



## Department of Corrections and Rehabilitation

### NOTICE OF CHANGE TO REGULATIONS

<b>Section:</b> 3574	<b>NCR Number:</b> 25-01	<b>Publication Date:</b> January 3, 2025
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#### INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed adoption of section 3574 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Sex Offender Treatment.

#### PUBLIC COMMENT PERIOD

The public comment period will close on **February 19, 2025**. 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](mailto:RPMB@cdcr.ca.gov). All written comments must be received or postmarked no later than **February 19, 2025**.

#### PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held **February 20, 2025, from 10:00 a.m. to 11:00 a.m. in Room 113, located at 9272 Laguna Springs Dr. Elk Grove CA, Building G-1**. 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 incarcerated or supervised persons, 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 incarcerated persons in restricted housing who do not have access to the posted copies and shall distribute it to incarcerated person 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 Dmitriy Kostyuk, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 203-9779, or e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Inquiries regarding the subject matter of these regulations should be directed to Andres Olivarez, Division of Adult Parole Operations, at (925) 596-3655.

*Original signed by:*

JASON D. JOHNSON  
Undersecretary (A), Operations  
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 the department), proposes to adopt 3574 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Sex Offender Treatment.

**PUBLIC HEARING**

Date and Time: **February 20, 2025 – 10:00am to 11:00am**  
Place: Department of Corrections and Rehabilitation  
Room 113  
9272 Laguna Springs Dr.– Building G-1  
Elk Grove, CA 95758  
  
Purpose: To receive comments about this action.

**PUBLIC COMMENT PERIOD**

The public comment period begins **January 3, 2025** and closes on **February 19, 2025**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to [rpmb@cdcr.ca.gov](mailto:rpmb@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

Dmitriy Kostyuk  
Telephone: (279) 223-2313  
Regulation and Policy  
Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001

Back-Up

Y. Sun  
Telephone: (916) 203-9779  
Regulation and Policy  
Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001

Program Contact

Andres Olivarez  
Telephone: (925) 596-3655  
Division of Adult Parole  
Operations

**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.

## INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The proposed regulations are necessary to establish regulations regarding the sex offender management program, pursuant to Penal Code (PC) section 3008(d) for supervised persons. The proposed regulations require a sex offender supervised person to attend treatment for no less than one year, up to the entire period of parole. These proposed regulations define the various phases of treatment and establish a review process in which a supervised person may be able to complete their treatment. This change is also necessary to comply with the settlement agreement made between the Alliance for Constitutional Sex Offense Laws, Inc. (ACSOL) and the department.

### This action will:

- Provide provisions for the various sex offender treatment terms and treatment stages.
- Establish the sex offender treatment review process for treatment completion.
- Establish guidelines for retaining a sex offender supervised persons in treatment during their annual Containment Team Meeting review.
- Establish requirements to re-refer a sex offender supervised person back to treatment.

## SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The benefits of the proposed regulations include ensuring supervised persons who have attended one year of treatment receive an assessment to determine whether the person has met the requirements for treatment completion or requires further treatment. These regulations will provide the Sex Offender Treatment (SOT) contractors criteria for assessing and determining if completion of treatment is warranted at the minimum of one year, pursuant to PC 3008(d). Furthermore, the proposed regulations will ensure the criteria and assessments are met, which will streamline the treatment completion process, making it more efficient. Lastly, the proposed regulations will ensure the department's compliance with the settlement agreement made between the ACSOL and the department.

## DOCUMENTS INCORPORATED BY REFERENCE

- CDCR Form 3043 Containment Team Meeting/Earned Discharge Consideration Committee (Rev. 11/24)

## EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations that concern Sex Offender Treatment.

## 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:   | <i>None</i> |
| • Cost to any local agency or school district that is required to be reimbursed: | <i>None</i> |
| • Other nondiscretionary cost or savings imposed on local agencies:              | <i>None</i> |
| • Cost or savings in federal funding to the state:                               | <i>None</i> |

## EFFECT ON HOUSING COSTS

The department has made an initial determination that the proposed action will have no significant effect on housing costs.

## **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS**

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

## **EFFECT ON SMALL BUSINESSES**

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

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The department has determined that the proposed regulations will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on the state's environment or worker safety, or the welfare of California residents.

