



Department of Corrections and Rehabilitation
NOTICE OF CHANGE TO REGULATIONS

Sections: 3412	NCR Number: 20-15	Publication Date: December 25, 2020	Effective Date: TBD
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INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed adoption of Section 3412 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Off-Duty Firearms.

PUBLIC COMMENT PERIOD

The public comment period will close on **February 12, 2021**. Any person may submit written comments about the proposed regulations by mail to the California Department of Corrections and Rehabilitation (CDCR), Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, or by e-mail to RPMB@cdcr.ca.gov. All written comments must be received or postmarked no later than **February 12, 2021**.

POSTING

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each Department facility and field office not later than five calendar days after receipt. Also, institutions and facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies, and shall distribute it to inmate law libraries and advisory councils. CDCR Form 621-A (Rev. 05/19), Certification of Posting, shall be returned to RPMB by mail or email. See Department Operations Manual Section 12010.6.7 for posting and certification of posting procedures.

CONTACT PERSON

Inquiries regarding this Notice should be directed to Anthony Carter, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2220, or e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to Zackery Osborne, Office of Correctional Safety, at (916) 445-6565.

Original signed by

JEFF MACOMBER
Undersecretary, Operations
California Department of Corrections and Rehabilitation

Attachments

NOTICE OF PROPOSED REGULATIONS
California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to adopt new Section 3412 into Title 15, Division 3, Chapter 1, regarding Off-Duty Firearms.

PUBLIC COMMENT PERIOD

The public comment period begins **December 25, 2020** and closes on **February 12, 2021**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

No public hearing is scheduled for these proposed regulations; however, pursuant to Government Code Section 11346.8, any interested person or their duly authorized representative may request a public hearing, no later than 15 days prior to the close of the written comment period.

CONTACT PERSONS

Primary Contact

Anthony Carter
Telephone: (916) 445-2220
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

Y. Sun
Telephone: (916) 445-2269
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Program Contact

Zackery Osborne
Telephone: (916) 445-6565
Office of Correctional Safety
Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to 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 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The California Department of Corrections and Rehabilitation (CDCR) proposes to adopt Section 3412 to the California Code of Regulations (CCR), Title 15, Division 3, for the purposes of implementing consistent statewide rules for trained and qualified CDCR peace officers who are authorized to carry firearms while off-duty.

This proposed regulation section shall apply to:

- CDCR peace officers who possess their work-issued firearm on their possession while off duty.
- CDCR peace officer employees who lawfully possess a Department-authorized concealed firearm on their person while off-duty.

California Penal Code Section 830.5(f) authorizes CDCR to promulgate regulations that are consistent with any subdivisions in Penal Code Section 830.5, which as a whole pertain to firearms carried by CDCR peace officer employees while they are on-duty and off-duty. Penal Code Section 5058 authorizes CDCR to promulgate regulations for the administration of the Department.

This action will:

The purpose of this regulatory action is to provide CDCR peace officer employees with direction on who is authorized to carry a Department-authorized concealed firearm while off-duty and in public for personal protection. This proposed section also sets expectations as to what CDCR peace officer employees shall do to lawfully carry a Department-authorized concealed firearm in public. Furthermore, this proposed regulation will mandate that when CDCR peace officer employees utilize concealed firearms while off-duty, that they do so in a safe, lawful, and responsible manner.

DOCUMENTS INCORPORATED BY REFERENCE

None

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

This proposed regulation is beneficial because it will result in CDCR’s adoption of a consistent statewide policy regarding off-duty requirements for active CDCR peace officers who are authorized to carry a concealed weapon, and also, it will provide a list of circumstances that lead to the suspension or revocation of that authorization. Moreover, the proposed regulation is beneficial because it will mitigate the frequency of incidents involving illegal, improper, and/or unsafe handling of Department authorized and concealed firearms handled by CDCR peace officer employees while off-duty and present in a community setting. This will benefit public safety because the misuse or misconduct of firearms, especially while such firearms are present in a community setting, creates a danger to both peace officer employees and the public. Furthermore, a clear, consistent statewide policy on the requirements to carry a concealed weapon will help minimize potential liability to CDCR and the State.

