

**State of California
Office of Administrative Law**

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

Regulatory Action:

Title 15, California Code of Regulations

**Amend sections: 3000, 3061, 3105, 3133,
3138, 3162, 3165**

**NOTICE OF APPROVAL OF REGULATORY
ACTION:**

Government Code Section 11349.3

OAL Matter Number: 2020-0723-02

OAL Matter Type: Regular (S)

This rulemaking action implements Penal Code section 5007.7, which defines "indigent inmate" and requires the California Department of Corrections and Rehabilitation to provide indigent inmates with basic supplies necessary to maintain their personal hygiene as well as sufficient resources to communicate with and access courts.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2021.

Date: September 17, 2020



Eric Partington
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Ralph Diaz, Secretary
Copy: Josh Jugum

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 10/2019)

REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2020-0225-07	REGULATORY ACTION NUMBER 2020-0723-025	EMERGENCY NUMBER
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

SEP 17 2020

1:14 p.m.

For use by Office of Administrative Law (OAL) only

2020 JUL 23 P 12:39
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California Department of Corrections and Rehabilitation

AGENCY FILE NUMBER (if any)
19-0110

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	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2020, 10-2	PUBLICATION DATE 3/6/20	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Indigent Inmates	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 28, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 3000, 3061, 3105, 3133, 3138, 3162, 3165
	REPEAL
TITLE(S) 15	

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 §§11346.2-11347.3 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 §§11349.3, 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)

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

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON joshua jugum	TELEPHONE NUMBER 916 445-2266	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) joshua.jugum@cdcr.ca.gov
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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 <i>K. Allison</i>	DATE 7/10/20
TYPED NAME AND TITLE OF SIGNATORY KATHLEEN ALLISON, Undersecretary (A), Operations	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 17 2020

Office of Administrative Law

TEXT OF ADOPTED REGULATIONS

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

Title 15, Crime Prevention and Corrections, Division 3, Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

3000. Definitions.

Section 3000 is amended to alphabetically merge the definition below with existing definitions in this section.

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Indigent Inmate means an inmate who is ~~wholly without funds at the time they were eligible for withdrawal of funds for canteen purchases~~ has maintained an inmate trust account with twenty-five dollars (\$25) or less for 30 consecutive days.

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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, 5007.7, 5009, 5050, 5054, 5068, 7000 et seq., 11180 and 11191, Penal Code; Sections 1132.4, 1132.8, and 1203(b)(1), 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.

Article 5. Personal Cleanliness 3061. Personal Hygiene.

(a) Inmates must keep themselves clean, and practice those health habits essential to the maintenance of physical and mental well-being. All inmates shall receive basic supplies necessary for maintaining personal hygiene. Inmates shall be provided products for washing hands, bathing, oral hygiene, and other personal hygiene, including but not limited to: soap, toothpaste or toothpowder, toothbrush, and toilet paper.

~~Comment: Former DR-1501, personal hygiene.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5007.7 and 5054, Penal Code.

Subchapter 2. Inmate Resources

Article 2. Handicraft

3105. Handicraft Program Assistance to Indigent Inmates.

(a) The institution head or their designee may authorize loans from the inmate welfare fund (IWF) to help indigent inmates, as defined in Section 3000, purchase materials for their initial or continued participation in the handicraft program. The institution head or their designee shall establish a limit on the dollar amount of IWF loans. A hold for the amount of the loan shall be placed on the trust account of such an inmate until the loan is fully repaid.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2079, 2813, 5006 and 5054, Penal Code.

Article 4. Mail

3133. Definitions and Disposition of Mail.

Subsections 3133(a) through 3133(a)(4) are unchanged. Subsection 3133(a)(5) is repealed.

~~(5) For purposes of this article, the definition of indigent inmate is an inmate who has \$1.00 or less in their Inmate Trust Account for 30 consecutive days.~~

Subsections 3133(b) through 3133(h) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; *Procurier v. Martinez*, 416 U.S. 396; and *Bell v. Wolfish*, 99 S. Ct. 1861.

3138. Indigent Inmates.

Subsection 3138(a) is amended.

~~(a) Upon an indigent inmate's request~~ the request of an indigent inmate, as defined in Section 3000, writing paper, envelopes, a writing implement, and the postage required for five 1-ounce First-Class letters per week shall be supplied. Inmates are not allowed to trade, transfer, or swap indigent inmate supplies with another inmate.

Subsections 3138(b) and 3138(c) are unchanged.

Subsection 3138(d) is amended.

(d) Indigent envelopes issued to an inmate become their property. The inmate shall be allowed to utilize the envelopes regardless of current financial status. A charge shall not be placed against future deposits to the inmate's trust account to recover the cost of materials and postage provided, while the inmate was indigent ~~as defined in subsection 3133(a)(5)~~.

