



Department of Corrections and Rehabilitation
NOTICE OF CHANGE TO REGULATIONS

Section: 3044 and 3090	NCR Number: 23-14	Publication Date: November 3, 2023	Effective Date: To Be Determined
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INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendment of Sections 3044 and 3090 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Canteen Privilege Levels.

PUBLIC COMMENT PERIOD

The public comment period will close on **December 21, 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 **December 21, 2023**.

PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held on **December 21, 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 R. Orr, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2229, or e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to M. Gomez-Essex, Accounting Services Branch, at (279) 300-5679.

Original signed by:

JENNIFER BARRETTO
Undersecretary, Administration
California Department of Corrections and Rehabilitation

Attachment

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 Sections 3044 and 3090 in Title 15, Division 3, Chapter 1, regarding canteen privilege levels.

PUBLIC COMMENT PERIOD

The public comment period begins **November 3, 2023**, and closes on **December 21, 2023**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

CONTACT PERSONS

Primary Contact

R. Orr
Telephone: (916) 445-2229
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

M. Gomez-Essex
Telephone: (279) 300-5679
Accounting Services Branch
P.O. Box 187018
Sacramento, CA 95827

PUBLIC HEARING

Date and Time: **December 21, 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

Due to the rise in inflation since the canteen draw limit was last changed in January 2010, the inmate population has lost purchasing power as canteen prices have risen but the draw limit has not. The increase in the draw limit would enhance the purchasing opportunity for inmates. The canteen is one of the few places in an institution where offenders can make their own choices, allowing offenders to purchase snacks and sundries with their own money. While the department provides inmates with essentials, the canteen offers goods that allow inmates to enhance their environments via personal purchases. Since offenders are only allowed to receive food packages from family and friends on a quarterly basis, the canteen is vital to the inmate population in that it allows them access to non-state-issued amenities on a regular basis.

In January 2010, the canteen draw limit was changed from \$180 to \$220. Due to inflation, the purchasing power of the dollar has diminished since January 2010. To project an appropriate increase, the department used the Consumer Price Index (CPI) inflation calculator that is provided by the Bureau of Labor Statistics (see the “Materials Relied Upon” portion of this document). The calculator demonstrates a 37% increase in inflation between January 2010 and December 2022, which means it would take approximately \$300 now to have the same buying power as \$220 had in January 2010. Raising the draw limit will allow an inmate’s purchasing power to be comparable to what it was in the past.

As CDCR continues its rehabilitative programming and inmates are eligible for lower security levels, inmate access to canteens is increasing. The privilege level increase is necessary to meet the growing demand for canteen items and to expand purchasing ability for the inmate population.

This action will:

- Increase the canteen draw limit from \$220 to \$300.
- Make non-substantive changes to convert fractional language to percentages and to correct misspellings.

DOCUMENTS INCORPORATED BY REFERENCE

None

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The increase in the canteen draw limit would make inmate purchasing power comparable to what it has been in the past, thereby enhancing inmate purchasing opportunities. The department anticipates that the enhancement of inmate purchasing opportunities may positively affect inmates’ mental well-being and behavior.

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 an increase in the canteen draw limit.

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. The department has determined that the proposed regulations will have an impact on the health and welfare of California residents by allowing for an increase in the purchasing power for canteen items; this may affect inmates' mental well-being, which may have a positive impact on their behavior.

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 text, ~~strikethrough~~ indicates deleted text and underline indicates added or amended text.

California Code of Regulations

Title 15. Crime Prevention and Corrections

Division 3. Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 3.5. Credits

Section 3044. Inmate Work Groups and Privilege Groups

Sections 3044(a) through 3044(e)(2)(H) are unchanged.

Section 3044(f) is unchanged, but is shown for reference.

(f) Privilege Group C:

Section 3044(f)(2) is unchanged, but is shown for reference.

(2) Privileges and non-privileges for Privilege Group C are as follows:

Section 3044(f)(2)(A) is unchanged.

Section 3044(f)(2)(B) is amended to read:

(B) ~~One-fourth~~ Twenty-five percent (25%) of the maximum monthly canteen draw and items shall be limited to stationaery, stationaery supplies, personal hygiene, vitamins and medications as authorized by the Secretary. Inmates may maintain their current canteen items, which must be verified with a current receipt. Any subsequent canteen purchases while on Privilege Group C or program failure status shall be limited to stationaery, stationaery, personal hygiene, vitamins and medications.

Sections 3044(f)(2)(C) through 3044(h)(2)(A) are unchanged.

Section 3044(h)(2)(B) is amended to read:

(B) Canteen Purchases. ~~One-half~~ Fifty percent (50%) of the maximum monthly canteen draw as authorized by the Secretary.