## **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](http://www.cdcr.ca.gov).

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

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

## **AVAILABILITY OF CHANGES TO PROPOSED TEXT**

After considering all timely and relevant comments received, the department may adopt the proposed regulations substantially as described in this Notice. If the department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

## TEXT OF PROPOSED REGULATIONS

In the following, underline indicates new 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

#### Subchapter 6. Adult Parole

#### Article 5. Sex Offenders

#### **3574. Sex Offender Treatment**

(a) The requirement for a supervised person to attend sex offender treatment is established pursuant to Penal Code (PC) section 3008(d), persons released to parole and required to register pursuant to PC sections 290 to 290.023 shall participate in a sex offender management program. The sex offender management program is comprised of three treatment phases (Curriculum Phase, Maintenance Phase, Aftercare Phase), Containment Team Meetings (CTM), and polygraph examinations. Sex offender treatment providers (who are trained and certified pursuant to PC 290.09) shall be subject to the terms of the California Sex Offender Management Board.

(1) Curriculum Phase, also known as the active phase, is when the supervised person attends individual and group therapy sessions, at the prescribed hours per week, as determined by the sex offender treatment provider. These sessions focus on the goals and objectives of the treatment plan determined by the sex offender treatment provider through the sex offense specific treatment curriculum. It also involves the completion of mandated State Authorized Risk Assessment Tools for Sex Offenders (SARATSO) and the participation in polygraph assessments.

(2) Maintenance Phase is a phase where the supervised person works to maintain the gains made in the curriculum phase. Maintenance phase occurs when a supervised person has addressed the underlying issues related to their offending behavior, developed skills to lead a pro-social life, and mitigated their dynamic risk factors (according to the SARATSO assessment tools), as determined by the sex offender treatment provider, allowing for adjustment of treatment requirements. While in the maintenance phase, the supervised person is expected to continue to work towards their prescribed treatment plan goals, complete SARATSO assessments, participate in polygraph assessments, and attend group sessions as determined by the sex offender treatment provider. The supervised person may be required to attend in person sessions

weekly, monthly, or quarterly, based on their predetermined needs and assessments by the sex offender treatment provider.

(3) Aftercare Phase is a voluntary phase in the format of a support group with the sex offender treatment provider. This phase is for supervised persons who voluntarily continue their participation in the sex offender management program after they have successfully completed the curriculum and maintenance phases or persons who have been discharged from parole supervision.

(A) Persons voluntarily participating in the aftercare phase are responsible for any costs associated with participation.

(4) Containment Team Meeting is a meeting with all involved parties, as referenced in subsection 3574(a)(4)(A), whose purpose is to review the supervised person's treatment progress, dynamic risk factors, polygraph results, community reintegration, response to parole supervision, supervision category, and relevant individual case factors to evaluate the supervised person's readiness for sex offender management program completion.

(A) The Containment Team shall normally be comprised of a parole agent, unit supervisor or assistant unit supervisor, supervised person, contracted clinician (licensed psychiatrist, psychologist, or psychiatric social worker directly treating the supervised person), and victim advocacy representative. In the event all members of the Containment Team are not available to meet, the Containment Team shall minimally consist of a contracted clinician, parole agent, unit supervisor or assistant unit supervisor, and the supervised person. The Containment Team may also include other relevant stakeholders (e.g. Division of Adult Parole Operations and community program managers, polygraph examiner, etc.), family members of the supervised person, or any person in the supervised person's life that wishes to participate and can provide a first-hand account of the positive progress the supervised person is making.

(5) A Polygraph is a machine that measures a person's physiological responses when they respond to questions. Polygraph assessments are completed or contracted by the sex offender treatment provider as required by PC section 3008(d)(3).

(b) Persons placed on parole on or after July 1, 2012, required to register pursuant to PC sections 290 to 290.023, inclusive, shall successfully complete a sex offender management program in accordance with PC section 3008(d). Program participation shall be no less than one year, up to the entire period of parole. Participation in the sex offender management program is required, regardless of when the qualifying offense was committed.

(c) The sex offender treatment provider prescribes the number of treatment hours per week as determined by the supervised person's risks, needs, responsivity, and offense-free time in the community.

(d) Supervised persons may complete a sex offender management program before discharge from parole, as contemplated by the PC section 3008(d).

