

**State of California
Office of Administrative Law**

In re:
Department of Corrections and
Rehabilitation

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections: 3054.2, 3054.3, 3054.7,
3054.8

Amend sections: 3000, 3054, 3054.1, 3054.2
(renumber to 3054.5),
3054.3 (renumber to
3054.4), 3054.4 (renumber
to 3054.6), 3054.5
(renumber to 33054.9)

Repeal sections: 3054.6, 3054.7

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2022-0914-02

OAL Matter Type: Regular Resubmittal (SR)

This action by the Department of Corrections and Rehabilitation adopts and amends regulations to implement the religious and plant-based foods meal requirements in Penal Code section 2084.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/01/2023.

Date: October 25, 2022



Kevin D. Hull
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Kathleen Allison, Secretary
Copy: Josh Jugum

RESUBMITTAL

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2021-1011-02	REGULATORY ACTION NUMBER 2022-0914-02	EMERGENCY NUMBER SR
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ENDORSED FILED
In the office of the Secretary of State
of the State of California

OCT 25 2022

1:51 pm

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

OFFICE OF ADMIN. LAW
2022 SEP 14 PM 2:55

AGENCY WITH RULEMAKING AUTHORITY California Department of Corrections and Rehabilitation	AGENCY FILE NUMBER (if any) 18-0232
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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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Religious and Plant-Based Diets	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2022-0315-01S
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 See Attachment
	AMEND See Attachment
	REPEAL See Attachment
TITLE(S) 15	

3. TYPE OF FILING			
<input 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 checked="" 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) June 3, 2022 through June 20, 2022
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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 checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

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 916-445-2269	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 Jeffrey Macomber	DATE 9/9/2022
TYPED NAME AND TITLE OF SIGNATORY JEFF MACOMBER, Undersecretary, Operations	

For use by Office of Administrative Law (OAL) only
AUTHORIZED FOR FILING AND PRINTING

OCT 25 2022

Office of Administrative Law

ATTACHMENT TO FORM STD. 400, REGULATIONS SUBMISSION

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)

Title: 15

Section(s) Affected:

Adopt: 3054.2, 3054.3, 3054.7, 3054.8

Amend: 3000, 3054, 3054.1, 3054.2 (renumber to 3054.5), 3054.3 (renumber to 3054.4),
3054.4 (renumber to 3054.6), 3054.5 (renumber to 33054.9)

Repeal: 3054.6, 3054.7

TEXT OF ADOPTED REGULATIONS

Amendments to the proposed text originally noticed to the public are indicated by underline for newly added text and ~~strikethrough~~ for 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.

*

Religious Personal Ethical Diet (RPED) means a diet consisting of one of the following types of meals: vegetarian, plant-based, religious meat alternate (halal), or religious kosher.

*

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, 653, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2084, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3007.05, 3020, 3450, 3550, 4570, 4576, 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; Section 11007, Health and Safety 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; *Madrid v. Cate* (USDC ND 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 4. Food Services

Sections 3054(a) and (b) are amended.

3054. Religious Personal Ethical Diet Program.

Subsections 3054(a) and 3054(b) are amended.

(a) Each institution shall make reasonable efforts, as required by law, to accommodate those inmates who have been determined, pursuant to CCR, Title 15, ~~subsection 3054.4(b)(1), 3054.3 or 3054.6~~ to require a Religious Personal Ethical ~~d~~Diet (RPED) program meal.

(b) Each institution shall provide religious awareness ~~training for custody and food service staff, and anyone involved in the Religious Diet Program.~~ and food handling training for all staff and inmates involved in supervising, ordering, preparing, and serving RPED program meals.

Existing subsections 3054(c) and 3054(d) are amended and renumbered to 3054(d) and 3054(c), respectively.

~~(dc)~~ Medical diets shall take precedence over ~~religious diets~~ RPEDs.

~~(cd)~~ ~~Within an institution, religious meals shall not be restricted from inmates, RPED meals shall not be restricted from inmates based on their classification or housing placement. Inmates who are transferred to other CDCR institutions shall have the ability to continue participating in their current Religious Diet RPED Program at the receiving institution, barring medical needs or other extraordinary circumstances.~~

New subsection 3054(e) is adopted.

(e) Inmates assigned to CDCR conservation camps, or temporarily transferred, e.g., out to court or outside medical facilities, shall have their RPED meals suspended. Inmates returning from CDCR conservation camps or temporary transfer shall be reinstated to the approved RPED program at the receiving institution, barring medical needs.

Former subsection 3054(e) is renumbered to 3054(f) and is amended.

~~(ef)~~ There shall be at least ~~three distinct religious diet~~ four RPED options.

- (1) Vegetarian.
- (2) ~~Kosher.~~ Plant-based (PB).
- (3) Religious Meat Alternate (RMA).
- (4) Religious Kosher (RK).

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 383b, 2084, 5009 and 5054, Penal Code. *In re Garcia* (2012) 202 Cal.App.4th 892.

3054.1. Vegetarian Diet Program.

Existing subsection 3054.1 initial paragraph is deleted. Its provisions are incorporated into new subsections 3054.1(a), 3054.1(b), and 3054.1(c) and are amended.

~~Vegetarian meals shall be available at all institutions upon request for inmates with any religious, personal, or ethical dietary need. Inmates may seek participation in the Vegetarian Diet Program by submitting to any Chaplain a CDCR Form 3030 (Rev. 04/16), Religious Diet Program Request, which is incorporated by reference. The CDCR Form 3030 shall be approved by any Chaplain. Participating inmates shall be provided with an approved vegetarian protein alternative(s), often from that same day's scheduled meal.~~

(a) Vegetarian meals shall be available at all institutions upon request for inmates with any religious, personal, or ethical dietary need.

(b) Inmates may request participation in the Vegetarian Diet Program in accordance with Title 15, section 3054.3.

(c) Participating inmates shall be provided with an approved vegetarian protein alternative(s). Vegetarian meals contain plant-based foods and may include dairy, eggs, and seafood. On days seafood will be served as the vegetarian alternative, a non-seafood alternative will be offered.

