



Department of Corrections and Rehabilitation
NOTICE OF CHANGE TO REGULATIONS

Section: 3315	NCR Number: 23-10	Publication Date: September 29, 2023	Effective Date: To Be Determined
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INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendment of Section 3315 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Audio and Video Recordings for Serious Rules Violations.

PUBLIC COMMENT PERIOD

The public comment period will close on **November 17, 2023**. 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 **November 17, 2023**.

PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held on **November 20, 2023**, from 10:00 a.m. to 11:00 a.m. in Room 150N, located at 1515 S Street, Sacramento, CA 95811. The purpose of the hearing is to receive comments about the proposed regulations. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

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 A. Colavita, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 322-8344, or e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to Justin Penney, Division of Adult Institutions, at (916) 324-4219.

Original Signed by:

Tammy Foss
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 amend Section 3315 into Title 15, Division 3, Chapter 1, regarding Audio and Video Recordings for Serious Rules Violations.

PUBLIC COMMENT PERIOD

The public comment period begins **September 29, 2023** and closes on **November 17, 2023**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rmb@cdr.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.

CONTACT PERSONS

Primary Contact

A. Colavita
Telephone: (916) 322-8344
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

J. Penney
Telephone: (916) 324-4219
Division of Adult Institutions
P.O. Box 942883
Sacramento, CA 94283-0001

PUBLIC HEARING

Date and Time: **November 20, 2023 – 10:00 a.m. to 11:00 a.m.**
Place: Department of Corrections and Rehabilitation
Room 150N
1515 S Street – North Building
Sacramento, CA 95811

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 proposed regulations establish that inmates shall review non-confidential audio or video recording(s) that are directly relevant to their serious rules violation offense prior to a serious rules violation disciplinary hearing. This change will ensure a fair and equitable disciplinary hearing process for inmates, by providing inmates with the opportunity to review audio or video recording(s) to prepare a defense, before a serious rules violation hearing is held.

This action will:

- Establish that inmates shall review non-confidential audio or video recording(s) that are directly relevant to their serious rules violation offense prior to their serious rules violation disciplinary hearing.

DOCUMENTS INCORPORATED BY REFERENCE

Automated Confidential Information Disclosure Form

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The department anticipates the proposed regulations will ensure a fair and equitable disciplinary hearing process, by establishing a requirement for inmates to review audio or video recording(s) that are directly relevant to their offense before a serious rules violation hearing.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING 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 revising inmates reviewing non-confidential audio or video recording(s) that are directly relevant to their serious rules violation offense.

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 businesses because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulation 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 may benefit the welfare of California residents by helping to make CDCR institutions safer for inmates, staff, and visitors. Additionally, safer institutions may provide an environment more conducive to rehabilitation, thereby reducing recidivism.

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 at the scheduled hearing or during the written comment period.

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, all new language is indicated by underline and deleted text is indicated by ~~strikethrough~~.

Chapter 1. Rules and Regulations of Adult Operations and Programs

Subchapter 4. General Institution Regulations

Article 5. Inmate Discipline

3315. Serious Rules Violations

[Subsections 3315(a) through 3315(e) remain unchanged.]

[New subsection 3315(f) is adopted to read]:

(f) In addition to the California Code of Regulations Title 15, Division 3, section 3320(c)(1) criteria, prior to a disciplinary hearing for a serious Rules Violation Report (RVR), inmates shall have the opportunity to review non-confidential portions of audio or video recording(s) if they exist, which are directly relevant to their serious RVR offense.

(1) Audio or video recording(s) reviewed by an inmate shall be considered as evidence and included in the disciplinary hearing process.

(2) The SHO shall not deny an inmate the ability to review or to stipulate non-confidential audio or video recording(s) unless it contains materials mentioned in subsection 3321 (a). Denial of confidential portions of audio or video recordings will be disclosed on the automated Confidential Information Disclosure Form (Rev. 7/23) which is hereby incorporated by reference.

(3) Inmates shall be allowed to review the audio or video recording(s) at least 24 hours prior to a serious disciplinary hearing, unless waived by the inmate in accordance with Title 15, section 3320(c)(2).