(e) The Containment Team's review of program completion is solely to determine the length of a supervised person's participation and progress in sex offender treatment. This review is independent of whether the supervised person should be discharged from parole and the electronic monitoring requirements of the supervised person pursuant to PC 3010.10. The CTM schedule shall be as follows:

(1) The initial CTM shall be between 90 and 100 calendar days from release to parole, or between 90 and 100 calendar days following a release of a supervised person who has spent 90 days or more in custody. The purpose of this CTM is to determine the most appropriate level of parole supervision needed for monitoring the supervised person while in the community, in accordance with Section 3573(c).

(2) The second CTM shall be within nine months following the first CTM (one-year CTM). This is the first review to determine whether the supervised person's sex offender management program requirements have been satisfied, completing their statutory requirement to successfully complete a sex offender management program.

(3) All subsequent CTMs shall be at least annually thereafter in accordance with the supervised person's level of parole supervision.

(f) When the Containment Team makes a determination to retain a participant in a sex offender management program, the determination shall be supported by good cause, as defined in Section 3000. A determination to retain a supervised person in a sex offender management program shall be stated in writing, signed by the sex offender treatment provider and parole agent on the CDCR Form 3043 Containment Team Meeting / Earned Discharge Consideration Committee (Rev.11/24), which is incorporated by reference. This completed form shall be delivered to the supervised person within 30 calendar days of the CTM and maintained in the supervised person's file. Reasons to retain a supervised person in a sex offender management program may include, but are not limited to:

(1) Pursuant to Section 3573, a Level of Service or Case Management Inventory (LS/CMI) score of 11 or higher.

(2) Pursuant to Section 3573, a Stable-2007 score of four or higher for males only.

(3) A current polygraph completed with deception found or new disclosure admissions that the supervised person has committed acts that would incur a technical or law violation.

(4) Parole violation(s), relevant to the supervised person's sex offense or adherence to the Conditions and Special Conditions of Parole associated with their sex offense, that occurred within one year of the review.

(g) The parole agent and unit supervisor may re-refer a supervised person to a sex offender management program for evaluation if there is a change in the supervised person's behaviors related to the risk of re-offense to a level likely to lead to a risk to

public safety, using the CDCR 1502 (Rev. 07/24) Activity Report. A re-referral may also be initiated at the request of the supervised person.

(1) Upon re-referral, the sex offender treatment provider shall complete the dynamic risk and violence risk assessments, pursuant to section 3573 and PC sections 290.04 and 290.09, to determine if the risk to re-offend has increased.

(A) If risk to re-offend has increased, the supervised person will be required to attend the sex offender management program, with the prescribed hours of treatment being determined by the sex offender treatment provider, until the increased risk to re-offend has been mitigated. While the supervised person is attending a sex offender management program, CTMs shall be re-established in accordance with Section 3574.

(B) If the sex offender treatment provider determines there is no increased risk in re-offense, the re-referral shall be considered closed, and the sex offender management program requirements remain completed.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 290 through 290.023, 3008, 5054, and 9003, Penal Code.



**CONTAINMENT TEAM MEETING/EARNED DISCHARGE  
CONSIDERATION COMMITTEE****ADOPT**

CDCR 3043 (Rev. 11/24)

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**SECTION 1: SUPERVISED PERSON'S INFORMATION (TO BE COMPLETED BY AGENT OF RECORD)**

CDCR #	Supervised Person's Name (Last, First, M.I.)	Parole Date	Last Release Date	Supervision Level	Parole Unit

PC 290 Offense: \_\_\_\_\_ Commitment Offense (if different): \_\_\_\_\_ Participating in SOT: ☐ YES ☐ NO ☐ N/A

**Select the form purpose and complete the associated form sections (Check one box)**

- ☐ Initial Containment Team Meeting (CTM) (Sections 1,2 & 4)
 ☐ CTM & Sex Offender Treatment Review (Sections 1,2,3, 4 & 5 if applicable)
- ☐ Abbreviated CTM (Sections 1,3, & 4)
 ☐ Earned Discharge Consideration Committee (complete in PVDTS): PVDTS ID # \_\_\_\_\_

Was Supervised Person Present? ☐ YES ☐ NO If No, Cite Reason - Check Appropriate Box(es):

- ☐ Supervised Person Did Not Respond to Request
 ☐ Supervised Person is Not Required to Attend
 ☐ Supervised Person Failed to Appear
- ☐ Supervised Person Declined to Participate
 ☐ Supervised Person Participated Telephonically