New subsection 3054.1(d) is adopted.

(d) All institutions shall adhere to standardized departmental vegetarian diet menus and approved procedures for procuring and serving vegetarian meals.

Existing subsection 3054.1(a) is deleted.

~~(a) The RRC shall determine inmate compliance violations.~~

Note: Authority cited: Sections 5058, Penal Code. Reference: Sections 383b, 5009 and 5054, Penal Code.

Existing Section 3054.2, Kosher Diet Program, is renumbered to 3054.5.

New Section 3054.2 is adopted.

3054.2. Plant-based Diet Program.

(a) Plant-based (PB) meals shall be available upon request at all institutions on an overall cost-neutral basis for inmates with any religious, personal, or ethical dietary need.

(b) Inmates may request participation in the PB diet program in accordance with Title 15, section 3054.3.

(c) Participating inmates shall be provided with an approved PB protein alternative(s). PB meals contain no meat, poultry, dairy, eggs, or animal products or byproducts.

(d) All institutions shall adhere to standardized departmental PB diet menus and approved procedures for procuring and serving PB meals.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2084, 5009 and 5054, Penal Code.

Existing Section 3054.3, Religious Meat Alternate Program, is renumbered to 3054.4.

New Section 3054.3 is adopted.

3054.3. Participation in a Vegetarian or Plant-based Diet Program

(a) Inmates may request participation in the Vegetarian or Plant-based (PB) Diet Program by submitting to any Chaplain or Religious Review Committee (RRC) designee a CDCR Form 3030-V (04/21), Vegetarian and Plant-based Diet Request and Agreement, which is incorporated by reference.

(b) A determination to approve or disapprove the request shall be made within 30 days of receipt of the submitted CDCR Form 3030-V. Once a decision is made, the CDCR Form 3030-V shall be forwarded within three business days to the Community Resources Manager. The inmate shall

be notified within seven business days of the decision and given a copy of their completed CDCR Form 3030-V. Inmates shall begin receiving their vegetarian or PB meals within 15 calendar days upon approval.

(c) The CDCR Form 3030-V shall be approved by any Chaplain or RRC designee, with the exception of inmates who have withdrawn or been removed from a Religious Personal Ethical Diet program during the previous six months.

(d) Inmates approved for the RPED shall be provided with a CDCR Form 3030-B (Rev. 04/21), RPED Card, which is incorporated by reference, or the inmate's identification card shall be affixed with the institution designated marking for their approved diet. RPED cards that are no longer valid shall be collected.

(e) Inmate participants shall show their CDCR Form 3030-B RPED Card or inmate identification card with designated marking when receiving their approved vegetarian or PB meal.

(f) Inmates participating in the vegetarian or PB Diet Program shall comply with all conditions listed on the CDCR Form 3030-V.

(g) The RRC shall determine inmate vegetarian or PB diet compliance violations.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2084, 5009 and 5054, Penal Code.

Former Section 3054.3 is renumbered to 3054.4 and is amended.

3054.34. Religious Meat Alternate Program.

Subsection (a) is deleted. Its provisions are incorporated into new subsections (a) and (b) and are amended.

~~(a) A Religious Meat Alternate Program (offering meat that has been certified as halal) shall be available at all institutions. Inmates with a religious dietary need may seek participation in the Religious Meat Alternate Program by submitting to any Chaplain a CDCR Form 3030 (Rev. 04/16), Religious Diet Program Request. The Chaplain may approve this request or refer the request to the RRC for determination.~~

(a) A Religious Meat Alternate (RMA) Program shall be available at all institutions for inmates with a religious dietary need that cannot be met by another RPED option or by the mainline diet.

(b) Inmates may request participation in the RMA Diet Program in accordance with Title 15, section 3054.6.

Existing subsection (b) is deleted. Its provisions are incorporated into new subsection (d) and are amended.

~~(b) All institutions will adhere to standardized departmental halal meat alternates, and approved procedures for procuring and serving halal meats.~~

Subsection (c) is amended.

~~(c) Each institution shall arrange for appropriate training for all inmate food service workers, custody, and food service employees involved in the supervising, ordering, and serving of halal meats. Participating inmates shall be provided a halal-certified meat to be substituted at the dinner meal when meat is served.~~

New subsection (d) is adopted.

(d) All institutions shall adhere to standardized departmental RMA diet menus, and approved procedures for purchasing, preparing, and serving certified halal meats, as approved by the Departmental Food Administrator.

Existing subsection 3054.3(d) is deleted.

~~(d) The Religious Meat Alternate Program shall be administered in accordance with the provisions of this Article.~~

Existing subsection 3054.3(d)(1) is renumbered to 3054.4(e) and is amended.

~~(4e) A Chaplain designated by the RRC shall annually review each institution's processes for the procurement, storage, and distribution of procuring, storing, and distributing Religious Meat Alternate RMA Pprogram meals and shall provide a report of the review to completed CDCR Form 3058 (Rev. 04/21), Religious Meat Alternate (RMA) Food Distribution Annual Review, which is incorporated by reference, for review by the Correctional Food Manager.~~

Subsections 3054.3(d)(2), 3054.3(d)(3), and 3054.3(d)(4) are deleted.

~~(2) Upon review of the CDCR Form 3030, Religious Diet Program Request, any Chaplain or the RRC shall determine inmate entry into the Religious Meat Alternate Program.~~

~~(3) Only the RRC may make the determination to deny the CDCR Form 3030, Religious Diet Program Request.~~

~~(4) The RRC shall determine inmate compliance violations.~~

Note: Authority cited: Sections 5058, Penal Code. Reference: Sections 383b, 383c, 5009 and 5054, Penal Code. *In re Garcia* (2012) 202 Cal.App.4th 892.

Existing Section 3054.4, Participation in a Religious Diet Program, is renumbered to 3054.6.