Subsections 3138(e) through 3138(i) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; and *Procurier v. Martinez*, 416 U.S. 396; and *Bell v. Wolfish*, 99 S. Ct. 1861.

Article 6. Legal Documents

3162. Legal Forms and Duplication Services.

Subsection 3162(a) is repealed.

~~(a) For purposes of this article, an indigent inmate means an inmate who currently has and for the previous 30 consecutive days has maintained \$1.00 or less in his or her inmate trust account.~~

Former subsections 3162(b) through 3162(e) are renumbered to 3162(a) through 3162(d) and are amended.

~~(b)~~ Legal duplication services may be provided to inmates for the purposes of initiating or maintaining a court action. The printed forms required by state and federal courts shall be made available to inmates. An inmate shall be required to pay for the duplication of printed forms and other written or typed materials, and for any special paper and envelopes required for mailing to the courts so long as the inmate has more than ~~\$1.00~~ 25.00 in his or her trust account or the inmate has attorney representation for the court action. ~~An inmate who is indigent and~~ indigent inmate as defined in Section 3000, who is without attorney representation for the court action, may receive legal duplicating services without charge subject to subsection ~~(d)~~.

~~(c)~~ A legal document to be duplicated for any inmate, including all exhibits and attachments, shall be limited to the maximum number of pages needed for the filing, not to exceed 50 pages in total length, except when necessary to advance litigation. The inmate shall provide to designated staff a written explanation of the need for excess document length.

~~(d)~~ Subject to the length requirements of subsection ~~3123(e)~~ 3162(b), an indigent inmate who does not have attorney representation may receive duplication services without charge for the following legal documents to a court:

Subsections 3162(c)(1) through (c)(10) (formerly 3162(d)(1) through (d)(10)) are unchanged.

Subsection 3162(d) (formerly 3162(e)) is renumbered and is otherwise unchanged.

~~(e)~~ The authority to place restrictions on duplication services for any reason as described in this section shall not be delegated to staff below the level of correctional captain unless the person is designated by the Warden. The reasons for any restrictions on the services provided an inmate shall be documented on a CDC Form 128-B (Rev. 4.74), General Chrono, and placed in the inmate's central file.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5007.7 and 5054, Penal Code.

3165. Mailing Legal Documents.

Subsections 3165(a) through 3165(d) are amended.

(a) The mailing of legal documents to courts and claims to the ~~California Victim's Compensation and Government Claims Board (VGGCB)~~ Department of General Services, Office of Risk and Insurance Management (DGS ORIM) is the inmate's responsibility. Mail designated by the inmate as legal mail will be delivered to the facility mail room for inspection, pursuant to Sections 3144 and 3145, and mailing in accordance with local facility mail procedures. The mail room shall maintain a

current address list of federal, state, county, appellate, and district courts. The mail room will send mail out each working day.

(b) With each transmittal of mail to a court or claim filed with the ~~VCGCB~~ DGS ORIM requiring the addition of postage, the inmate must submit a signed CDC Form 193, Trust Account Withdrawal Order. The mail room will remove the trust account withdrawal order, enter the amount of postage required, and forward the order to the trust office for processing. Mail addressed to a court or claims addressed to the ~~VCGCB~~ DGS ORIM will be posted on the inmate's CDC Form 119, Mail Record.

(c) ~~Notarization of legal documents is not normally~~ shall be available at all institutions required by the courts and will not be provided as a free service to any inmate, indigent or not. The inmate ~~Inmates must~~ shall pay the established notary fee for such service unless the inmate is indigent as defined in Section 3000. When the inmate requests notarization, they shall indicate which document they request to have notarized.

(d) The cost of postage for mailing documents to the courts ~~will~~ shall be charged against an inmate's trust account unless the inmate ~~was~~ is indigent, ~~as defined in subsection 3162(a),~~ at the time the documents ~~were~~ are submitted for mailing.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5007.7, Penal Code; and In re Jordan, 7 Cal. 3rd 930 (1972).

FINAL STATEMENT OF REASONS

The Initial Statement of Reasons (ISOR) is incorporated by reference.

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 such alternatives were proposed or brought to the Department's attention during the adoption of this rulemaking action. The Department determined that taking no action would mean the Department would be unable to comply with the provisions of Penal Code Section 5007.7.

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.

The Department has determined that no reasonable alternatives to the regulation have been identified or brought to the attention of the Department that would lessen any adverse impact on affected private persons or small business than the action planned.

The Department, in proposing the adoption of these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document. The Department has relied upon the results of the Economic Impact Assessment, which can be found in the Notice of Proposed Regulations and is available for review as part of the rulemaking file.

SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD:

Commenter #1

Comment 1: Commenter states that deodorant should be added to Section 3061 as a hygiene product provided to inmates.

Accommodation: None.

