT PERSON Anthony Carter	TELEPHONE NUMBER (916) 445-2220	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
-------------------------------------	------------------------------------	-----------------------	---------------------------

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 6-27-18
TYPED NAME AND TITLE OF SIGNATORY RALPH M. DIAZ, Undersecretary, Operations, CDCR	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 13 2018

Office of Administrative Law

## **TEXT AS FINALLY ADOPTED**

Amendments to the proposed text originally noticed to the public are indicated by underline for newly added text and ~~strikethrough~~ for text deleted from the original proposed text. The single underline and strikethrough formatting from the original proposed text noticed to the public has been retained. These proposed changes are being made available for public comment. The attached text contains the following changes:

### **Existing section 3000 is amended to read:**

\*

Chaplain is a staff member, including a Native American Spiritual Leader, who provides religious/~~spiritual~~ care and counseling to inmates, affords inmates reasonable opportunities to practice the religious/~~spiritual~~ beliefs of their choice, and organizes, coordinates, and manages various religious/~~spiritual~~ group activities.

\*

Native American Sweat Lodge Grounds are an outside area at an institution designated to be used for approved Native American religious/~~spiritual~~ group activities.

\*

Outdoor Religious/~~Spiritual~~ Grounds are an outside area at an institution designated to be used for any approved religious/spiritual group activities. Outdoor Religious/~~Spiritual~~ Grounds does not include Native American Sweat Lodge Grounds, as defined in this section.

\*

Statewide Religious Review Committee (SRRC) is a committee established to ensure that a framework for religious/~~spiritual~~ program policy exists, and that program continuity from institution to institution is maintained. The SRRC also provides an avenue for addressing statewide inmate religious/~~spiritual~~ issues and offers recommendations to the Director of the Division of Adult Institutions (DAI) for consideration of policy development and/or enactment. The SRRC is comprised of the following: Associate Director, DAI (General Population -Males); one Warden from each mission within DAI; Headquarters Community Resources Manager (HCRM), Religious Programs; one CRM from each mission within DAI; a Captain; a designee from the Office of Legal Affairs; the departmental Food Administrator, and other stakeholders as required.

\*

Note: Authority cited: Sections 243(f)(4), 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, 600, 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; 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; *Madrid v. Cate* (U.S.D.C. N.D. Cal. C90-3094

TEH); *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223; *Mitchell v. Cate*, USDC ED 2:08-CV-01196-TLN-EFB; *In re Garcia* (2012) 202 Cal.App.4th 892; and *Quine v. Beard*, No. C 14-02726 JST.

### **3190. General Policy**

#### **Section 3190(k) and 3190(k)(4) are amended to read:**

(k) Inmates shall be allowed special purchases of authorized personal property items from either departmentally-approved inmate package vendors, departmentally-approved vendors of religious items, or locally-approved special purchase vendors ~~(except as provided for publications (including books and subscriptions to periodicals) in subsections 3190(k)(2) and 3190(k)(7))~~. The institution head or designated staff shall ensure approved vendor catalogs and order forms are available to inmates who qualify. Special purchases shall only include the following:

\*

(4) Religious Items, as ~~listed~~ authorized by within the Religious Personal Property Matrix. Special purchases of religious items will be from departmentally-approved vendors of religious items only. Departmental approval of vendors of religious items will be at the determination of the Statewide Religious Review Committee (SRRC). Departmental approval of each vendor's religious items offered for sale to be shipped to inmates shall be in accordance with the Religious Personal Property Matrix as determined by the SRRC.

\*

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 2086, 2601, 5006 and 5054, Penal Code; *In re Alcalá*, Marin County Superior Court, No. 117925, December 20, 1984 and *Armstrong v. Davis Court Ordered Remedial Plan*, Amended January 3, 2001; *In re Armstrong*, N.D. Cal, No. C 94-02307, March 20, 1998; and *Quine v. Beard*, No. C 14-02726 JST.

### **3213. Stipulations Regarding Ceremonial Drink, Religious Items, and Sanctuaries.**

#### **Existing subsection 3213 is amended to read:**

\*

(f) Sanctuaries (e.g., chapels), Native American Sweat Lodge Grounds, Outdoor Religious/Spiritual Grounds, and other areas designated for religious/spiritual use shall be subject to reasonable searches by staff.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code; and Section 1996, Title 42, United States Code.

**FINAL STATEMENT OF REASONS:**

The Initial Statement of Reasons is incorporated by reference.