Other Participant's Name: \_\_\_\_\_

Relation to Supervised Person \_\_\_\_\_

Comments: \_\_\_\_\_

**SECTION 2: ASSESSMENT SCORES (TO BE COMPLETED BY AGENT OF RECORD)**

ASSESSMENT TOOL	SCORE	OBJECTIVE CRITERIA	
CSRA		<input type="checkbox"/> LOW (1)	<input type="checkbox"/> MODERATE (2) <input type="checkbox"/> HIGH (3 TO 5)
STATIC (IF APPLICABLE)		<input type="checkbox"/> HIGH RISK SEX OFFENDER (HRSO)(4 AND ABOVE)	<input type="checkbox"/> NON-HRSO (3 AND BELOW)
FEMALE SEX OFFENDER RISK ASSESSMENT (IF APPLICABLE)		<input type="checkbox"/> HRSO (MODERATE, HIGH)	<input type="checkbox"/> NON-HRSO (LOW)
LS/CMI <div>Date Administered</div>		<input type="checkbox"/> VERY LOW (0TO 4) <input type="checkbox"/> LOW (5 TO 10) <input type="checkbox"/> MODERATE (11 TO 19) <input type="checkbox"/> HIGH (20 TO 29) <input type="checkbox"/> VERY HIGH (30 AND ABOVE)	
Stable 2007 (MALES ONLY) <div>Date Administered</div>		<input type="checkbox"/> LOW (0 TO 3) <input type="checkbox"/> MODERATE (4TO 11) <input type="checkbox"/> HIGH (12 AND ABOVE)	
POLYGRAPH <div>Date Administered</div>	<input type="checkbox"/> INCONCLUSIVE	<div>DECEPTION FOUND</div> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	<div>DISCLOSURE ADMISSION</div> <input type="checkbox"/> YES <input type="checkbox"/> NO

**SECTION 3: SUMMARY OF PAROLE ADJUSTMENT (TO BE COMPLETED BY AGENT OF RECORD)**

OBJECTIVES	SCORE	OBJECTIVE CRITERIA (Select One Rating Per Objective)	<input type="checkbox"/> See Discharge Review Dated: _____
<b>OBJECTIVE 1:</b> Supervised person has maintained residence stability in a positive living environment.	<input type="checkbox"/> 1	Has been in the same pro-social living situation for the review period, or most recent move was to improve overall living conditions, and current residence expected to remain stable.	
	<input type="checkbox"/> 2	Has been in two or more living situations for the review period with any move not improving the living conditions.	
	<input type="checkbox"/> 3	Has demonstrated an unstable living environment, is transient or routinely difficult to see at the residence of record.	
<b>OBJECTIVE 2:</b> Supervised person's time has been structured around pro-social activities geared towards self-reliance.	<input type="checkbox"/> 1	Time is highly structured and focused on pro-social activities.	
	<input type="checkbox"/> 2	Time is moderately structured and generally focused on pro-social activities.	
	<input type="checkbox"/> 3	Time is unstructured and generally unaccounted for; involvement in pro-social activities is not evident.	
<b>OBJECTIVE 3:</b> Supervised person has been compliant with all general and special conditions of parole.	<input type="checkbox"/> 1	No violation has been substantiated for the review period.	
	<input type="checkbox"/> 2	Has only one technical violation and demonstrated a positive response to the imposed sanction.	
	<input type="checkbox"/> 3	The supervised person has not met the rating standard for #1 or #2 below.	
<b>OBJECTIVE 4:</b> Supervised person has been referred to and has participated in programming for the top three identified criminogenic needs.	<input type="checkbox"/> 1	Attended, participated, and completed programming.	
	<input type="checkbox"/> 2	Attended and partially participated in programming.	
	<input type="checkbox"/> 3	Failed to participate or complete programming.	
<b>OBJECTIVE 5:</b> Supervised person has been referred to and participated in required sex offender treatment.	<input type="checkbox"/> 1	Attended, participated, and/or completed sex offender treatment.	
	<input type="checkbox"/> 2	Attended and partially participated in sex offender treatment.	
	<input type="checkbox"/> 3	Failed to participate or complete sex offender treatment.	
	<input type="checkbox"/> 4	Demonstrated deception in polygraph.	
<b>OBJECTIVE 6:</b> Supervised person has been and is affiliated with other pro-social individuals.	<input type="checkbox"/> 1	Relationships are primarily pro-social and supportive of a crime free lifestyle.	
	<input type="checkbox"/> 2	Time is moderately structured and generally focused on pro-social activities.	
	<input type="checkbox"/> 3	Time is unstructured and generally unaccounted for; involvement in pro-social activities is not evident.	
<b>TOTAL SCORE:</b>		<input type="checkbox"/> 6-7 Reduction May be Warranted <input type="checkbox"/> 8-12 No Change Warranted <input type="checkbox"/> 13-19 Increase May be Warranted	