Additionally, this proposed regulation is beneficial to the Department itself for the following reasons:

1. It will implement mandatory firearms safety training for all CDCR peace officer employees who carry a Department-authorized concealed firearm while off-duty.
2. It will establish clear and consistent criteria for hiring authorities to identify good cause to deny, suspend or revoke a CDCR peace officer employee’s authorization to carry a Department-authorized concealed firearm while off-duty.

It will provide direction to hiring authorities to immediately suspend or revoke an employee’s authorization to carry a Department-authorized concealed firearm while off-duty.

EVALUATION OF INCONSISTENCY / INCOMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern off-duty firearms within CDCR.

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 or savings to any state agency: *None*
- Cost to any local agency or school district that is required to be reimbursed: *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.

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.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulations will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations will benefit public safety because the misuse or misconduct of firearms, especially while such firearms are present in a community setting, creates a danger to both peace officer employees and the public. Furthermore, a clear, consistent statewide policy on the requirements to carry a concealed weapon will help minimize potential liability to CDCR and the State.

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 regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed during the written comment period or at a scheduled hearing should one be scheduled.

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 Regulations will also be made available on the Department's website: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

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, amends or repeals 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 at least 15 days after the date on which they are made available.

TEXT OF PROPOSED REGULATIONS

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

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

Chapter 1. Rules and Regulations of Adult Operations and Programs

Subchapter 5. Personnel

Article 2. Employees

Section 3412 Title is amended to read:

3412. ~~Personal Firearms~~Department Authorized Off-Duty Firearms.

Section 3412 is adopted to read:

3412. Department Authorized Off-Duty Firearms.

(a) Authorization. The following employees are authorized to carry a concealed firearm while off-duty:

- (1) Any active peace officer listed in Section 830.2(d) of the Penal Code.
- (2) Any active peace officer listed in Section 830.5(c) of the Penal Code.

(b) Definitions. As used in this section:

- (1) "Active peace officer" means an employee who has taken the oath of allegiance and become a duly sworn peace officer for the department.
- (2) "Concealed Firearm" means any pistol, revolver, or other firearm meeting department approved criteria capable of being concealed upon the person that is carried outside the employee's place of residence, place of business, or on private property owned or lawfully possessed by the employee.

(c) Off-Duty Requirements to Carry a Concealed Firearm. Employees authorized to carry a concealed firearm while off-duty pursuant to subdivision (a) of this section shall comply with the following requirements while carrying a concealed firearm:

- (1) Possess their peace officer badge and department-issued photographic identification. Employees listed in Subsection 3412(a)(2) shall also possess their range qualification card for the off-duty concealed firearm.
- (2) Wear attire and a holster that prevents the visible identification of the concealed firearm by the general public in a manner that prevents unintended discharge or loss of physical control.
- (3) Follow safe firearm storage practices as defined in sections 25100, 25135, and 25140 of the Penal Code.
- (4) Avoid the consumption of any substance, including prescription medications or alcohol, to a level that would result in the impairment of the employee's skills or judgment in the use of firearms.
- (5) Obey all state and federal laws applicable to carrying concealed firearms.
- (6) Report all contacts with outside law enforcement agencies involving the off-duty concealed firearm to an immediate supervisor or Watch Commander.

(7) Report all incidents involving the brandishing or discharge (except for training or recreational purposes) of the off-duty concealed firearm to an immediate supervisor or Watch Commander.

(8) This section does not permit exposed or open carry of a loaded or unloaded off-duty firearm.

(d) Prerequisites for Active Peace Officers listed in Penal Code Section 830.5(c) to Carry a Concealed Firearm while Off-Duty. Employees authorized to carry a concealed firearm while off-duty pursuant to subdivision (a)(2) of this section shall comply with the following requirements:

(1) Satisfactory completion of an introductory training course prescribed by the Commission on Peace Officer Standards and Training, including passage of an appropriate examination developed or approved by the commission.

(2) Satisfactory completion of CDCR's Use of Force Policy training requirements.