**UPDATES TO THE INITIAL STATEMENT OF REASONS:**

The Notice of Regulations was published in the California Regulatory Notice register on February 9, 2018, which began the public comment period. The Notice of Change to Regulations 18-03 was mailed out by February 9, 2018, and also posted on the Department’s Internet and Intranet websites.

During the 45-day public comment period 19 written comments were received. These comments are discussed below under the heading “*Summaries and Responses to Written Public Comments.*”

A 15 day re-notice was posted and mailed on April 13, 2018. During the 15-day re-notice, no comments were received. The revision reflected in the re-notice standardizes the term of “religious” rather than “religious/spiritual” and provides consistency throughout Division 3 of the Title 15.

**DETERMINATIONS, ASSESSMENTS, MANDATES, AND FISCAL IMPACT:**

The Department has determined that no alternative considered would be more effective in carrying out the purpose for which this regulation is proposed, or would be as effective and less burdensome to affected private persons, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law, than the action proposed. No reasonable alternatives were brought to the attention of the Department that would alter the Department’s initial determination.

The proposed regulatory action will benefit staff, inmates, and prospective religious vendors within the CDCR as standardized list of approved religious vendor list will eliminate the inconsistencies throughout the state. Institutional staff and inmates can rely solely on the approved vendor list as approved by the Statewide Religious Review Committee (SRCC) and not contend with the confusion of if a particular vendor is approved at that specific institution. Additionally, the religious vendors themselves will not have to apply at every institution individually to get approval to conduct business with inmates. The religious vendors as approved by the SRRC will be authorized to conduct business with inmates at every institution throughout the State should they wish to.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the CDCR’s initial determination.

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 of the Government Code.

## **Comments Received at the Public Hearing, March 30, 2018**

### **Speaker # 1**

**General Comment:** Commenter states that he is the Imam and Muslim Chaplain for Ironwood State Prison and Chuckawalla Valley State Prison. Commenter states that he is a board member and a representative of two Muslim organizations and was delegated to represent their concerns with the proposed regulations.

**Accommodation:** None

**Response:** The Department appreciates your time and interest in commenting on the proposed religious vendor regulations and is interested in listening to your comments and concerns as a religious subject matter expert.

**Speaker 1.1:** Commenter stated that it should be known that this is a first amendment issue related to the constitutional rights of the incarcerated population in California State Prisons to freely practice their religion. Commenter states that the religious vendor selection process was established to meet the needs of those incarcerated and historically, the Chaplains primarily selected the religious vendors with the consent of the local administration. Commenter asks which religious leaders will be part of the decision making process to determine if a vendor is suitable to provide products for these inmates.

**Accommodation:** None

**Response to 1.1:** The Department agrees with the commenter's comment regarding inmates' constitutional rights to practice their religion. The only change from the current regulation to the proposed regulation is to standardize all vendors statewide with the final approval to be established by the Statewide Religious Review Committee (SRRC). Chaplains and inmates are both free to submit recommendations for new vendors to meet the religious needs of the inmate population.

**Speaker 1.2:** Commenter asks what the criteria will be to become a religious vendor and will the criteria be consistent with the religious needs of the various faith groups. Commenter states that speaking for the Muslims, only another qualified Muslim could assure them that the products received would be acceptable to Islamic standards.

**Accommodation:** None

**Response to 1.2:** Speaker 1.2 comment consists of two questions. First, the criteria to become a religious vendor will be the vendor's ability to provide products in accordance with the Religious Personal Property Matrix (RPPM) and to ship in accordance with institutional safety and security guidelines. There are no monetary contracts with vendors. Instead there is criterion that must be met in order for vendors to receive approval to provide goods and services to inmates. This includes a valid business license, the ability to provide the items as approved in the RPPM, generic blind shipping and sealed packaging, and no prior history of

shipping contraband to the institutions. The second question regards if the criteria will be consistent with the religious needs of the various faith groups. While the RPPM consists of religious items, the items are not listed by specific religions and do not require the inmates nor the vendors to hold to any specific religious affiliation. It will be the responsibility of the inmate to purchase from vendors who the inmate trusts to sell items in accordance with his or her specific religious faith.

**Speaker 1.3:** Commenter asks which religious leaders are on the Statewide Religious Review Committee that will oversee the approval process. Commenter asks if there is at least one religious leader on this committee and how they were selected. Commenter states that no one should make decisions for a particular faith group unless it is a representative selected by that group to speak for them.