3054.25. Religious Kosher Diet Program.

Subsection (a) is deleted. Its provisions are incorporated into new subsections (a) and (b) and are amended.

~~(a) Kosher meals shall be available at designated institutions for inmates with a religious dietary need that cannot be met by another religious diet option or by the mainline diet. Inmates may seek participation in the Kosher Diet Program by submitting to any Chaplain a CDCR Form 3030, Religious Diet Program Request. The Chaplain may approve the Form 3030 request or refer it to the Religious Review Committee (RRC) for determination.~~

(a) Religious kosher (RK) meals shall be available at designated institutions for inmates with a religious dietary need that cannot be met by another RPED option or by the mainline diet.

(b) Inmates may request participation in the RK Diet Program in accordance with Title 15, section 3054.6.

Existing subsections (b) and (c) are deleted.

~~(b) Inmates with unmet kosher dietary needs may, when classification is appropriate, be considered for transfer to another institution that can provide the inmate with a kosher diet.~~

~~(c) Inmates shall not give away, trade, or sell any portion of a kosher meal. Doing so may result in a compliance violation of the Religious Diet Program Agreement.~~

New subsection (c) is adopted.

(c) Participating inmates shall be provided a diet of kosher-certified items, as approved by the Departmental Food Administrator.

(d) All institutions will shall adhere to standardized departmental certified Kosher RK Diet Program menus and approved procedures for purchasing, preparing, and serving kosher meals, as approved by the Departmental Food Administrator.

(e) Observance of Passover constitutes a single religious event, requiring kosher for Passover foods to be provided during the eight days of observance.

Subsections (f) and (g) are deleted.

~~(f) Each institution shall arrange for appropriate training for all inmate food service workers, custody, and food service employees involved in the supervising, ordering, preparation, and serving of Kosher Diet Program meals.~~

~~(g) The Kosher Diet Program shall be administered in accordance with the provisions of this Article.~~

Former subsection (g)(1) is renumbered to (f) and is amended.

(4f) A Chaplain designated by the RRC shall annually review each institution's processes for the procurement, storage, and distribution of Kosher Diet Program procuring, storing, and distributing RK meals, and shall provide a report of the review to completed CDCR Form 3057 (Rev. 04/21), Religious Kosher Food Distribution Annual Review, which is incorporated by reference, for review by the Correctional Food Manager (CFM).

Former subsections (g)(2), (g)(3), and (g)(4) are deleted.

~~(2) Upon review of the CDCR Form 3030, Religious Diet Program Request, any Chaplain or the RRC shall determine inmate entry into the Kosher Diet Program.~~

~~(3) Only the RRC may make the determination to deny the CDCR Form 3030, Religious Diet Program Request.~~

~~(4) The RRC shall determine inmate compliance violations.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 383b, 5009 and 5054, Penal Code. *In re Garcia* (2012) 202 Cal.App.4th 892.

Former Section 3054.4 is renumbered to 3054.6 and is amended.

3054.46. Participation in a Religious Meat Alternate or Religious Kosher Diet Program

Subsection 3054.6(a) is amended.

~~(a) Any inmate who claims to require a religious diet consisting of either the Religious Meat Alternate or Religious Kosher Diet Programs shall be responsible for completing and signing a CDCR Form 3030-R (04/21), Religious Meat Alternative or Religious Kosher Diet Request, which is incorporated by reference, and submitting it to any Chaplain, or an RRC designee, shall be responsible for completing a CDCR Form 3030, Religious Diet Program Request, and submitting it to any Chaplain. No more than 30 calendar days shall pass from the day the Chaplain receives the completed CDCR Form 3030, Religious Diet Program Request, which results in a determination of program eligibility, to the day an accepted inmate begins receiving the religious meals requested.~~

Subsection 3054.6(b) is unchanged but is shown for reference. Subsections 3054.6(b)(1) and 3054.6(b)(2) are amended.

(b) The Chaplain or designated representative of the Religious Review Committee (RRC) shall:

~~(1) Interview the inmate requesting the religious diet. The program by utilizing CDCR Form 3030-E (Rev. 04/16 04/21), Religious Diet Program Meat Alternate or Religious Kosher Program Interview, which is incorporated by reference, shall be utilized for inmates who seek participation in the Kosher Diet Program or the Religious Meat Alternate Program. The Community Resources Manager (CRM) may interview an inmate when a Chaplain is not available.~~

~~(2) Determine the inmate's religious diet eligibility and for placement into the appropriate Diet Program RPED program per sections 3054.1 through 3054.3. The Chaplain may approve the request or refer it to the RRC for determination.~~

Existing subsections 3054.6(b)(3) and (b)(4) are incorporated into new subsection (b)(3) and are amended.

~~(3) If the inmate is approved for the RPED, review with the inmate CDCR Form 3030-A (Rev. 04/21), Religious Meat Alternate or Religious Kosher Diet Agreement, which is incorporated by reference. The inmate shall initial each provision of the CDCR Form 3030-A, sign and date the form.~~

~~(3) When Religious Diet Program eligibility is determined, explain the department's Religious Diet Program Agreement.~~

~~(4) When applicable, have the inmate sign the CDCR Form 3030-A (Rev. 04/16), Religious Diet Program Agreement, which is incorporated by reference, and the CDCR Form 3030, Religious~~

~~Diet Program Request. Document an inmate's refusal to sign any religious diet departmental forms.~~

Existing subsections 3054.6(b)(5) and (b)(6) are deleted. Their provisions are incorporated into new subsection (b)(4) and are amended.

(4) Approve the request or refer the request to the RRC within 30 days of receipt of the submitted CDCR Form 3030-R. Once a decision is made, forward the completed CDCR Form 3030-R and CDCR Form 3030-A within three business days to the CRM. The inmate shall be notified within seven business days of the decision and given a copy of their completed CDCR Form 3030-R, Religious Meat Alternative or Religious Kosher Diet Request. Inmates shall begin receiving RMA or RK meals within 15 calendar days upon approval.