(3) Quarterly qualification with the off-duty concealed firearm by a certified Rangemaster or Firearms Instructor using a departmentally approved off-duty course of fire.

(A) The department shall allow employees reasonable access to its ranges to quarterly qualify with off-duty concealed firearms.

(B) The time spent on the range for purposes of meeting the quarterly qualification requirements with off-duty concealed firearms shall be the employee's own time during the employee's off-duty hours.

(4) Complete training on safe handling of an off-duty weapon and safe firearm storage practices within one year of the effective date of this section and annually thereafter.

(5) It is the responsibility of the individual to maintain their eligibility to carry an off-duty concealed firearm. Carrying a concealed firearm off-duty without maintaining the quarterly qualification and/or completing the annual on-the-job training described in Section 3412(d)(3) shall constitute good cause to suspend or revoke that person's right to carry an off-duty concealed firearm.

(e) Suspension or Revocation of Authorization to Carry a Concealed Firearm. Employees authorized to carry a concealed firearm while off-duty shall have that authorization suspended or revoked for good cause under the following circumstances:

(1) An employee's authorization to carry a concealed firearm while off-duty shall be suspended automatically during the pendency of:

(A) A criminal prosecution against the employee for a felony, domestic violence misdemeanor, or a crime involving firearms.

(B) A investigation into allegations that an employee engaged in misconduct involving the off-duty concealed firearm where the employee's skills or judgment in the handling of the firearm was impaired by the consumption of any substance (including prescription medications or alcohol).

(C) A medical work restriction placed on the employee that limits the employee's on-duty use of a firearm.

(D) A temporary or permanent restraining order against the employee that prohibits possession of a firearm.

(E) A restriction on the employee from the on-duty use of a firearm by the hiring authority or a redirection of the employee by the hiring authority in a manner which also restricts the employee's on-duty use of a firearm.

(F) The employee's failure to maintain eligibility to carry an off-duty concealed firearm.

(G) Employees who have qualified with the departmental approved off-duty course of fire, shall not be subject to Subsection 3412(e)(1)(E) solely for failing to qualify with a departmental duty course of fire.

(2) An employee's authorization to carry a concealed firearm while off-duty shall be revoked automatically under any of the following circumstances:

(A) The employee is prohibited or restricted by state or federal law from carrying a firearm.

(B) The employee tests positive for illegal narcotics.

(3) A suspension or revocation of an employee's authorization to carry a concealed firearm is effective upon serving the employee with a written statement of reasons for taking the action.

(4) An employee may appeal a suspension or revocation of the authorization to carry an off-duty concealed firearm, as provided for in the negotiated grievance procedure between their bargaining unit and the Department, to review the decision by the hiring authority. An employee who fails to timely request an appeal pursuant to this section shall forfeit the right to appeal.

(f) Restoration of Suspended or Revoked Authorization to Carry a Concealed Firearm. An employee's authorization to carry a concealed firearm while off-duty shall be restored by the hiring authority when:

(1) The employee is no longer subject to the same disqualifying factors that constituted good cause to suspend or revoke the employee's authorization to carry a concealed firearm while off-duty and the employee requests restoration of the authorization to carry a concealed firearm.

(2) An investigation concludes and a determination does not sustain the allegations that precipitated the suspension of the authorization to carry a concealed firearm.

(3) It is determined on appeal as provided in Subsection 3412(e)(4) that good cause does not exist to suspend or revoke the employee's authorization to carry a concealed firearm while off-duty.

(4) Pursuant to subdivisions (1), (2), and (3) of this subsection, the employee's authorization to carry a concealed firearm shall be restored by the hiring authority after the employee makes a request for restoration and provides all necessary documentation. The employee is responsible for meeting all departmental requirements prior to carrying an off-duty concealed firearm.

Note: Authority cited: Sections 5058 and 830.5, Penal Code. Reference: Sections 830.2, 830.5, 5054, 25100, 25135, 25140, 25400, 26310 and 26312, Penal Code.

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR) proposes to adopt Section 3412 to the California Code of Regulations (CCR), Title 15, Division 3, for the purposes of implementing consistent statewide rules for trained and qualified CDCR peace officers who are authorized to carry firearms while off-duty.