**Accommodation:** None

**Response to 1.3:** The Statewide Religious Review Committee (SRRC) is defined in Title 15, Division 3, Section 3000 and identifies members. This includes, as a member, the Community Resources Manager for the Religious Programs Oversight Unit who is a chaplain that regularly communicates and consults with CDCR chaplains for all faith groups regarding any and all religious concerns. The faith affiliation of the vendor will not be criteria for acceptance or denial of that vendor. The approval of vendors will be based upon the vendor's ability to provide items listed on the RPPM and the vendor's ability to comply with CDCR's criterion for safety and security.

**Speaker 1.4:** Commenter states that the proposed regulations are too restrictive and lacks the inclusion of religious experts, which could lead to infringement on the religious rights of these inmates. Commenter states that standardization these proposed regulations aim for could still exist with allowing the local institution to choose vendors. Commenter suggests that if a vendor is approved at one institution then they should be approved for all. Commenter suggests that (CDCR) at least allow packages to follow an inmate who was transferred to another institution. Commenter states that this would be more practical and allow religious leaders and administration of each institution to provide for their specific needs of their institution.

**Accommodation:** None

**Response to 1.4:** The commenters concerns for inclusion of religious experts is appreciated and well founded. The Department stands that chaplains are very much a part of the suggestion and approval process for religious vendors. All requests by inmates for inclusion of new religious vendors are generally always routed through their local chaplains to be discussed in the local institution's Religious Review Committee (RRC). The RRC then forwards their recommendation for religious vendors to the Statewide Religious Review Committee (SRRC). The SRRC also has a chaplain on the committee who regularly communicates with all chaplains throughout the state. By having the vendor approved by the SRRC, then all institutions can benefit by the approval of the suggested vendor, and not just the one prison that originally

requested the vendor's approval. The proposed regulation closely achieves the speaker's recommendation.

**Speaker 1.5:** Commenter states that what is being proposed would restrict religious vendors to just religious artifacts, like prayer oil, and religious headgear. Commenter states that from the Islamic perspective, food, hygiene items, and compact discs with Islamic content are considered religious items. Commenter states that a religious vendor should be able to provide these items and others that do not provide a security threat. Commenter states that this was why religious food packages were established to be purchased as personal property packages.

**Accommodation:** None

**Response to 1.5:** The speaker's comment is correct in that the proposed Religious Vendor list will only approve vendors that sell items listed in the RPPM. Religious food considerations need to be restricted to the local institution for food storage and possible health safety concerns. In regards to Hygiene items and Compact Disks; these items are not considered religious in nature and will remain to be purchased from the personal property package vendors in accordance with the Approved Personal Property Schedule (Rev. 4/1/14).

**Speaker 1.6:** Commenter states that a vendor that is allowed should not be an issue as long as they are verified as a legitimate business. Commenter states that the Religious Personal Property Matrix already determines what products are allowed, and the vendor would simply provide only those items. Commenter states that it should be made clear to the vendors what is allowed and what is not.

**Accommodation:** None

**Response to 1.6:** The Department concurs with the speaker's comment, as the comment describes the exact intent of the proposed religious vendor regulation. As the speaker stated, only legitimate businesses will be authorized to sell to CDCR inmates. The vendors will only be allowed to sell items as listed on the RPPM. The Department intends to work with each vendor to review and notate which items the vendor sells meets the criterion of the RPPM.

**Speaker 1.7:** Commenter asks what is defined as a religious item and who is making that determination. Commenter states that only experts from that specific group should be making the call. Commenter questions if vendors will be allowed to provide religious books, publications, and other literature to inmates. Commenter states that the regulations are vague and it will cause confusion. Commenter asks if there are other non-religious items like health care items and legal material are still being approved at the local level, or if the Department is standardizing those vendors as well.

**Accommodation:** None

**Response to 1.7:** The commenter's question about what is defined as a religious item is a profound and interesting question. It is not the intent of either the proposed regulation or the

Religious Personal Property Matrix (RPPM) to define what a religious item is. The RPPM merely list religious items that have been approved for inmates to possess. The proposed regulation for Departmental approval of religious vendors merely is to have a departmentally approved list of vendors who may sell items listed on the RPPM to California state inmates. The commenter's question about if vendors will be allowed to provide religious books, publications, and other literature to inmates is covered by California Code of Regulation Title 15 section 3190(j)(7) "All publications, including books and subscriptions to periodicals, subject to section 3006. There shall be no "Approved Vendor Lists" for any publications. Inmates may receive publications from any publisher, book store or book distributor that does mail order business." In answer to the commenter's question if there are other non-religious items like health care items and legal material are still being approved at the local level, or if the Department is standardizing those vendors as well, this proposed regulation is addressing religious vendors only. Medical items and legal material have their own unique specialties and disciplines that need not to be addressed by the Religious Programs Oversight Unit.