~~(5) Distribute the completed CDCR Form 3030, Religious Diet Program Request and the CDCR Form 3030-A, Religious Diet Program Agreement, within three working days to the Community Resources Manager.~~

~~(6) Notify the inmate of the decision in writing by providing a copy of their CDCR Form 3030, Religious Diet Request.~~

Existing subsections 3054.6(b)(7) and (b)(8) are deleted. Existing subsection (b)(9) is renumbered to (b)(5) and is amended. Existing subsection (b)(10) is deleted.

~~(7) Enter pertinent information for each inmate approved to participate in a Religious Diet Program onto a religious diet participant list within 24 hours of approval. Maintain and update the list every 30 days, and provide the CFM with a copy of the list of those inmates who have been determined eligible to receive a religious diet, and which diet they will receive.~~

~~(8) Regularly monitor the religious diet lists with Food Service staff to ensure that all inmate Religious Diet Program participants are served their religious dietary meals with minimal delay.~~

(9) Provide each approved inmate with a CDCR Form 3030-B, (Rev. 04/16 04/21) Religious Diet RPED Card, which is incorporated by reference, or affix the inmate's identification card with the institution designated marking for their approved diet. Collect Religious Diet Cards that are no longer valid.

~~(10) Meet with inmates, giving them the opportunity to respond to allegation(s) of Religious Diet Program Agreement compliance violations, prior to making a determination of continuing eligibility in accordance with section 3054.5.~~

Former subsection (c)(1) is incorporated into subsection (c). Former subsection (c)(2) is deleted.

(c) Inmate participants shall: ~~(1) Show their Religious Diet CDCR Form 3030-B RPED Card or inmate identification card with institution designated marking when receiving their approved religious diet.~~

~~(2) Follow the conditions of the signed CDCR Form 3030-A, Religious Diet Program Agreement.~~

Existing subsection (d) is deleted and new subsections (d) and (e) are adopted.

~~(d) An inmate who wishes to withdraw from the Religious Diet Program shall sign the CDCR Form 3030-D (Rev. 04/16), Religious Diet Program Cancellation Request, which is incorporated by reference. The inmate shall submit the completed CDCR Form 3030-D cancellation request to the institution's Community Resources Manager.~~

(d) Only the RRC may deny the CDCR Form 3030-R, Religious Meat Alternative or Religious Kosher Diet Request. If the RRC determines that an inmate is ineligible for the diet requested, the inmate may reapply for the same diet six months from the date of the denial or may apply for a different diet immediately.

(e) Inmates whose request for participation in the RPED program have been denied by the RRC may grieve the decision in accordance with Title 15, sections 3481 and 3482.

New subsection (f) is adopted.

(f) Inmates participating in a RMA or RK diet program shall comply with all conditions listed on their signed CDCR Form 3030-A, Religious Meat Alternate or Religious Kosher Diet Program Agreement. Inmates who refuse to sign the CDCR Form 3030-A shall not be approved for participation in the RPED.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 383b, 5009 and 5054, Penal Code, *In re Garcia* (2012) 202 Cal.App.4th 892.

New Section 3054.7 is adopted.

3054.7. Inmate Meal Tracking System.

(a) All inmate Religious Personal Ethical Diet (RPED) participation approval status and history and canteen purchases shall be recorded in the Inmate Meal Tracking System (IMTS) located on the CDCR intranet.

(1) The IMTS shall be updated within 24 hours of diet approval, decision to refer to the RRC, RRC denial, audit violations, or status change.

(2) The Correctional Food Manager or designee shall ensure that all inmate RPED participants are served their dietary meals.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code.

New Section 3054.8 is adopted.

3054.8. Withdrawing or Requesting Religious Personal Ethical Diet Program Changes.

(a) An inmate may request to withdraw from the Religious Personal Ethical Diet (RPED) Program by signing the CDCR Form 3030-D (Rev. 04/21), Religious Personal Ethical Diet Cancellation Request, which is incorporated by reference. The inmate shall submit the completed CDCR Form 3030-D to any Chaplain, Community Resource Manager, or Religious Review Committee designee.

(b) An inmate currently participating in an RPED may request to change to a different RPED program by submitting the applicable CDCR Forms 3030-V or 3030-R. The request shall be subject to the same application process as a new RPED diet request. No more than one RPED diet change within six months shall be permitted.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code.

Existing Section 3054.5 is renumbered to 3054.9 and is amended.

3054.59. Monitoring for Religious Personal Ethical Diet Program Inmate Compliance.

Existing subsection 3054.5 initial paragraph is deleted.

~~Any alleged compliance violation of the Religious Diet Program Agreement shall be reported using CDC Form 128-B, General Chrono, citing CCR, Title 15, section 3054. All reports shall be sent to the designated representative of the RRC, who shall consult with the inmate. The RRC shall make the final determination of continuing eligibility, and complete a CDCR Form 3030-C (Rev. 04/16), Religious Diet Program Notice of Non-Compliance, which is incorporated by reference. As described on the CDCR Form 3030-C, a first violation of the Religious Diet Program Agreement shall result in a warning issued to the inmate, and a second violation within six months of the first violation may subject the inmate to removal from the program. A copy of the completed CDCR Form 3030-C shall be provided to the inmate.~~

New subsections (a) through (d) are adopted.

(a) The Religious Review Committee (RRC) shall determine Religious Personal Ethical Diet (RPED) compliance violations. The RRC shall initiate and oversee the audit of RPED participants for their compliance of all conditions listed on CDCR 3030-A, Religious Meat Alternate or Religious Kosher Agreement, and the CDCR 3030-V, Vegetarian and Plant-based Diet Request and Agreement. Any alleged compliance violation of the CDCR Form 3030-A or the CDCR Form 3030-V shall be reported using CDC Form 128-B (Rev. 04/74), General Chrono, which is incorporated by reference, citing Title 15, section 3054.

(1) Any staff witnessing an RPED violation may initiate a CDC Form 128-B, General Chrono, and forward to the RRC.