This proposed regulation section shall apply to:

- CDCR peace officers who possess their work-issued firearm on their possession while off duty.
- CDCR peace officer employees who lawfully possess a Department authorized concealed firearm on their person while off-duty.

California Penal Code Section 830.5(f) authorizes CDCR to promulgate regulations that are consistent with any subdivisions in Penal Code Section 830.5, which as a whole pertain to firearms carried by CDCR peace officer employees while they are on-duty and off-duty. Penal Code Section 5058 authorizes CDCR to promulgate regulations for the administration of the Department.

The purpose of this regulatory action is to provide CDCR peace officer employees with direction on who is authorized to carry a Department-authorized concealed firearm while off-duty and in public for personal protection. This proposed section also sets expectations as to what CDCR peace officer employees shall do to lawfully carry a Department-authorized concealed firearm in public. Furthermore, this proposed regulation will mandate that when CDCR peace officer employees utilize concealed firearms while off-duty, that they do so in a safe, lawful, and responsible manner.

This regulation is proposed in response to incidents occurring statewide during 2014, in which certain CDCR peace officer employees who were engaged in criminal or administrative acts of misconduct demonstrated neglect or disregard for the safe practices of storing, possessing, or using off-duty firearms. Such actions threatened the public safety. These incidents were addressed by the Office of the Inspector General (OIG), which recommended that CDCR “adopt a consistent statewide policy on the factors that should lead to a revocation of a concealed weapons permit.” (See Recommendation 1.2, *Office of Inspector General Semi-Annual Report Volume 1*, July-December 2013 (March 27, 2014) p.19.) CDCR does not presently have any rules that direct hiring authorities to immediately suspend or revoke a CDCR peace officer employee’s right to carry a concealed firearm if good cause is shown. Hence, as a result of the OIG’s findings, CDCR proposes to adopt regulation Section 3412.

BENEFITS OF THE REGULATIONS:

This proposed regulation is beneficial because it will result in CDCR’s adoption of a consistent statewide policy regarding off-duty requirements for active CDCR peace officers who are authorized to carry a concealed weapon, and also, it will provide a list of circumstances that lead to the suspension or revocation of that authorization. Moreover, the proposed regulation is beneficial because it will mitigate the frequency of incidents involving illegal, improper, and/or unsafe handling of Department authorized and

concealed firearms handled by CDCR peace officer employees while off-duty and present in a community setting. This will benefit public safety because the misuse or misconduct of firearms, especially while such firearms are present in a community setting, creates a danger to both peace officer employees and the public. Furthermore, a clear, consistent statewide policy on the requirements to carry a concealed weapon will help minimize potential liability to CDCR and the State.

Additionally, this proposed regulation is beneficial to the Department itself for the following reasons:

1. It will implement mandatory firearms safety training for all CDCR peace officer employees who carry a Department authorized concealed firearm while off-duty.
2. It will establish clear and consistent criteria for hiring authorities to identify good cause to deny, suspend or revoke a CDCR peace officer employee's authorization to carry a Department authorized concealed firearm while off-duty.
3. It will provide direction to hiring authorities to immediately suspend or revoke an employee's authorization to carry a Department authorized concealed firearm while off-duty.

ECONOMIC IMPACT ASSESSMENT:

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

No Significant Adverse Economic Impact on Business

The CDCR has made an initial determination that the proposed regulations 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 proposed regulations affect the internal management of CDCR only, and place no requirements or restrictions on businesses.

No Creation of New Jobs or Elimination of Existing Jobs

CDCR has determined that the proposed regulations will not have an impact on the creation of new jobs or the elimination of existing jobs within California as the proposed regulations affect the internal management of CDCR only.

No Creation of New Businesses or Elimination or Expansion of Existing Businesses

CDCR has determined that the proposed regulations will not have an impact on the creation of new businesses or the elimination of existing businesses within California, or affect the expansion of businesses currently doing business in California, as the proposed regulations affect the internal management of CDCR only.

CONSIDERATION OF ALTERNATIVES:

CDCR has determined that no reasonable alternatives considered or that have otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CDCR has made an initial determination that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small businesses.