**Speaker 1.8:** Commenter states that the position is that the approval of religious vendors should remain with the individual institutions where the religious leaders and chaplains can request vendors that the particular institution may need. Commenter states that to put the decision in the hands of people who are not in the religious community and not include representatives chosen by that religious group will continue to create confusion and amounts to infringement on the religious rights of these inmates. Commenter explains that a Muslim vendor based in Virginia was suspended from doing business with CDCR in 2016 for reasons that were never clearly stated, and they have not been reinstated yet. Commenter stated that he is one of the Imams who utilized this company because they could provide for a majority of the religious needs of the Muslim inmates, with food items, hygiene, etc. Commenter states that he spoke with the company and representatives told him that they were receiving conflicting information from "Sacramento" as to what the inmates could receive and what the policies were.

**Accommodation:** None

**Response to 1.8:** The department responds that the approval of religious vendors will still involve the chaplains in the local institutions; however the vendor's individual request to do business or a Chaplain's recommendations to include a specific vendor, will be forwarded and reviewed by the Statewide Religious Review Committee for approval. Once approved the vendor may conduct business statewide. The Department is not interested in randomly approving vendors, but prefers to take the recommendations of chaplains and inmates in consideration of the approval for requested vendors. The Statewide Religious Review Committee reserves the right to determine the status of the vendor if safety and security issues arise. In regards to the vendor's concerns about what inmates can receive, the Religious Personal Property Matrix is the controlling regulation. Section 3190(k)(4) will allow the SRRC to work with each vendor to preauthorize which of the vendor's items will be approved for purchase for the inmate population.

**Speaker 1.9:** Commenter states that he spoke to another vendor who wanted to do business with CDCR but had to jump through so many loops to provide business that it was not cost

effective for them to continue. Commenter states that this brings up the issue that small businesses in minority communities will be unfairly marginalized because of a lack of resources to keep up with demands that may not be required or necessary, which could have been prevented with inclusion of religious leaders and better communication.

**Accommodation:** None

**Response to 1.9:** The purpose that the Department is revising the religious vendor program to be departmentally approved is to assist vendors such as the one that the speaker referenced. This vendor has experienced frustration under the current regulation of institutionally approved religious vendors. By departmentally approving vendors, the vendors will receive the same instructions applicable to all institutions and not separate guideline imposed by a variety of different institutions. All vendors large or small will be allowed the same opportunity to be an approved vendor.

**Speaker 1.10:** Commenter states that many times it is not the vendors who are not complying with policy but the custody staff that are trying to do the job that the religious leaders should be doing. Commenter states that he believes that standardization is needed but must include religious leadership to ensure the religious rights of these inmates are protected and will eliminate confusion and prevent unnecessary litigation. Commenter states that the religious leadership has the necessary qualifications and expertise to work with all parties, including vendors, and was hired initially to do this to facilitate the needs of everyone while operating within the guidelines of the law. Commenter adds that they look forward to the aforementioned business being reinstated or at least a clear explanation of why they have still not been reinstated.

**Accommodation:** None

**Response to 1.10:** See response to Speaker 1.2 and Speaker 1.8. If a vendor can meet the criterion established by the Department, they may be approved to conduct business statewide. In standardizing the religious vendor approval process, and ensuring that vendors only ship approved items as outlined in the Religious Personal Property Matrix; staff, inmates, and vendors will have a clear understanding of those items allowed. The Statewide Religious Review Committee reserves the right to determine the status of a specific vendor. The current status of a specific vendor is not pertinent to these regulations. As an employee of the Department, the Speaker's interest in a specific business should be addressed directly to the Statewide Religious Review Committee.

## **Speaker # 2**

**Speaker 2.1:** Commenter states that he is a concerned citizen and here to address the RPMB on behalf of a community and Halal vendor regarding the proposed regulations. Commenter then read directly from written comment #6.