**DISTRIBUTION: Original:** Field File **Copies:** Agent of Record (AOR), Supervised Person

**CONTAINMENT TEAM MEETING/EARNED DISCHARGE  
CONSIDERATION COMMITTEE**

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**SECTION 4: CATEGORY DETERMINATION AND/OR SOT REVIEW (TO BE COMPLETED BY DAPO AND SEX OFFENDER TREATMENT PROVIDER)**

Treatment Provider Name	Treatment Provider Signature	CASOMB Certification Date	Treatment Program Name	Date
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Treatment Provider Sex Offender Treatment Recommendation:

☐ Retain      ☐ Complete      ☐ Comments:

AOR Name	AOR Signature	Badge #	Date
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AOR Sex Offender Treatment Recommendation:    ☐ Retain    ☐ Complete    ☐ N/AAOR Supervision Category Recommendation:    ☐ Remain in Current Category    ☐ Move to Category: \_\_\_\_\_☐ Comments:Effective Communication/Accommodation Provided:    ☐ NO    ☐ YES

Unit Supervisor (US) Name	US Signature	Badge #	Date
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US Sex Offender Treatment Recommendation:    ☐ Retain    ☐ Complete    ☐ N/AUS Determination: ☐ Remain in Current Category    ☐ Move to Category: \_\_\_\_\_ Effective Date: \_\_\_\_\_☐ Comments:**District Administrator (DA) Decision:**    ☐ Supervised person is currently ST or SA and will be reclassified to SC (**DA Signature Required**)

DA Name (If applicable)	DA Signature	Badge #	Date
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**SECTION 5: SEX OFFENDER UNIT (SOU) DETERMINATION (TO BE COMPLETED BY SOU PAROLE ADMINISTRATOR/ PAROLE AGENT III)**☐ This section shall be completed when the supervising parole unit and the SOT provider have conflicting sex offender treatment recommendations.SOU Parole Administrator/ Parole Agent III Sex Offender Treatment Recommendation:    ☐ Retain    ☐ Complete☐ Comments:

Parole Administrator/ Parole Agent III Name	Parole Administrator/ Parole Agent III Signature	Badge #	Date
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## INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to adopt section 3574, regarding sex offender treatment in the California Code of Regulations (CCR), Title 15, Division 3.

The proposed regulations incorporate the sex offender treatment (SOT) requirements pursuant to Penal Code (PC) section 3008(d) into CCR Title 15 Division 3. This rulemaking action adopts Section 3574 into California Code of Regulations, Title 15, concerning the three treatment phases included in the sex offender management program, pursuant to Penal Code (PC) section 3008(d) for supervised persons. This adoption is pursuant to Penal Code (PC) 3008(d), which requires a supervised person to attend treatment for no less than one year, up to the entire period of parole. It also defines the various phases of treatment and establishes a review process in which a supervised person may be able to complete their treatment.

Currently, Title 15 does not address how the sex offender treatment (SOT) providers in conjunction with the Division of Adult Parole Operations (DAPO) administers treatment to supervised persons (hereinafter “supervised person”). Specifically, there is no criteria to allow a supervised person to complete their treatment in no less than one year, up to the entire period of parole, as described in PC 3008(d). As a result, legal action was brought against the CDCR by the Alliance for Constitutional Sex Offense Laws, Inc. (ACSOL), which challenged the CDCR’s implementation of PC 3008(d). After negotiations, the ACSOL and the CDCR agreed to settle the petition’s claims and fully resolve the matter. To rectify the matter, the CDCR agreed to codify PC 3008(d) in regulations utilizing the emergency rulemaking process. These regulations will outline criteria for a supervised person to complete their treatment in no less than one year, and up to the entire period of parole.

In addition to the aforementioned litigation, the department has determined that a more precise individualized treatment tailored to the individuals’ needs is more beneficial, as this affords the supervised person the opportunity to complete their treatment prior to discharging parole, as opposed to a blanket requirement to attend treatment for the entire parole period. This adoption identifies the requirement of treatment, the phases of treatment, and the criteria for supervised persons to complete their treatment before their discharge from parole supervision.