(2) A first notice of violation of the RPED Program Agreement shall be documented using a CDC Form 128-B, General Chrono. The CDC Form 128-B, General Chrono, shall be dated the day the inmate was notified of the violation.

(3) A second notice of violation within six months of the first notice of violation shall subject the inmate to removal from the RPED program.

(4) Inmates who are issued a CDC Form 128-B first or second violation may grieve the CDC Form 128-B in accordance with Title 15, sections 3481 and 3482.

(5) Inmates who voluntarily withdraw from the RPED Program shall not be issued a violation notice dated on or after the date of their withdrawal from the program.

(b) Inmate participants in the Religious Meat Alternate (RMA) and Religious Kosher (RK) diet programs are subject to audit for all terms and conditions listed on CDCR Form 3030-A. The RRC designee shall prepare the audit packet and forward to any Chaplain, who shall, within 30 calendar days, consult with the inmate, giving the inmate the opportunity to respond to the allegation(s) of RPED agreement compliance violations, and return the completed audit packet to Community Resources Manager for signature and distribution to C-File, Inmate, RRC and CRM.

(1) Inmates shall not be automatically issued a violation notice based solely on the fact that they were flagged during the RPED Audit.

(2) The Chaplains shall make the final determination as to whether or not the inmate shall receive a CDC Form 128-B for violating the CDCR Form 3030-A, Religious Meat Alternate or Religious Kosher Agreement.

(3) The Chaplain shall complete the CDC Form 128-B with the date of interview and shall sign as the interviewer, not as the issuer. The Chaplain shall document on the CDC Form 128-B if the inmate refuses to be interviewed.

(c) Inmate participants in the Vegetarian and Plant-Based diet programs are subject to all terms and conditions listed on CDCR Form 3030-V. Any alleged compliance violation may be initiated by any staff using CDC Form 128-B, General Chrono, citing Title 15, section 3054. The issuer of the CDC Form 128-B or a representative of the RRC shall consult with the inmate, giving the inmate the opportunity to respond to the allegation(s) of RPED agreement compliance violations. The CDC Form 128-B shall be distributed to C-File, Inmate, Issuer, RRC and CRM. The RRC shall document the CDC Form 128-B in the IMTS.

(d) The RRC shall make the final determination of continuing eligibility and complete a CDCR Form 3030-C (Rev. 04/21), Religious Personal Ethical Diet Program Agreement - Notice of Non-Compliance, which is incorporated by reference. A copy of the completed CDC Form 128-B with attachments and CDCR Form 3030-C shall be scanned into Electronic Records Management Systems and a copy provided to the inmate.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code.

Existing Section 3054.6 is repealed.

~~3054.6. Meals Served to Non-Inmates.~~

~~The meal charge for state employees and persons other than official guests in state-operated dining rooms maintained and operated for inmates shall be \$1.00 plus sales tax. The meal charge for institution-operated employee dining rooms shall be in accordance with this article.~~

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

Existing Section 3054.7 is repealed.

~~3054.7. Reimbursement for State Purchased Food.~~

~~Outside guests attending inmate banquets, luncheons, or other special events where state-purchased food is provided shall be charged a minimum of \$1.00 plus sales tax per meal, per~~

~~guest. Funds collected in excess of \$1.00 plus sales tax, for the event shall be accompanied by a statement, signed by a non-inmate representative of the group, which reads: "We donate the sum of \$ _____ to the Inmate Welfare Fund." If the cost of the meals exceeds the allowance of \$1.00 per meal, an additional charge to the inmate group's trust account shall be made in accordance with this article.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.~~

FINAL STATEMENT OF REASONS

The following documents are incorporated by reference:

The Initial Statement of Reasons.

The Notice of Change to Text as Originally Proposed.

The original submission of the proposed regulations (OAL File No. 2022-0315-01S) which was withdrawn on April 25, 2022.

UPDATES TO THE INITIAL STATEMENT OF REASONS

Notice of Change to Regulations 21-11 was published and distributed on October 22, 2021. Public comments were accepted through December 7, 2021. The department received eight public comments during this period. A teleconference public hearing was held on December 15, 2021, at which there were no commenters.

After submitting final regulations to the Office of Administrative Law (OAL) in March of 2022, the department determined that additional amendments to the proposed text, and forms incorporated by reference, were necessary. The department withdrew the regulations from OAL in April of 2022 and developed amended regulations.

A Notice of Change to Text as Originally Proposed (Renotice) was distributed on June 3, 2022, to the persons and organizations who provided public comments during the initial public comment period. The Renotice was posted on the department's website on the same date. The department accepted public comments from this date through June 20, 2022. The department received one public comment during this period.

DETERMINATIONS, ASSESSMENTS, MANDATES, AND FISCAL IMPACT:

The California Department of Corrections and Rehabilitation (CDCR or 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 prevent the department from complying with Penal Code (PC) section 2084.

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 department'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 businesses 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.

NOTE REGARDING CDCR FORMS INCORPORATED BY REFERENCE (CCR, TITLE 1, SECTION 20):

This note explains the department's justification for incorporating forms by reference. The department uses over 1,500 forms, most of which are regulatory. It would be unduly cumbersome, expensive and impractical to print all these forms in the CCR text, therefore the department has always incorporated forms by reference, except in specific circumstances which do not apply in the case of these regulations.

The adopted, amended, and/or repealed forms included in this rulemaking action were made available to the public for review and were included in the notice of rulemaking sent to all parties who have requested notification.

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

Commenter #1:

Comment 1a: Commenter represents an organization which co-sponsored the legislation that established an inmate's right to plant-based meals in the Penal Code (PC). Commenter states that the text of PC section 2084 places an inmate's right to plant-based meals on equal footing with the right to basic human necessities, and does not allow the department to "withhold these entitlements." The proposed regulations violate this requirement by establishing a 30-day approval process followed by a 15-day period to implement following approval. Additionally, the proposed regulations allow the department to withhold plant-based meals from an inmate for six months under certain conditions.