**Accommodation:** None

**Response to 2.1:** The Department thanks the citizen for his comments and concerns. All of the current locally approved religious vendors will be presented the opportunity to participate in the statewide departmentally approved religious vendor list. The only real difference between the current system and the proposed regulation is allowing all current institutionally approved vendors the opportunity to sell their religious items statewide to inmates in all California state prisons.

### **Speaker #3**

**Speaker 3.1:** Commenter states that he was formerly incarcerated for 15 years and became a Muslim during that time. Commenter states that there was a lot of drama on the yard because of staff taking on the responsibility of religious leaders, with the leaving of one Imam and the coming of the new Imam. Commenter acknowledged a headquarters' individual that was at the institution at the time and was kind and fair to the Muslims inmates during the transition of Imams. Commenter alleges that staff sent hundreds of dollars of books back, and pounds of oils back just because they wanted to irritate the Muslim. Commenter states that it had nothing to do with the religious reality of what was being provided on the yard. Commenter mentions the cultural identity of America and how Islam is viewed post 9/11. Commenter states that a lot of drama can be cut down if the process was simply standardized.

**Accommodation:** None

**Response to 3.1:** The headquarters individual referenced by the speaker remembers the speaker from when he was previously incarcerated. The department agrees with the commenter's statement that drama can be cut down if the process is standardized. The purpose of the proposed regulation is to standardize the religious vendor policy to be fair to all concerned.

## **Summaries and Responses to Written Comments**

### **Commenter #1**

**Comment 1A:** Commenter states that local officials have made up excuses to deprive him of the ability to obtain "Quality Prayer Oils" at a reasonable price that he has been accustomed to for decades from vendors that he normally uses. Commenter states that he has not received two purchases, or refunds, and it is claimed that the vendors he uses had violated local institutional policies or rules.

**Accommodation:** None

**Response to 1A:** The proposed regulation change intends to utilize businesses that comply with safety and security procedures and also conduct their transactions with ethical business practices. The inmate is encouraged to contact the businesses directly to resolve issues regarding any refunds due to him.

**Commenter 1B:** Commenter claims that prison staff have consistently sought to create what commenter believes are “localized monopolies” which may be resulting in “kickbacks” since the companies that the local officials tend to approve tend to be more expensive and the oil of inferior quality.

**Accommodation:** None

**Response to 1B:** The Department will ensure that the vendor process will be fair and equitable to all inmates and their correspondents by allowing competitive pricing by utilizing multiple vendors. Vendors with higher prices or inferior merchandise will lose business to vendors with lower prices and superior merchandise as inmates will make their purchases based on a combination of cost and quality. There is no monetary contract between the Department and any religious vendor. The business conducted is between the inmate, inmate friends or family members, and the vendor.

**Commenter 1C:** Commenter states that this practice has an impact to the Islamic community’s businesses. Commenter states that contrary to the Department’s determination, if the principal distributors for Islamic Artifacts are not on the departmentally approved list, it will eliminate all of the valid Islamic Business, forcing Muslims to do business with companies that do not provide quality Islamic products. Commenter states that this has an adverse effect on Islamic businesses and will affect commenter as he is an indigent inmate that benefits from Islamic acts of kindness.

**Accommodation:** None

**Response to 1C:** While CDCR does not select businesses based upon the religious affiliation of the vendor’s management choice, CDCR is pleased to respond to the commenter that all currently locally approved religious vendors, some of whom are Islamic, are being considered for approval as departmentally approved statewide vendors. This statewide list will include vendors selected through a fair and objective selection process. All businesses will be required to comply with safety and security procedures and sell items approved per the Religious Personal Property Matrix.

## **Commenter #2**

**Comment 2A:** Commenter states that the text in the proposed regulations does not make it clear whether inmates will still be able to purchase religious/spiritual items in personal property packages from “departmentally approved package vendors”, as is the current practice. Commenter states that it needs to be clearer that inmates can purchase those items from Walkenhorst’s, Union Supply, and Access as they always have.

**Accommodation:** None

**Response to 2A:** Those personal property package vendors have previously been approved to conduct business with inmates. Their business practices meet the Department’s criterion and they can continue to conduct business with inmates in regards to personal property and/or religious personal property.

**Commenter #3**

**Comment 3A:** Commenter states that they are a Muslim and have a problem with the “Notice” in that there is no effective date. Commenter states that the inmate religious groups and the general population follow the rules of the DOM persistently until it becomes law in the Title 15. Commenter states that this violates “RLUPA of 2000”.