Sections 3044(h)(2)(C) through Section 3044(j)(4) are unchanged.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 2700, 2701 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); Sections 2932, 2933, 2933.05, 2933.3, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and In re Monigold, 205 Cal.App.3d 1224 (1988).

Subchapter 2. Inmate Resources

Article 1. Canteens

Section 3090. Inmate Canteen Establishment and Draw Limits

Section 3090(a) is unchanged.

Section 3090(b) is amended to read:

(b) The maximum monthly canteen draw authorized by the Secretary is ~~\$220.00~~ \$300.00. An inmate's regular canteen purchase shall not exceed the limits specified in section 3044 or the inmate trust account balance, whichever is less.

Sections 3090(c) through 3090(e) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5005 and 5054, Penal Code.

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend California Code of Regulations (CCR), Title 15, Division 3, Chapter 1, Sections 3044 and 3090 concerning canteen privilege levels.

Due to the rise in inflation since the canteen draw limit was last changed in January 2010, the inmate population has lost purchasing power as canteen prices have risen but the draw limit has not. The increase in the draw limit would enhance the purchasing opportunity for inmates. The canteen is one of the few places in an institution where offenders can make their own choices, allowing offenders to purchase snacks and sundries with their own money. While the department provides inmates with essentials, the canteen offers goods that allow inmates to enhance their environments via personal purchases. Since offenders are only allowed to receive food packages from family and friends on a quarterly basis, the canteen is vital to the inmate population in that it allows them access to non-state-issued amenities on a regular basis.

In January 2010, the canteen draw limit was changed from \$180 to \$220. Due to inflation, the purchasing power of the dollar has diminished since January 2010. To project an appropriate increase, the department used the Consumer Price Index (CPI) inflation calculator that is provided by the Bureau of Labor Statistics (see the “Materials Relied Upon” portion of this document). The calculator demonstrates a 37% increase in inflation between January 2010 and December 2022, which means it would take approximately \$300 now to have the same buying power as \$220 had in January 2010. Raising the draw limit will allow an inmate’s purchasing power to be comparable to what it was in the past.

As CDCR continues its rehabilitative programming and inmates are eligible for lower security levels, inmate access to canteens is increasing. The privilege level increase is necessary to meet the growing demand for canteen items and to expand purchasing ability for the inmate population.

Additionally, non-substantive amendments are made to Section 3044, which convert fractional language to percentages in order to be consistent with other sections in CCR, Title 15, Division 3, Chapter 1, and correct misspellings.

CONSIDERATION OF ALTERNATIVES:

The department must determine that no reasonable alternative considered, 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 this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

ECONOMIC IMPACT ASSESSMENT:

CDCR has made the initial determination that the action will not have a significant adverse economic impact on business.

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

Significant 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 on business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations primarily affect the internal management of CDCR institutions.

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

The department has determined that the proposed regulations will have no impact on the creation of new or the elimination of existing jobs within California. The proposed regulations primarily affect the internal management of CDCR institutions.

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

The department has determined the proposed regulations will have little to no impact on the creation of new or the expansion or elimination of existing businesses currently doing business within California. Any impact to the creation of new or expansion to existing businesses within California would be nominal and would therefore not have a significant impact.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The department has determined that the proposed regulations will have an impact on the health and welfare of California residents by allowing for an increase in the purchasing power for canteen items; this may affect inmates' mental well-being, which may have a positive impact on their behavior. These proposed regulations have no impact on worker safety, or the state's environment. The proposed regulations primarily affect the internal management of CDCR institutions.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The increase in the canteen draw limit would make inmate purchasing power comparable to what it has been in the past, thereby enhancing inmate purchasing opportunities. The department anticipates that the enhancement of inmate purchasing opportunities may positively affect inmates' mental well-being and behavior.

MATERIALS RELIED UPON:

In proposing amendments to these regulations, the department relied upon the CPI inflation calculator provided by the Bureau of Labor Statistics at https://www.bls.gov/data/inflation_calculator.htm. The department has not identified, nor has it relied upon any other technical, theoretical, empirical study, report, or similar document.

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

Section 3044(f)(2)(B) is amended to change fractional language to percentage for the purposes of consistency, as percentages are used more often throughout CCR, Title 15, Division 3, Chapter 1, and to correct the misspelling of “stationary” to “stationery.” These changes are non-substantive.

Section 3044(h)(2)(B) is amended to change fractional language to percentage for the purposes of consistency, as percentages are used more often throughout CCR, Title 15, Division 3, Chapter 1. This change is non-substantive.

Section 3090(b) is amended to increase the maximum monthly canteen draw limit from \$220 to \$300. This change is necessary to alleviate the reduction in purchasing power that resulted from inflation. The CPI inflation calculator demonstrates a 37% increase in inflation between January 2010 and December 2022, so the department has chosen \$300 as the new maximum monthly canteen draw limit because it would take approximately \$300 now to have the same buying power as \$220 had in January 2010.