[Existing subsections 3315(f) through (i) are renumbered to 3315(g) through (j).]

(fg) Disposition. Upon completion of the fact-finding portion of the disciplinary hearing, the inmate may be found:

(1) Not guilty and the charges dismissed.

(2) Guilty of an administrative rather than a serious rule violation. In such case, the RVR shall be reduced to an administrative level offense and the inmate may be assessed only a disposition authorized in section 3314.

(3) Guilty as charged or guilty of an included serious rule violation and assessed a credit forfeiture pursuant to section 3323.

(4) If the violation included an act related to the use, possession, or distribution of controlled substances, controlled medication, drugs or drug paraphernalia; or if the inmate refused to submit to a test for controlled substances or drugs, the disposition shall include an order for the inmate to submit to mandatory random drug testing for one year from the date of the order.

(A) For the first offense, the inmate shall be retested within 90 days.

(B) For the second and all subsequent offenses, the inmate shall be placed in the MRDT program, and must provide one random drug test every 90 days for one year. With each subsequent positive test result and guilty finding, the Senior Hearing Officer shall reset the mandatory testing period.

(C) The inmate shall be informed that refusal to submit to a random test or any positive test result during the mandatory random drug-testing period shall result in the issuance of a RVR and a new mandatory drug testing order.

(5) The disposition may or when mandated shall include assessment of one or more of the following:

(A) Any combination of penalties authorized for administrative rule violations in section 3314(e).

(B) Suspension of privileges specified by the hearing official for no more than a 90-day period starting the date the rule violation report was adjudicated. The suspension of privileges for violations of subsections 3016(a), 3016(b), 3016(d), and 3290(d) shall be assessed as follows:

1. Thirty days for the first offense.
2. Sixty days for the second offense.
3. Ninety days for the third offense.

(C) Placement into privilege group B or C for no more than a 90-day period starting from the date the rule violation report was adjudicated. Inmates placed into Privilege Group C as a result of a disciplinary action who are participating in the Mental Health Services Delivery System at the Enhanced Outpatient Program level of care or higher shall be referred to the Interdisciplinary Treatment Team by the hearing official by documenting the information on a CDCR Form 128-MH5 (Rev. 05/14), Mental Health Referral Chrono, as a routine referral for program review.

(D) Disciplinary detention or confinement to quarters as provided in sections 3330 and 3333 for not more than a ten-day period. If facility security will not be jeopardized, the inmate shall be released to attend work and program assignments.

1. Second offense violations of subsections 3016(a), 3016(b), 3016(d), and 3290(d) shall result in confinement to quarters for five days.
2. Third and all subsequent offense violations of subsections 3016(a), 3016(b), 3016(d), and 3290(d) shall result in confinement to quarters for 10 days.

(E) Referral to a classification committee for consideration of placement in Work Group C.

(F) Suspension of all or part of dispositions other than credit forfeitures, ordered random drug testing and classification committee referrals, for up to six months based on the inmate's compliance with the conditions specified for suspension.

(G) Imposition of all or part of an existing suspended disposition when the current rule violation is a violation of conditions specified in a suspended disposition. Imposition of a

suspended disposition shall not include confinement to quarters or disciplinary detention for a period exceeding ten days except as provided in section 3322.

(H) For a violation of subsection 3016(d), there shall be a loss of visits for one year to be followed by non-contact visits for two years. In addition, the following loss of family visiting (overnight) shall apply upon conclusion of the non-contact visiting restriction:

1. Loss of family visiting (overnight) program for three years for first offense.
2. Loss of family visiting (overnight) program for seven years for second offense.
3. Permanent exclusion from family visiting (overnight) program for third offense.

(I) Loss of visits to be followed by non-contact visits for violations of subsection 3016(a), 3016(b) (with the exception of alcohol violations), or 3290(d) shall be as follows:

1. Loss of visits for 90 days, to be followed by non-contact visits for 90 days and loss of family visiting (overnight) program for one year upon conclusion of the non-contact restriction for the first offense.
2. Loss of visits for 90 days, to be followed by non-contact visits for 180 days and loss of family visiting (overnight) program for three years upon conclusion of the non-contact restriction for the second offense.
3. Loss of visits for 180 days, to be followed by non-contact visits for 180 days and loss of family visiting (overnight) program for five years upon conclusion of the non-contact restriction for the third offense.