Currently, no reasonable alternatives have been brought to the attention of CDCR that would alter the Department's initial determination.

MATERIALS RELIED UPON:

None

SPECIFIC PURPOSE AND RATIONALE FOR EACH SECTION, PER GOVERNMENT CODE 11346.2(B)(1):

New Subsections 3412(a) through 3412(a)(2) are adopted to establish who is authorized by this regulation to carry a concealed firearm while off-duty. The language is necessary because it makes it clear that this proposed regulation only applies to active Department peace officers, and it does not apply to retired Department peace officers or peace officers from other departments or agencies.

New Subsection 3412(b)(1) is adopted to define who qualifies as an active peace officer within these regulations. This language is necessary because it explains the criteria to be an active departmental peace officer, and who such a person is, for the purposes of this regulation.

New Subsection 3412(b)(2) is adopted to define a concealed firearm as it is applicable in this proposed regulation section. This definition is derived from Penal Code section 25400, which defines a concealed firearm as being "any pistol, revolver, or firearm capable of being concealed upon the person." Consistent with Penal Code Section 25605, concealed firearm does not include weapons carried at the employee's place of residence, place of business, or on private property owned or lawfully possessed by the employee. This language is necessary because it clarifies what CDCR considers a concealed firearm for the purposes of this proposed section and the locations where such a firearm may be carried to qualify as a concealed firearm authorized for carry in this regulation. Presently, CDCR defines concealable handguns as those that consist of .22 – .45 caliber. Black powder guns, shotguns, rifles, or single action revolvers are not Department-approved concealable firearms. Moreover, any time the term "concealed firearm" is used in the proposed section, it refers to either Department-issued firearms or Department authorized firearms that active Department peace officers carry concealed during off-duty hours.

New Subsection 3412(c) is adopted to ensure that employees who are authorized to carry a concealed firearm are following the specific requirements of this regulation. This language is necessary because it notifies employees of their responsibilities while carrying a concealed firearm while off duty and that it is their job to ensure that their concealed firearm is handled in a safe, lawful, and responsible manner.

New Subsection 3412(c)(1) is adopted to specify that all active peace officers shall possess their peace officer badge and Department issued photographic identification at all times while carrying a concealed firearm while off-duty. Active peace officers listed in Section 830.5(c) of the Penal Code shall also possess their range qualification card when carrying a concealed firearm while off-duty. This language is necessary because it clarifies what community law enforcement agencies shall look for if they encounter an off-duty CDCR active peace officer who is authorized to carry a concealed firearm so that they can verify that the employee is lawfully authorized to carry the concealed firearm and has established proficiency in the safe handling of the firearm.

New Subsection 3412(c)(2) is adopted to specify that while carrying a concealed firearm the employee shall wear such clothing and holster the firearm so that it is not visible to the public, and that the firearm is secured in a way to prevent its unintended discharge. This language is necessary because it tells the employee that they shall conceal the firearm to prevent alarming the public, as could be the case if the firearm was visibly carried by a non-uniformed peace officer, and that the concealment of the firearm shall be done in a way that does not allow for the accidental or unintended discharge of the firearm.

New Subsection 3412(c)(3) is adopted to establish the requirement that CDCR active peace officers shall follow the safe firearm storage practices as defined in Penal Code Sections 25100, 25135, and 25140. This language is necessary to convey to CDCR active peace officers that they shall store their concealed firearms in a safe, lawful, and responsible manner that is in compliance with the Penal Code.

New Subsection 3412(c)(4) is adopted to establish the requirement that off-duty employees who are authorized to carry a concealed firearm shall avoid the consumption of any substance, including prescription medication or alcohol, to a level that would result in the impairment of their skills or judgment in the use of the firearm. This language is necessary to make sure staff understands their responsibility to avoid the consumption of any substances that would impair their skills or judgement in the use of a firearm when carrying one off-duty and to ensure the safe handling of the firearm.