**Accommodation:** None

**Response to 3A:** The policy “effective date” cannot be determined in advance. The “effective date” will be the day that the Office of Administrative Law certifies that the proposed law has completed and satisfied the regulatory process. This proposed law is in compliance with RLUIPA in providing vendors that offer a variety of religious products that inmates may purchase in accordance with the inmate’s sincerely held beliefs.

**Commenter #4**

**Comment 4A:** Commenter states that they are a Native American Inmate and have many times utilized the special purchase order process. Commenter states that some of the purchase went smoothly and some did not due to CDCR staff interpretation of what should be allowed. Commenter applauds the CDCR’s decision to provide a better and more uniform system of vendors and believes it is a natural outgrowth of the adoption of the Religious Personal Property Matrix (RPPM).

**Accommodation:** None

**Response to 4A:** CDCR appreciates the commenter’s recognition of the intended benefits of this proposed regulatory change. As commenter noted, CDCR is implementing this policy change in order to provide a better and more uniform system of vendor selection that will benefit the inmate population, broaden and standardize the customer base for vendors, and create uniformity throughout CDCR for vendor selection and product identification.

**Comment 4B:** Commenter states that by solely relying upon the RPPM as a guide of the only approved articles which an inmate may order and possess further infringes and limits an individual’s right to free expression of religious/spiritual belief. Commenter states that the RPPM is a flawed document and allows for an ambiguous interpretation to this change in regulations. Commenter states that the RPPM attempts to standardize religious/spiritual articles into genetic categories and contradiction in colors.

**Accommodation:** None

**Response to 4B:** While the products offered for sale by religious vendors must be in compliance with the RPPM, the RPPM itself was codified in 2013. Any changes to the RPPM will be addressed separate from this regulation.

**Comment 4C:** Commenter states that the Statewide Religious Review Committee should revise the RPPM prior to making the change to Section 3190, as the RPPM is the underlying and controlling regulations governing this change.

**Accommodation:** None

**Response to 4C:** While the Section 3190 and the RPPM are co-dependent, there is no order of precedence for which one is to be revised first. If revisions to the Religious Personal Property Matrix occur, the Department will inform the departmentally approved religious vendors in the process.

**Comment 4D:** Commenter states that CDCR's claim that the standardization will make available a variety of religious products at fair market value is very misleading. Commenter states that there is no indication that vendors will not change pricing to offset additional overhead costs associated with regulation or other economic determinates.

**Accommodation:** None

**Response to 4D:** As stated in the response to 1B, the Department will ensure that the vendor process will be fair and equitable to all inmates and their correspondents by allowing competitive pricing by utilizing multiple vendors. Vendors with higher prices or inferior merchandise will lose business to vendors with lower prices and superior merchandise as inmates will make their purchases based on a combination of cost and quality.

#### **Commenter #5**

**Comment 5A:** Commenter states that the proposed regulations standardizing the rules and approved vendors is a good idea and overdue. Commenter states that the current system has generated many appeal issues due to interpretation.

**Accommodation:** None

**Response to 5A:** CDCR appreciates the commenter acknowledgement of standardizing the rules and statewide list of approved vendors. As commenter noted, CDCR is implementing this policy change in order to provide a better and more uniform system of vendor selection that will benefit the inmate population and religious vendors, which should reduce the generation of numerous inmate appeals.

**Comment 5B:** Commenter states that the proposed regulations do not address how to submit new vendors or religious items to the Statewide Religious Review Committee, or how to request exemptions. Commenter asks for specifics to the procedure.

**Accommodation:** None

**Response to 5C:** The Department will accept applications or exemptions from any source, such as recommendations from inmates or staff, or requests from vendors who want to sell to the inmate population. The request can be submitted by any form of communication, such as an email, letter or phone call. The vendors will be considered if they sell items listed on the Religious Personal Property Matrix and that their requests are routed to the Statewide Religious Review Committee.

**Commenter #6**

**Comment 6A:** Commenter states that they understand the need for family relations within CDCR and that the proposed changes to the Religious Property Matrix will not only cause another degree of separation with family, but it will cause an enormous decline in small business earnings, losses and closures amongst those who solicit and sell to the prison system.

**Accommodation:** None

**Response to 6A:** The Department contends that departmentally approved vendors will offer wide varieties of items to ensure that inmates maintain a sense of “personal touch” from their correspondents. While the religious vendors must comply with the Religious Personal Property Matrix (RPPM), this regulatory change is independent of the RPPM and there are no changes being made to the RPPM at this time.