(J) Violation of subsections 3016(a), 3016(b), 3016(d), and 3290(d) shall result in:

1. For the first offense, the inmate shall be required to attend Alcoholics Anonymous or Narcotics Anonymous, or be placed on a wait list to attend, along with loss of pay for 90 days from a paid work assignment.
2. For the second offense, the inmate shall be referred for placement into the Cognitive Behavioral Interventions (CBI) Intensive Outpatient program, provided that program eligibility criteria are met, along with loss of pay for 180 days from a paid work assignment.
3. For the third and all subsequent offenses, the inmate shall be referred for placement into the CBI Intensive Outpatient program, provided that program eligibility criteria are met, and mandatory treatment shall be a condition of parole. Additionally, the inmate shall be referred for removal from a paid work assignment for one year.

(K) Violation of Indecent Exposure or Sexual Disorderly Conduct of sections 3007, 3323(d)(9), 3323(f)(4), and 3323(g)(7) shall result in:

1. First offense violation shall result in loss of any or all of the following for up to 90 days: canteen, appliances, inmate packages, telephone privileges, and personal property.
2. Second offense and subsequent offense violation(s) shall result in loss of any or all of the following for up to 180 days: canteen, appliances, inmate packages, telephone privileges, and personal property.

(L) Inmates placed in ASU, SHU, PSU or other segregated housing units on Privilege Group D, who are deemed to be program failures, as defined in section 3000, based on conduct while in the ASU/SHU/PSU, or other segregated housing units, shall not possess personal entertainment appliances. An inmate who is deemed a program failure by a classification committee is subject to having their personal property appliances stored by the institution pending removal of program failure designation. Inmates deemed a program failure who receive one or more additional Administrative or Serious Rules Violation Reports while assigned to program failure status shall be required to mail out, return, donate or dispose of disallowed property in accordance with Subsection 3191(c).

Inmates who are not deemed to be program failures, but who are found guilty of any RVR per this section based on their conduct while in the ASU/SHU/PSU or other segregated housing units, are subject to temporary loss of their entertainment appliances as follows:

1. Thirty days for the first offense.
2. Sixty days for the second offense.
3. Ninety days for the third and subsequent offenses.

(M) Violation of Refusing to Accept Assigned Housing of sections 3005(c) and 3269.1 shall result in:

1. First offense violation shall result in loss of any or all of the following for up to 90 days: canteen, appliances, inmate packages, telephone privileges, and personal property.
2. Second offense and subsequent offense violation(s) shall result in loss of any or all of the following for up to 180 days: canteen, appliances, inmate packages, telephone privileges, and personal property.

(N) Violation of Refusing to Accept an Inmate Housing Assignment of subsection 3005(c) shall result in:

1. First offense violation shall result in loss of any or all of the following for up to 90 days: canteen, appliances, inmate packages, telephone privileges, and personal property.
2. Second offense and subsequent offense violation(s) shall result in loss of any or all of the following for up to 180 days: canteen, appliances, inmate packages, telephone privileges, and personal property, and referral to a classification committee for review and determination for program failure. An inmate who is deemed a program failure by a classification committee is subject to having ~~his/her~~ their personal property/appliances stored by the institution pending removal of program failure designation.

(O) Violation of subsection 3323(d)(8) shall result in a loss of visits for 180 days followed by non-contact visits permanently.

(P) Violation of subsection 3323(f)(5) shall result in:

1. Loss of visits for 90 days, to be followed by non-contact visits for 90 days for the first offense.
2. Loss of visits for 90 days, to be followed by non-contact visits for 180 days for the second offense.
3. Loss of visits for 180 days, to be followed by non-contact visits permanently for the third offense.

(Q) Violation of Subsection 3006(a) or 3006(c)(20) shall result in:

1. Loss of family visiting (overnight) program for one year for first offense.
2. Loss of family visiting (overnight) program for three years for second offense.
3. Loss of family visiting (overnight) program for five years for third offense.