New Subsection 3412(c)(5) is adopted to establish the requirement that employees authorized to carry a concealed firearm while off-duty shall obey all state and federal laws applicable to the carrying of a concealed firearm. This language is necessary because it reinforces to CDCR employees that state and federal laws regarding carrying concealed firearms apply to them and that they need to comply with these laws.

New Subsection 3412(c)(6) is adopted to establish that employees authorized to carry a concealed firearm while off-duty shall report to their immediate supervisor or Watch Commander all contacts they have with outside law enforcement agencies involving the off-duty firearm. This language is necessary to notify active peace officers that they shall report these contacts to CDCR so that CDCR can ensure that the employee is handling the firearm in a safe, lawful, and responsible manner.

New Subsection 3412(c)(7) is adopted to establish that employees authorized to carry a concealed firearm while off-duty shall report all incidents involving the brandishing or

discharge of the off-duty firearm to an immediate supervisor or Watch Commander. The purpose of this section is also to notify employees that they are excluded from reporting such incidents if they occurred during training or recreational purposes. This language is necessary because it informs active peace officers that they have a duty to report these incidents to CDCR, and it also informs CDCR that an active peace officer shall report these incidents so that CDCR can ensure that the employee is handling the firearm in a safe, lawful, and responsible manner.

New Subsection 3412(c)(8) is adopted to is to reiterate that nothing within this proposed regulation section permits an employee to carry an exposed firearm or to openly carry a loaded or unloaded firearm while off-duty. This language is necessary because it informs employees that they are prohibited from carrying an exposed firearm or openly carrying a firearm while off-duty and this section is not intended to affect that prohibition.

New Subsection 3412(d) is adopted to establish the requirements that active peace officers listed in Penal Code Section 830.5(c) shall complete before they are authorized by the Department to carry a concealed firearm. This language is necessary because it directs employees to be properly trained before they are authorized to carry a concealed firearm. This language is also necessary because it tells employees that by complying with these requirements, employees can demonstrate that they are qualified to handle firearms in a safe, lawful, and responsible manner.

New Subsection 3412(d)(1) is adopted to specify to employees that they are required to satisfactorily complete an introductory training course, as prescribed by the Commission on Peace Officer Standards and Training, and that they shall also pass a course examination before they are authorized to carry a concealed firearm. This language is duplicative of language found in Penal Code Section 832, but it is necessary to include this language here because active peace officers need to be reminded that this requirement needs to be met to lawfully carry a concealed firearm.

New Subsection 3412 (d)(2) is adopted to specify to employees that they are required to satisfactorily complete CDCR's requirements for Use of Force policy training. CDCR currently requires that all peace officer employees receive Use of Force policy training annually. This training helps ensure that all peace officer employees understand CDCR's Use of Force policy and procedures on both the application of force and subsequent reporting and documentation requirements. This language is necessary to remind active peace officers that this requirement needs to be met to receive CDCR authorization to carry a concealed firearm off-duty.

New Subsection 3412(d)(3) is adopted to specify that employees shall satisfactorily complete quarterly qualification with the off-duty concealed firearm, and it shall be completed with a certified Rangemaster or Firearms Instructor through the use of a departmentally approved off-duty course of fire. This subsection explains that employees shall have reasonable access to Department ranges to qualify with their off-duty firearms and that range time for purposes of qualifying with off-duty firearms shall be on the employee's own time during their off-duty hours. Although, this language is duplicative of that found in subdivisions (d) and (e) within Penal Code Section 830.5, it is necessary to include it in this subsection because it informs employees of their rights and

responsibilities in maintaining their authorization to carry a concealed firearm and how frequently they shall obtain their qualification.

New Subsection 3412(d)(4) is adopted to specify that employees shall complete annual training for the safe handling of an off-duty concealed firearm and safe firearm storage practices. This language is necessary because it informs employees of the subject matter of this training and their responsibility to complete this training annually.

New Subsection 3412(d)(5) is adopted to establish that it is the employee's responsibility to maintain eligibility to carry a firearm while off-duty and that the failure to maintain such eligibility shall constitute good cause to suspend or revoke that person's right to carry a concealed firearm while off-duty. This language is necessary because it informs employees of the consequences they may face if they fail to maintain their eligibility.