**Comment 6B:** Commenter states that Religious/Spiritual packages and/or items are the center piece for 90% of the incarcerated population’s main connection to their faith and families, which provides a stabilization factor with all faith groups, races, ethnicities, and cultures. Commenter states that these packages give families a way to reach out to their loved ones and play a major role in creating a calmer environment for inmates and staff.

**Accommodation:** None

**Response to 6B:** The Department concurs with the commenter’s statement that religious items can assist the incarcerated population in connecting with their faith and families. Because of that concern, the Department is standardizing the statewide approvals for religious vendors to assist inmates and families in regards to religious personal property, faith and relationships.

**Comment 6C:** Commenter states that they are an institutional representative from a vendor and personally deals with inmate’s family members. Commenter states that these family members feel a sense of accomplishment when purchasing an order for their incarcerated loved one when they can sample a fragrance and then have it shipped.

**Accommodation:** None

**Response 6C:** As stated in the response to Comment 6B, the Department concurs with the commenter’s statement that religious items can assist the incarcerated population in connecting with their faith and families. The Department encourages the vendor to adhere to safety and security procedures that allow family and friends to place orders on behalf of the

inmate. Current processes do not allow for personal property or special purchases, including religious items, to be “handled” by family members and require direct sealed package shipping from the business to the institution.

**Comment 6D:** Commenter states that a simpler method of change would be to standardize the current RPPM to stand in all California institutions of incarceration, public and private. Commenter states that in that way, all forms and procedures are identical and there would be no confusion or excessive paperwork for staff or inmates.

**Accommodation:** None

**Response to 6D:** The Religious Personal Property Matrix (RPPM) has already been standardized statewide as of December 2013. This purpose of this regulatory change is to also standardize the statewide approvals for religious vendors who sell the items as listed in the RPPM.

#### **Commenter #7**

**Comment 7A:** Commenter states that they are an inmate and states that the proposed regulations do not make sense. Commenter states that the Department is claiming to be standardizing all religious property vendors throughout the state to make it easier on inmates and prison administrators with a clear approved vendor and property items allowed no matter where an inmate is transferred. Commenter states that the Department also states that “allowed standardized religious items may be exempt or not allowed per local authority”.

**Accommodation:** None

**Response to 7A:** Current regulations do not authorize exemptions to religious items to be determined by local authority. Pursuant to the Religious Personal Property Matrix (Rev. 6/27/13), “Facilities may submit requests to be exempted from the Religious Personal Property items detailed in this matrix. Requests shall be submitted to the Standardized Procedures Unit with a copy to the appropriate mission based Associate Director. All requests must include rationale and supporting data.”

**Comment 7B:** Commenter states that the proposed regulations don’t actually change anything and that the RPMB is being paid to make up and waste taxpayer’s time and money as long as the inner agency’s branch is in existence. Commenter claims it is no wonder CDCR’s operating budget is over 11 billion dollars.

**Accommodation:** None

**Response to 7B:** Comment does not relate to the proposed text.

#### **Commenter #8**

**Comment 8A:** Commenter objects to the proposed amendments to Section 3190 concerning Religious Property Vendors and to the Religious Personal Property Matrix. Commenter states

that the Constitution is literal about preventing an individual's personal conscience from being legislated into law as public policy, yet that is exactly what CDCR did and is trying to do again. Commenter cites several court cases and existing regulation section 3190(b).

**Accommodation:** None

**Response to 8A:** The Department stands that the proposed text is in agreement with the United State Constitution as it does not establish any religion nor forbid any individual from practicing their choice of religion.

**Comment 8B:** Commenter states that the attempt to amend Section 3190(b) is to cover up the unconstitutional acts of staff at the California Correctional Institution when he was denied 4 oz. of (prayer oil) and was told that they were not approved. Commenter cites various court cases inferring litigation. Commenter enclosed several attachments with his comment which related to an inmate appeal, denial of a kosher meal, religious item denial, denial of religious services, failure to uphold the "602 appeal agreement", and discrimination due to Islamic services being called late.

**Accommodation:** None

**Response to 8B:** The commenter's reference to non-approved oils, non-approved kosher diet meals, Islamic services being called late and the like are issues not related to the proposed text for establishing a departmentally approved list of vendors authorized to sell religious items.