Response: The proposed amendment to subsection 3061(a) provides an open ended list of basic supplies that are necessary for inmates to maintain personal hygiene. These items are products for washing hands, bathing, oral hygiene, and other personal hygiene including but not limited to: soap, toothpaste or toothpowder, toothbrush, and toilet paper. At this time, the Department does not include deodorant as an item that is necessary for personal hygiene. Inmates may purchase deodorant through the institution canteen and deodorant is also available through the approved inmate package vendors.

Comment 2: Commenter states that notarization should be available for indigent inmates "who need any paperwork that requires being notarized, like birth certificates, etc."

Accommodation: None.

Response: Subsection 3165(c) provides that the Department makes notarization of legal documents available to inmates at all institutions. Pursuant to Health and Safety Code section 103545, certified copies of birth, fetal death, and marriage records may be made only by the State Registrar. A notary public in California is accordingly not authorized to notarize a copy of a birth certificate.

Commenter #2

Comment: Commenter states he is concerned about “the lack of state-issued razors for 180° design institutions.” Commenter states that not receiving razors “increases chances of passing on diseases via package shavers that people have to share.”

Accommodation: None.

Response: On level IV-180° design facilities, state issued electric shavers are available to the inmate population. Inmates may also purchase their own electric shavers subject to the Authorized Personal Property Schedule. All institutions are required to comply with sanitation procedures for state issued clippers, trimmers, and other hair care equipment as set forth by the California Department of Public Health.

Commenter #3

Comment 1: Commenter states the proposed regulations should state that each institution shall provide sinks and showers in dayrooms and holding cells.

Accommodation: None.

Response: The proposed amendment to subsection 3061(a) lists items of inmate personal property that shall be made available for inmates to maintain their personal hygiene. The commenter’s suggestion about providing sinks and showers in areas of an institution, such as dayrooms and holding cells, is beyond the scope of this amendment.

Comment 2: Commenter states “there needs to be an amount of soap, toothpaste, etc. spelled out” in the proposed regulations so there is uniformity throughout Department institutions.

Accommodation: None.

Response: In amending Section 3061, specific hygiene items were added to ensure statewide consistency. The specific institution’s mission, security level, and daily schedule must be factored into determining how often supplies are distributed. The frequency of hygiene supply issuance may affect the number of items provided at a given time, and may be subject to change.

Comment 3: Commenter states that sinks have been removed from dayrooms at his institution, therefore inmates can’t wash their hands after using the bathroom, using chemicals, etc. Additionally, there are no sinks in holding tanks. Commenter states there is a lack of concern for basic hygiene which should be codified in regulations.

Accommodation: None.

Response: See response to commenter 3, comment 1.

Commenters #4, #5, #6, and #7 (these comments are substantively identical)

Comment 1: Commenter states the proposed regulations should be amended to state that sinks shall be available for inmate use in all dayrooms and holding tanks that have urinals. Additionally, the proposed regulations should state that soap shall be available next to every sink for inmate use.

Accommodation: None.

Response: See response to commenter 3, comment 1. Also, the suggestion that soap shall be available next to every sink for general inmate use is beyond the scope of this amendment.

Comment 2: Commenter states the proposed regulations should state the quantity of each item to be provided to each inmate per month. Leaving this undefined will result in wide variation within and between Department institutions.

Accommodation: None.

Response: See response to commenter 3, comment 2.

Comment 3: Commenter states that while the wording “included but not limited to” (in subsection 3061(a)) provides flexibility, it also eliminates uniformity. Many items, such as razors, hand sanitizer, mouthwash, etc. may or may not be included. Commenter states it would be more effective to explicitly list the items and quantities, and “the conditions under which they’ll be distributed.” Commenter states these changes will enhance uniformity within and between institutions, prevent inmate appeals, provide clarity to staff and inmates, and promote a healthy, safe environment.

Accommodation: None.

Response: See response to commenter 3, comment 2. Also, the Department already provides hygiene supplies on a regular basis to all inmates. This language will codify the existing process in regulations and establish minimum standards. The items provided are necessary for maintaining hygiene. The Department is using the language “including but not limited to” because not all inmates at all institutions will necessarily receive exactly the same items (e.g., female inmates receive feminine hygiene products while male inmates do not).

Commenter #8

Comment 1: Commenter states the proposed regulations should be amended to state “sinks shall be available for inmate use in all dayrooms, and holding tanks that have urinals.

Accommodation: None.

Response: See response to commenter 3, comment 1.

Comment 2: Commenter states that, to promote basic hygiene, proposed subsection 3061(a) be amended to include anti-bacterial hand soap next to every sink dedicated for inmate use.

Accommodation: None.

Response: See response to commenter 4, comment 1.