New Subsection 3412(e) is adopted to specify such circumstances that shall constitute good cause to suspend or revoke an employee's authorization to carry a concealed firearm while off-duty. This language is necessary because it informs employees of the circumstances that shall constitute good cause to suspend or revoke their authorization to carry a concealed firearm while off-duty.

New Subsection 3412(e)(1) is adopted to specify the circumstances where an employee's authorization to carry a concealed firearm while off-duty shall be suspended automatically. This language is necessary because it informs employees of the circumstances in which their authorization shall be suspended automatically.

New Subsection 3412(e)(1)(A) is adopted to specify that an employee's authorization to carry a concealed firearm while off-duty shall be suspended automatically during the pendency of any criminal prosecution against the employee that involves a felony, a domestic violence misdemeanor, or a crime involving a firearm. This language is necessary because it informs employees that they face an automatic suspension of the right to carry if they pose an unacceptable public safety risk; in this case, an unacceptable public safety risk is implied through a pendency of criminal prosecution.

New Subsection 3412(e)(1)(B) is adopted to specify that an employee's authorization to carry a concealed firearm while off-duty shall be suspended automatically during the pendency of any investigation into allegations that the employee was engaged in misconduct involving the off-duty concealed firearm where the employee's skill or judgment in the handling of the firearm was impaired by the consumption of any substance, including prescription medication or alcohol. This language directly draws on the recommendation from the Office of Inspector General that CDCR adopt a policy that includes "an automatic revocation of a concealed weapons permit if the peace officer had been consuming alcohol while in possession of a weapon. (See Recommendation 1.2 of the *Office of Inspector General Semi-Annual Report Volume 1, July-December 2013* (March 27, 2014).) However, the language of this subsection expands the OIG's recommendation and also includes as a ground for suspension the consumption of any substance that may impair an employee's skill or judgment in the handling of a concealed firearm while off-duty. This language is necessary because it informs employees that their

authorization to carry a concealed firearm shall be suspended if these types of allegations are made against them.

New Subsection 3412(e)(1)(C) is adopted to specify that an employee's authorization to carry a concealed firearm while off-duty shall be suspended automatically during the pendency of any medical work restriction placed on the employee that limits the employee's on-duty use of a firearm. This language is necessary because it informs employees that their authorization can also be suspended if any medical work restriction is placed on the employee that limits the employee's on-duty use of a firearm.

New Subsection 3412(e)(1)(D) is adopted to specify that an employee's authorization to carry a concealed firearm while off-duty shall be suspended automatically during the pendency of a temporary or permanent restraining order that is placed against the employee if it has to do with prohibiting the employee from possessing the firearm. This language is necessary because it informs employees of the automatic suspension of their authorization to carry a concealed firearm while off-duty if a temporary or permanent restraining order is placed on the employee and it prohibits the employee from possessing a firearm.

New Subsection 3412(e)(1)(E) is adopted to specify that an employee's authorization to carry a concealed firearm while off-duty shall be suspended automatically during the pendency of any restriction or redirection imposed by the hiring authority that restricts the employee's on-duty use of a firearm. This language is necessary because it informs employees that their authorization to carry a concealed firearm while off-duty will be suspended automatically for the above-mentioned purpose, save for the exception in Subsection 3412(e)(1)(G).

New Subsection 3412(e)(1)(F) is adopted to specify that an employee's authorization to carry a concealed firearm while off-duty shall be suspended automatically if the employee fails to maintain eligibility to carry such a firearm. Eligibility is maintained when an employee maintains quarterly qualification and completes the annual training. Off-duty weapons qualification records are maintained by facilities for six months. (See BU6 MOU Section 16.02, paragraph 6). This language is necessary to inform employees that the authorization to carry a concealed firearm while off-duty will be suspended automatically if the employee fails to maintain eligibility to carry such a firearm.