(gh) Classification Committee Review. Any serious disciplinary action requiring reconsideration of an inmate's program, work group, or housing assignment, shall be referred to the next reasonably scheduled classification committee for review. This review shall not occur until the chief disciplinary officer's audit of the RVR has been concluded. The classification committee shall affirm or modify the inmate's program, work group, or housing assignment.

(hi) If the hearing official finds the inmate guilty of a rule violation which includes a nexus to a STG, a copy of the completed Rules Violation Report shall be forwarded to the STG Lieutenant.

(ij) The author of a Rules Violation Report may submit a CDCR Form 1027 (8/18), Audio-Video Surveillance System Evidence Request, which is incorporated by reference, to his or her supervisor to have any audio recordings, video recordings, or both forms of recordings related to the circumstances that gave rise to the rules violation preserved. Audio or video recordings preserved as part of a serious Rules Violation Report shall be reviewed by the Senior Hearing Officer during the hearing process.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 295, 295.1, 295.2, 296, 296.1, 296.2, 297, 298, 298.1, 298.2, 298.3, 299, 299.5, 299.6, 299.7, 300, 300.1, 300.2, 300.3, 314, 530, 532, 646.9, 647, 653, 2931, 2932, 2933, 4501.1, 4573.6, 4576, 5054 and 5068, Penal Code.



CONFIDENTIAL INFORMATION DISCLOSURE FORM

CDC NUMBER:

INMATE NAME:

INSTITUTION:

1) Use of Confidential Information:

Information received from a confidential source(s) has been considered in the:

- a) CDC Form 115, Rules Violation Report (log number ___) dated ___ submitted by

STAFF NAME

TITLE

- b) CDC Form 114-D, Order and Hearing for Placement in Segregated Housing dated ___

- c) Validation Package as a ___ of the ___ Security Threat Group.

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) This source has previously provided confidential information which proved to be true.
- b) Other confidential source has independently provided the same information.
- c) This source participated in and successfully completed a Polygraph examination.
- d) The information provided by the confidential source is self-incriminating.
- e) Part of the information provided is corroborated through investigation or by information provided by non-confidential sources.
- f) The confidential source is the victim.
- g) Other (Explain)

3) Disclosure of information received.

The information received indicated the following:

4) Type and current location of documentation, (i.e., CDC Form 128B of 5/15/2010 in the confidential section of the central file).

STAFF SIGNATURE

TITLE

DATE DISCLOSED

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend Section 3315, regarding audio or video recordings during the disciplinary process, in the California Code of Regulations (CCR), Title 15, Division 3.

The department provides a graduated system of inmate discipline designed to be administered commensurate with the seriousness of the offense. Discipline shall be administered to maintain control, conserve human values and individual dignity, and promote socially desirable changes in attitude and behavior.

The inmate disciplinary system incorporates statutory and constitutional mandates and provides essential due process guarantees to ensure fairness and equal application. Generally, breaches of conduct or law by inmates are observed by department staff. However, any person may initiate the disciplinary process by reporting a probable violation to a department employee.

Serious rule violations shall be heard by an institution disciplinary committee, disciplinary subcommittee, or a Senior Hearing Officer (SHO). Pursuant to CCR, Title 15, section 3315(c), serious rule violations shall be heard by a staff member not below the level of:

- Correctional Captain
- Correctional Counselor III
- Parole Agent III
- Experienced Correctional Lieutenant
- Experienced Correctional Counselor II
- Experienced Parole Agent II

The proposed regulations establish that inmates shall have the opportunity to review audio or video recording(s) if they exist, directly relevant to their serious rules violation offense prior to a serious rules violation disciplinary hearing, which will be provided by the SHO. Denial of confidential portions of audio or video recordings shall be disclosed on the automated Confidential Information Disclosure Form (Rev. 7/23). This change will ensure a fair and equitable disciplinary hearing process for inmates, by providing inmates with the opportunity to review all non-confidential portions of audio or video recording(s) (i.e. Audio-Visual Surveillance System (AVSS), Body Worn Cameras, etc.) directly relevant to the offense, at least 24 hours in advance of a serious rules violation hearing. The department determined that providing an inmate at least 24 hours in advance to review audio or video footage allows the inmate ample time to prepare a defense. If the department makes a determination the audio or video recording contains confidential portions, the confidential portions will not be provided as it could jeopardize the safety and security of the institution, other inmates, or staff. Confidential portions include: (1) Information which, if known to the inmate, would endanger the safety of any person; (2) Information which would jeopardize the security of the institution; (3) Specific medical or psychological information which, if known to the inmate, would be medically or psychologically detrimental to the inmate; and (4) Information provided and classified as confidential by another governmental agency.