Comment 3: Commenter states that many sinks used by inmates do not have soap dispensers, despite mandates from auditors and health authorities. Commenter states that at the facility in which he is housed, soap dispensers were empty for more than a year.

Accommodation: None.

Response: The proposed amendment to subsection 3061(a) lists state issued hygiene items that shall be made available for inmates to maintain their personal hygiene. The commenter's suggestion about soap dispensers at sinks used by inmates is beyond the scope of this amendment.

Comment 4: Commenter states the proposed regulations should promote uniformity between and within institutions by listing the items and quantities of hygiene products provided to each inmate.

Accommodation: None.

Response: See response to commenter 4, comment 3.

Comment 5: Commenter states the proposed regulations should address the issue of inmates needing to ask for extra necessities, such as an inmate with an illness who needs extra toilet paper. Commenter states that inmates who need additional necessities are told to request them from other inmates.

Accommodation: None.

Response: The Department allows for inmates to obtain additional personal hygiene items based on health care need. Otherwise, the commenter's suggestion about inmates needing to ask for extra necessities is beyond the scope of this amendment.

Comment 6: Commenter states that while the wording "included but not limited to" in subsection 3061(a) provides flexibility, it also eliminates uniformity. Many items, such as razors, hand sanitizer, mouthwash, etc. may or may not be included. Commenter states it would be more effective to explicitly list the items and quantities, and "the conditions under which they'll be distributed." Commenter states these changes will enhance uniformity within and between institutions, prevent inmate appeals, provide clarity to staff and inmates, and promote a healthy, safe environment.

Accommodation: None.

Response: See response to commenter 4, comment 3.

Commenter #9

Comment: Commenter requests that the proposed regulations include supplies for care of dentures for those inmates who need them.

Accommodation: None.

Response: The Department allows inmates to obtain dental hygiene items, such as supplies for denture care, which are based on health care need. Otherwise, the commenter's suggestion about supplies for the care of dentures is beyond the scope of this amendment.

Commenter #10

Comment 1: Commenter states the proposed regulations should provide for exceptions when determining indigency for inmates who are chronically nearly indigent. This would provide fairness for these inmates while discouraging adverse incentives. Commenter states that other states have such exceptions. This would ensure the class of inmates who are chronically near indigent are not denied access to the courts or other amenities. Commenter states that inmates recently arrived in prison, or who have suddenly lost the ability to work, may not initially fall within the indigency criteria, even if they need the benefits of this status.

Accommodation: None.

Response: The proposed regulations adopt the text of California Penal Code Section 5007.7 for the definition of an indigent inmate. Penal Code Section 5007.7 provides that “An inmate who has maintained an inmate trust account with twenty-five dollars (\$25) or less for 30 consecutive days shall be deemed indigent.” This statute does not make an exception for an inmate who is chronically nearly indigent, as the commenter suggests.

Comment 2: Commenter states the Department should monitor inmate spending to prevent abuse of the system. Commenter suggests a rule used by other states which establishes that an inmate will not gain indigent status if the inmate habitually receives and spends funds within a 30-day period to manipulate his/her account balance. This rule can preserve resources for inmates who actually need them.

Accommodation: None.

Response: The proposed regulations adopt the text of California Penal Code Section 5007.7 for the definition of an indigent inmate. Penal Code Section 5007.7 provides that “An inmate who has maintained an inmate trust account with twenty-five dollars (\$25) or less for 30 consecutive days shall be deemed indigent.” The Department may not adopt a definition of indigent inmate that is more restrictive than the statute.

Comment 3: Commenter states “the Department should provide more transparency” regarding the cost of the proposed regulations. Commenter states that lowering the threshold for indigency status, allowing indigent inmates free notary services, and providing free hygiene products to all inmates may negatively affect services for other inmates if the Department must redistribute funds for other programs and services to cover these costs. Commenter states the Department’s contention that these changes will not increase the cost to any state agency “seems implausible.” Commenter states that many other states have higher thresholds for indigency and often attach other requirements such as an inability to work. Additionally, the Legislature has recently passed “other legislation regarding benefits for inmates, which makes the Department’s ability to absorb the costs of this proposed rule more questionable.”

Accommodation: None.

Response: The Department maintains its initial determination that the proposed regulations will not have an economic or fiscal impact. The Department already provides personal hygiene supplies and notary services to inmates. The proposed regulations codify existing departmental practices, and the Department accordingly does not anticipate an economic or fiscal impact.

PUBLIC HEARING:

No public hearing was held regarding these proposed regulations. The Department had scheduled a public hearing for April 22, 2020 when this rulemaking action was originally noticed to the public (see Notice of Change to Regulations 20-02), however the hearing was cancelled due to the COVID-19 public health emergency. The Department mailed (via email and regular mail) notices of cancellation of the public hearing to every person on the Department’s Notice of Change to Regulations mailing list on March 30, 2020.