Response 1a: The proposed regulations require automatic approval of the Vegetarian and Plant-Based diets within 30 days with the exception for inmates who have withdrawn or been removed from the same diet within the previous six months. The 30 days is the maximum administrative time allowed for the staff to process the plant-based or vegetarian diet request. In most cases, the approvals may be completed more quickly.

Comment 1b: Commenter states "It is apparent that CDCR inappropriately adapted these restrictions...from its current religious meal regulations." The restrictions, penalties, and administrative burdens included in that program have no place in the context of the plant-based meal entitlement.

Response 1b: The diet requirements and restrictions for the plant-based and vegetarian diets are distinctively separate and unique from the requirements for the two religious diets. The plant-based and vegetarian diet request process consists of a single form CDCR-3030-V. While the department has up to 30 days to respond to the request, in case this amount of time is necessary, the department expects that in most cases the approvals will be completed much more quickly. In contrast, the approval process to obtain either of the two religious diets utilizes three forms and often results in disapproval.

Comment 1c: The restrictions directly contravene the letter and spirit of the statute, which mandates the availability of plant-based meals to all inmates at all times.

Response 1c: PC 2084 requires the department to provide "sufficient plain and wholesome food in such variety as may be conducive to good health" and "shall include the availability of plant-based meals." The department provides healthy and wholesome food options for all inmate diets consistent with the 2015-2020 Dietary Guidelines for Americans established by the U.S. Department of Health and Human Services and are "plain and wholesome food" in compliance with PC 2084, which are available at all times. The plant-based diet is one of the "plain and wholesome food" options offered by CDCR.

Comment 1d: Moreover, requiring an inmate to obtain approval from a religious official unduly entangles a straightforward statutory entitlement with religion.

Response 1d: The current and amended regulations and forms do not require or specify any religious criteria for an inmate to be placed on either the plant-based or vegetarian diets. The chaplains do not conduct any interviews with the plant-based or vegetarian diet applicants.

Comment 1e: Commenter states “CDCR’s proposed imposition of a single administrative framework for all meal programs may arise from a misinterpretation of the ‘overall cost-neutral basis’ required by the statute. The legislative analysis of Senate Bill 1138 (which amended PC section 2084 to add plant-based meals) found that serving more plant-based meals leads to significant reductions in cost and waste. Beans, rice, pasta, etc. are among the lowest cost staples available to institutions that serve large volumes of food, therefore cost-neutrality should be achieved by default.”

Response 1e: The department concurs with the commenter’s statement that the cost-neutrality of the plant-based diet should be achieved by default. CDCR amended these regulations specifically to include the words “cost-neutral” to assure that the department remains in compliance with PC 2084(b) which requires the department to make available the plant-based diet “on an overall cost-neutral basis.” The “imposition of a single administrative framework” utilizing the assistance of the chaplains or Religious Review Committee members to approve the plant-based diet participant’s placement into the Inmate Meal Tracking System (IMTS) assures that approved plant-based diet participants will be issued their requested plant-based meals and their approvals for the plant-based diet will automatically remain in effect upon transfer to other institutions.

Comment 1f: Commenter suggests that the department can attain an additional cost savings by consolidating the plant-based meal entitlement with the existing vegetarian meal program. There is no statutory requirement to maintain a separate vegetarian meal program, and eliminating the program would reduce the administrative workload.

Response 1f: The existing vegetarian meal program consists of a lacto-ovo vegetarian diet that may also include the option for fish to meet the needs of a sizable inmate population that for various religious, personal or ethical reasons, avoid eating red meat, but require proteins supplied by dairy, eggs and seafood.

Commenter #2:

Comment 2: Commenter states the vegetarian diet is nutritionally deficient. “The overall protein intake and amino acid intake profile is almost laughable.”

Response 2: This comment is not applicable to the proposed regulatory change. However, in response, the department provides healthy food options for all inmate diets consistent with the 2015-2020 Dietary Guidelines for Americans established by the U.S. Department of Health and Human Services.

Commenter #3:

Comment 3: Commenter states the proposed amendments are not in compliance with *Nelson v. Miller* (in which a Catholic Illinois inmate claimed to be entitled to a meat-free meal on Fridays and during Lent). Commenter suggests a fifth Religious, Persona, Ethical, Diet (RPED) option for inmates whose religious beliefs require this diet.

Response 3: This comment is not applicable to the proposed regulatory change. However, in response, the mainline diet has two meatless days per week. The local institution may be requested to designate meat-free meals on Fridays.

Commenter #4:

Comment 4a: Commenter is an inmate who chose to forego participation in the vegetarian diet program because of problems he experienced with the program. Commenter states the term “vegan” should be added to the proposed regulations as this is a term many people are familiar with.

Response 4a: CDCR amended these regulations to bring the department into compliance with PC 2084 which requires the department to make available the “plant-based” diet.

Comment 4b: Commenter provides his experience with the vegetarian diet program and states that he had difficulty receiving vegetarian meals and that the vegetarian meals he did receive were of poor quality.

Response 4b: See Response 2.

Commenter #5:

Comment 5a: Commenter suggests that participants in the plant-based and vegetarian diets have the option of taking their meals in their cell. The department could distribute a weekly amount of bulk food items, and the inmate could go to the dining hall to pick up perishable items.

Response 5a: This comment is not applicable to the proposed regulatory change. The amended regulations do not pertain to eating areas in institutional dining facilities or where RPED meals are consumed.

Comment 5b: Commenter states that some inmates who have vegetarian or plant-based diets choose not to eat any cooked foods. Accommodation should be made for these inmates.

Response 5b: This comment is not applicable to the proposed regulatory change. Additionally, there is currently no statute or other provision of law that requires the department to accommodate a request for a raw food diet. The department will not accommodate this request at this time.

Commenter #6:

Comment 6a: Commenter is an inmate who participates in the Kosher diet program. Commenter states that Kosher diet participants receive little meat, no beef, overly processed eggs, rotten vegetables, and unequal portions.