New Subsection 3412(e)(1)(G) is adopted to specify that the hiring authority shall not suspend or revoke the employees right to conceal-carry off-duty in accordance with 3412(e)(1)(E) solely for failing to qualify with a departmental duty course of fire, so long as the employee has met all off-duty requirements and demonstrated safe handling with firearms. This language is necessary to make it clear that an employee's duty weapons qualifications is separate from the qualification requirements for an off-duty weapon. The failure to qualify with a duty weapon would prevent an employee from assuming an armed post, but the qualification requirement is specifically related to the duty weapon. So, if the employee meets the off-duty carry requirements and qualifies with their off-duty firearm, then the employee could continue to carry an off-duty firearm.

New Subsection 3412(e)(2) is adopted to specify the circumstances where an employee's authorization to carry a concealed firearm while off-duty shall be revoked automatically. This language is necessary because it informs employees that there are circumstances when the authorization to carry a concealed firearm while off-duty shall be revoked automatically.

New Subsection 3412(e)(2)(A) is adopted to specify that an employee's authorization to carry a concealed firearm while off-duty shall be revoked automatically if the employee is either prohibited or restricted by state or federal law from carrying a firearm. This language is necessary because it notifies employees that their authorization shall be revoked automatically if the employee is either prohibited or restricted by state or federal law from carrying a firearm.

New Subsection 3412(e)(2)(B) is adopted to specify that an employee's authorization to carry a concealed firearm while off-duty shall be revoked automatically if the employee tests positive for illegal narcotics. This language is necessary because it informs employees that their authorization to carry a concealed firearm while off-duty shall be revoked automatically if the employee tests positive for illegal narcotics.

New Subsection 3412(e)(3) is adopted to specify that the suspension or revocation of an employee's authorization to carry a concealed firearm is effective once the employee is served with a written statement of the reasons for taking the action. This language is necessary because it tells the employees when a suspension or revocation of the authorization will occur and what notice employees are entitled to receive when their authorization is suspended or revoked.

New Subsection 3412(e)(4) is adopted to specify that an employee may appeal a hiring authority's decision to suspend or revoke the employee's authorization to carry an off-duty concealed firearm using the grievance procedure for their bargaining unit. This language is consistent with Penal Code Section 830.5 (c) and it is necessary because it notifies employees of their right to appeal a hiring authority's decision to suspend or revoke authorization to carry an off-duty concealed firearm and the procedure for appealing the decision.

New Subsection 3412(f) is adopted to specify the circumstances when an employee's authorization to carry a concealed firearm while off-duty shall be restored by the hiring authority. This language is necessary because it informs employees that the hiring authority has the authority to restore an employee's authorization even after it has been suspended or revoked.

New Subsection 3412(f)(1) is adopted to specify that upon an employee's request, the hiring authority shall restore an employee's authorization to carry a concealed firearm while off-duty if the employee is no longer subject to the same disqualifying factors that previously constituted good cause to suspend or revoke that employee's authorization. This language is necessary because it informs employees of their right to make a request to the hiring authority to restore their authorization when the employee is no longer subject to the same disqualifying factors that constituted good cause to suspend or revoke the authorization.

New Subsection 3412(f)(2) is adopted to specify that the hiring authority shall restore an employee's authorization to carry a concealed firearm while off-duty at the conclusion of an investigation in which it was determined that the allegations that precipitated the suspension of the authorization to carry a concealed firearm were not sustained. This language is necessary because it informs employees that the hiring authority shall restore an employee's authorization after an investigation determines that the allegations that precipitated the suspension of the authorization were not sustained.

New Subsection 3412(f)(3) is adopted to establish that the hiring authority shall restore an employee's authorization to carry a concealed firearm while off-duty when it is determined on appeal, pursuant to Subsection (e)(4) of this section, that good cause does not exist to suspend or revoke the employee's authorization to carry a concealed firearm while off-duty. This language is necessary because it informs employees that their authorization to carry a concealed firearm while off-duty shall be restored if it is determined at a hearing that good cause does not exist to suspend or revoke the employee's authorization.

New Subsection 3412(f)(4) is adopted to establish the process for restoring an employee's authorization to carry a concealed off-duty firearm. The language is necessary to make it clear that it is the employee's responsibility to request restoration and to provide all necessary documentation to the hiring authority demonstrating the employee meets Department requirements for authorization to carry an off-duty concealed firearm.