An inmate has the right to refuse the opportunity to review audio or video recording(s) that are directly relevant to the offense prior to a serious rules violation hearing. Audio or video recording(s) that are directly relevant to the offense shall be addressed and documented in the findings portion of the Rules Violation Report (RVR) and shall be considered as evidence during the disciplinary hearing process.

CONSIDERATION OF ALTERNATIVES:

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

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

ECONOMIC IMPACT ASSESSMENT:

In accordance with Government Code Section 11346.3, subdivision (b), CDCR has made the following assessments regarding the proposed regulations: This action will not have a significant 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.

Significant Adverse Economic Impact on Business

The department has made an initial determination the proposed regulations will not have a significant statewide adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the department's initial determination. The proposed regulations affect the internal management of CDCR only, and place no requirements or restrictions on businesses.

Creation of New Jobs or the Expansion or Elimination of Existing Jobs within the State of California

The department has determined that the proposed regulations will not have an impact on the creation of new jobs or elimination of existing jobs within California as the proposed regulations affect the CDCR's prisons only.

Creation of New Businesses or the Elimination or Expansion of Existing Businesses within the State of California

The department has determined that the proposed regulations will not have an impact on the creation of new or 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 prisons only.

BENEFITS OF THE REGULATIONS:

The department anticipates the proposed regulations will ensure a fair and equitable disciplinary hearing process, by establishing a requirement for inmates to review audio or video recording(s) that are directly relevant to their offense before a serious rules violation hearing. Additionally, these regulations will provide the inmates with an adequate amount of time to review and prepare a defense before a serious rules violation hearing.

The proposed regulations will not affect the state's environment.

DOCUMENTS RELIED UPON:

In proposing amendments to these regulations, the department has neither identified nor relied upon any technical, theoretical, or empirical study, report, or similar document.

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

Subsection 3315(f) is adopted to establish that inmates shall have the opportunity to review audio or video recording(s) if they exist, prior to a serious rules violation hearing. This change is necessary to ensure a fair and equitable disciplinary hearing process for inmates, by providing inmates with the opportunity to review all non-confidential portions of audio or video recordings that are directly relevant to the offense. Confidential portions include: (1) Information which, if known to the inmate, would endanger the safety of any person; (2) Information which would jeopardize the security of the institution; (3) Specific medical or psychological information which, if known to the inmate, would be medically or psychologically detrimental to the inmate; and (4) Information provided and classified as confidential by another governmental agency.

Subsection 3315(f)(1) is adopted to establish that audio or video recording(s) reviewed by an inmate shall be considered as evidence and included in the disciplinary hearing process because this will ensure a fair and equitable disciplinary hearing process. The audio or video recording(s) may provide evidence for or against a guilty finding.

Subsection 3315(f)(2) is adopted to ensure the SHO is allowing an inmate to review portions of the audio or video recording(s) that are directly relevant to the offense prior to a serious rules violation hearing. The purpose for this is to ensure a fair and equitable disciplinary hearing process, by providing an inmate an opportunity to prepare a defense before a serious rules violation hearing. Denial of confidential portions of audio or video recordings shall be disclosed on the automated Confidential Information Disclosure Form (Rev. 7/23) which is incorporated by reference, to establish a process to inform the inmate when audio or video recordings are considered confidential and unable to be shown.

Subsection 3315(f)(3) is adopted to provide an inmate with ample amount of time to review and prepare a defense before a serious rules violation hearing. The department determined that 24 hours prior to a serious disciplinary hearing is an ample amount of time for an inmate to prepare a defense.

[Existing subsections 3315(f) through (i) are renumbered to 3315(g) through (j).]

Subsection 3315(g)(5)(N)2. is amended to replace “his/her” with “their” for equity compliance.