Response 6a: This comment is not applicable to the proposed regulatory change. However, in response, the department provides healthy and wholesome food options for all inmate diets consistent with the 2015-2020 Dietary Guidelines for Americans established by the U.S. Department of Health and Human Services. Regarding the Religious Kosher Diet Program, CDCR utilizes a statewide contractor to supply certified glatt kosher meals for all institutions. Moreover, as required in the current and proposed regulations, a chaplain designated by the Religious Review Committee (RRC) shall annually review each institution’s processes for the procurement, storage, and distribution of Kosher Diet Program meals, and shall provide a report of the review to the Correctional Food Manager. These are adequate safeguards to ensure that the Kosher Diet Program meals are religiously compliant.

Comment 6b: These meals are regularly served outside of the menu schedule and nothing is done to ensure the Kosher menu is substantially followed.

Response 6b: This comment is not applicable to the proposed regulatory change. However, in response, see Response 2.

Comment 6c: Commenter asks whether the Kosher menu can return to Kosher-specific regulations rather than being used to meet vegetarian and plant-based guidelines as well as Kosher, now that specific plant-based regulations are being adopted.

Response 6c: The kosher regulations as written are kosher-specific and are separate from the amended vegetarian and plant-based diet guidelines.

Comment 6d: Commenter states that institution staff sometimes require Kosher diet participants to consume their meals in the general population dining room.

Response 6d: See Response 5a.

Comment 6e: Policies need to be in place to ensure that Kosher meals are not compromised.

Response 6e: See Response 6a.

Commenter #7:

Comment 7a: Commenter states that seafood should not be included in the vegetarian diet. Vegetarian diets do not usually include seafood, and many religions that practice vegetarianism do not eat seafood.

Response 7a: Seafood is not a required entree on the vegetarian diet. Inmates on the vegetarian diet may select an alternate non-seafood protein entrée, as described in the regulation text.

Comment 7b: Commenter states the proposed regulations are “laden with bureaucratic entanglements-policy and procedure.” There is nothing addressing the nutritional needs of diet participants, which commenter claims are not being met. Commenter asks if the regulations can be amended to require that vegetarian diets must be comparable to the mainline diet in amino acid profiles. Commenter includes attachments regarding vegetarian diet nutritional requirements.

Response: See Response 2.

Commenter #8:

Comment 8a: Commenter states the word “ethical” should be removed from the proposed regulations and replaced with “immoral”.

Response 8a: The proposed regulations were written in compliance with PC section 2084 which requires the plant-based to be available “upon request of an inmate with any religious, personal, or ethical dietary need.”

Comment 8b: Commenter states the word “personal” should be removed from the proposed regulations, as the department should not be able to discipline an inmate for their personal beliefs.

Response 8b: The amended regulations do not provide disciplinary criteria for inmates violating their “personal” belief. See Response 8a.

Comment 8c: Commenter states that subsection 3054.4(a) should be amended to remove the term “by another RPED option” because the kosher diet meets or exceeds halal standards.

Response 8c: The Religious Meat Alternate (RMA) “halal” and kosher diets each have unique criteria for determining which diet, if any, shall be approved. The term “by another RPED option” is necessary to allow for all diet considerations.

Comment 8d: Commenter asks why there is no halal-certified meat substituted at breakfast? Why is there no halal meat for lunch? “This looks a lot like Muslim persecution.”

Response 8d: This comment is not applicable to the proposed regulatory change. However, in response, the department provides an appropriate halal-certified religious meat or protein alternative for RMA adherents. The RMA diet is not limited to only Muslim participation.

Comment 8e: Commenter states the term “Jewish” should replace “Religious” in the phrase Religious Kosher diet. No other religion is required to adhere to kosher requirements. The diet program should be called the Jewish Kosher Diet Program and should adhere to strict Jewish Kosher laws, otherwise the program will violate the rights of Jewish inmates to a meal that is strictly compliant with kosher standards. Failing to do so will put the department at risk of litigation.

Response 8e: The departmental RPED Program provides inmates with religious personal and ethical diet accommodations, subject to applicable law. These amendments are in furtherance of that purpose and will ensure that inmates receive religious diets consistent with their sincerely held religious beliefs.

Comment 8f: Commenter asks whether Kosher diets are available at designated institutions only or at all institutions.

Response 8f: Kosher diets are available at all institutions.

Comment 8g: Commenter asks whether the Departmental Food Administrator is certified in kosher to determine what is kosher.

Response 8g: The responsibility of the Departmental Food Administrator is to review and verify that the kosher certification documentation of the kosher meal vendor selected by the Department of General Services (DGS) meets the kosher requirements of the Religious Kosher Diet Program.

Comment 8h: Commenter asks what happens with Jews who do not eat kosher most of the year but do eat Kosher for Passover?

Response 8h: This comment is not applicable to the proposed regulatory change. However, in response, in order to maintain a simplified food service program, the department is not able to adjust for last minute requests for inmates to participate in the Kosher for Passover meals. Due to the industry standard extended lead time to purchase Kosher for Passover meals, the department is required to pre-order sufficient quantities of Kosher for Passover meals months prior to Passover to supply the regular participating kosher diet participants their kosher for Passover meals.

Comment 8i

What Kosher standard does the department follow-Reform or Orthodox?

Response 8i: This comment is not applicable to the proposed regulatory change. However, in response, the department purchases glatt kosher meals which normally satisfy the majority of religious traditions that adhere to kosher diets.

Comment 8j: Commenter states that if the department describes these special diets as “Religious Personal Ethical Diets” then it can’t dictate what a violation is since this is a “personal” decision.

Response 8j: See Response 8b.

Comment 8k: Commenter asks how any chaplain who isn’t a Rabbi can determine what complies with kosher rules. Commenter states that only a certified Rabbi can make these determinations.

Response 8k: This comment is not applicable to the proposed regulatory change. However, in response, the regulation was amended in 2016 to allow for any chaplain or the RRC to determine eligibility for a religious diet program, allowing for any denial of a religious diet request or inmate compliance violations to be reviewed by the RRC.

Comment 8l: Commenter states that the use of the term “Personal” in describing these diets programs means that any diet request should be approved, as this is a personal decision. An inmate cannot be forced to sign a contract regarding a personal decision.

Response 8l: The “Personal” diet is applicable to the vegetarian and plant-based diets only, which are available to any new requestors upon request. The diet contract signed by the inmate evidences the inmate’s decision to participate in and adhere to the requested diet program and requires CDCR to provide the inmate’s requested diet.

Comment 8m: Commenter states that subsections 3054.5(a) through (d) are obsolete and must be removed. The Religious Review Committee cannot determine compliance unless each member is knowledgeable and certified in every religious dietary law.

Response 8m: Subsections 3054.5(a) through (d) are applicable only to the Religious Kosher Diet Program, which is not classified as a “Personal” diet. See response 8k.

Comment 8n: Commenter states that including the term “personal” in the regulations makes dietary choices a matter of personal beliefs, and therefore not subject to denial or discipline by the department.

Response 8n: See Response 8b.

Comment 8o: Commenter states that no department staff member, unless trained in every religious dietary law, can make an observation of a violation of the diet agreement.

Response 8o: The diet agreement lists various objective criteria that can be determined by any departmental staff person. Violations specific to the inmate purchasing, possessing or consuming any food items that are not part of the RMA or Religious Kosher Diet Program, are objectively determined based upon the food manufacturer’s kosher or halal certification, which is labeled on the food product packaging.

Comment 8p: Commenter states that the audit process for religious diet compliance will lead to harassment of inmates by department staff. Commenter states that harassment happens at his institution. Commenter asks what religious authority gave the auditors unequivocal authority to dictate personal religious dietary laws and mandates.

Response 8p: This comment is not applicable to the proposed regulatory change. However, in response, any inmate who receives inappropriate treatment by any CDCR staff may seek relief utilizing the inmate grievance and appeal process. See Response 8o.

PUBLIC HEARING:

The department received a timely request to hold a public hearing regarding this proposed rulemaking action. A teleconference public hearing was held on December 15, 2021. No comments were received during the public hearing.

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

Commenter #R1:

Comment R1a: Commenter states that proposed subsection 3054.5(f) is in violation of the *Cooper v. State of California* settlement agreement. This agreement requires that “the kosher diet program will be overseen by a Jewish chaplain under the supervision of an orthodox or conservative rabbi. The rabbi shall be given access to inspect the kosher diet program upon request. The rabbi shall make the ultimate determination on violations of the kosher diet program.” Additionally, the authority and reference citations for this section should include *Cooper v. State of California*.

Response R1a: This comment is not applicable to the proposed renote changes as indicated by bold double underline or bold double strikethrough as described in the Notice of Change to Text as Originally Proposed.

Comment R1b: Commenter states that the wording of subsection 3054.6(b)(2) is unclear. The department should not be able to deny an inmate’s request for a “personal, ethical” diet.

Response R1b: This comment is not applicable to the proposed renote changes as indicated by bold double underline or bold double strikethrough as described in the Notice of Change to Text as Originally Proposed.

Comment R1c: Commenter states that the verbiage “once the decision is made” in subsection 3054.6(b)(4) is unclear, as chaplains aren’t allowed to disapprove a request to participate in a religious diet program.

Response R1c: The verbiage “once the decision is made” is in reference to the decision made by the chaplain either to approve the request or forward it to the RRC for the RRC to approve or deny. The department believes the meaning of this language is clear and cannot be interpreted in more than one way, given the context of the provision.

Comment R1d: Commenter states it is a waste of time to create the CDCR Form 3030-B if institutions are not required to use it. This process should be standardized throughout the department, as inmates are often required to transfer between institutions.

Response R1d: This comment is not applicable to the proposed renote changes as indicated by bold double underline or bold double strikethrough as described in the Notice of Change to Text as Originally Proposed.

Comment R1e: Commenter states the verbiage in subsection 3054.9(a)(1) which states: “Any staff witnessing an RPED violation may initiate a CDC Form 128-B, General Chrono, and forward to the RRC” should be changed to “shall initiate” rather than “may initiate”. Using “may” will give staff the opportunity to use a violation as a bargaining chip against an inmate.

Response R1e: This comment is not applicable to the proposed renote changes as indicated by bold double underline or bold double strikethrough as described in the Notice of Change to Text as Originally Proposed.

Comment R1f: Commenter states “Page 11, 3054.5 new subsection (a)(2), this is questionable wording as (b)(1) says the inmate automatically shall not be issued a CDCR 128-B.”

Response R1f: This comment is not applicable to the proposed renote changes as indicated by bold double underline or bold double strikethrough as described in the Notice of Change to Text as Originally Proposed.

Comment R1g: Commenter states “Same page (b), ‘Inmate participants in the Religious Meat Alternate (RMA) and Religious Kosher (RK) diet programs are subject to audit...’ what do you mean by audit? Wording is loosely used.”

Response R1g: This comment is not applicable to the proposed renote changes as indicated by bold double underline or bold double strikethrough as described in the Notice of Change to Text as Originally Proposed.

Comment R1h: Commenter states “(b)(1): Inmates shall not be automatically issued a violation notice based solely on the fact that they were flagged during the RPED Audit. Okay, so what does constitute a first notice of violation in accordance with this section (a)(1)?”

Response R1h: This comment is not applicable to the proposed renote changes as indicated by bold double underline or bold double strikethrough as described in the Notice of Change to Text as Originally Proposed.

Comment R1i: Commenter references subsection 3054.9(b)(3) and asks “What is to be completed on CDC 128-B (see already used form CDC 128-B). Is there a new CDCR Form 128-B that will be incorporated or adopted and previous CDC 128-B deleted from the Religious Diet, and left only for the Disciplinary Process for violations of CCR Title 15, section 3054.”

Response R1i: This comment is not applicable to the proposed renote changes as indicated by bold double underline or bold double strikethrough as described in the Notice of Change to Text as Originally Proposed.