SOT providers are certified and overseen by the California Sex Offender Management Board (CASOMB). The authority for regulating SOT providers is in PC sections 9000-9003. The CASOMB establishes the certification criteria for SOT programs, to include the minimum standards for sex offender curriculum. It also includes certification criteria for the SOT professionals contracted by the department. DAPO contracts with these providers to provide treatment to supervised persons identified in PC section 3008(d). The risk assessment tools utilized, and outlined within section 3574, are authorized by and known as State Authorized Risk Assessment Tools for Sex Offenders (SARATSO) (i.e. the SARATSO tools), pursuant to PC section 290.04. Per statute, the SARATSO Review Committee selects the SARATSO based upon criteria set forth in statute. The SARATSO static, dynamic, and future violence risk assessment tools are the tools required by statute. The dynamic and future violence risk tools are completed by the SOT professionals. These risk assessment instruments are statistically weighted and are based on studies which followed released sex offenders and identified factors associated with those who re-offend.

### **CONSIDERATION OF ALTERNATIVES:**

The department must determine that no reasonable alternative 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 this 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 the department that would alter the CDCR's initial determination.

### **ECONOMIC IMPACT ASSESSMENT:**

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 regulatory action will not have a significant adverse economic impact on business. Additionally, there have been no facts, evidence, documents, 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 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 or elimination of existing jobs within California as the proposed regulations affect the internal management of CDCR only.

#### **Creation of New Business or Expansion or the Elimination 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 the elimination of existing businesses within California or affect the expansion of businesses currently doing business in California as the proposed regulations only affect the internal management of prisons and contracted community facilities.

#### **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 no impact on the health and welfare of California residents, worker safety, or the State's environment.

### **BENEFITS OF THE REGULATIONS:**

The benefits of the proposed regulations include ensuring supervised persons who have attended one year of treatment receive an assessment to determine whether the person has met the requirements for treatment completion or requires further treatment. These regulations will provide the SOT professionals contracted by the department criteria for assessing and determining if completion of treatment is warranted at the minimum of one year, pursuant to PC 3008(d). Furthermore, the proposed regulations will ensure the criteria and assessments are met, which will streamline the treatment completion process, making it more efficient. Lastly, the proposed regulations will ensure the department's compliance with the settlement agreement made between the ACSOL and the department.

## **MATERIALS RELIED UPON:**

- *CASOMB Provider Agency Certification Requirements:*  
[https://casomb.org/pdf/Provider\\_Agency\\_Certification\\_Requirements\\_January\\_2019.pdf](https://casomb.org/pdf/Provider_Agency_Certification_Requirements_January_2019.pdf)
- *Alliance for Constitutional Sex Offense Laws, Inc, et al. vs. Jeffrey Macomber, Secretary of the California Department of Corrections and Rehabilitation. Los Angeles County Superior Court, Case Number 23STCP02378. Settlement Agreement.*

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

### **Chapter 1. Rules and Regulations of Adult Operations and Programs**

#### **Subchapter 6. Adult Parole**

#### **Article 5. Sex Offenders**

**Subsection 3574(a) is adopted to** establish that persons released to parole and required to register pursuant to PC sections 290 to 290.023 shall participate in a sex offender management program. This change is necessary to establish the treatment phases and expectations for the consistency of all SOT providers statewide. These treatment phases comply with the CASOMB and are part of the curriculum for all SOT. The authority of CASOMB is outlined in PC sections 9000 through 9003. The CASOMB is tasked with developing and updating certification standards for SOT professionals and SOT programs.

**Subsection 3574(a)(1) is adopted to** establish the Curriculum Phase which is also known as the active phase. The Curriculum Phase requires participants to attend individual or group therapy sessions and determine a treatment plan. When determining a treatment plan, the SOT provider will review all assessments and case factors prior to completing their determination and prescribing their number of treatment hours per week. The completion of the SARATSO risk tools is necessary during this phase because they assist in determining the number of treatment hours prescribed. These therapy sessions are prescribed by the SOT provider and are determined by various factors. These factors include, but are not limited to: sex offense, SARATSO risk assessment scores, length and progress in treatment, polygraph assessments, and parole adjustment. The supervised person must attend therapy, as prescribed by the SOT provider.

**Subsection 3574(a)(2) is adopted** because it is necessary to establish that the Maintenance Phase occurs when a participant has addressed the underlying issues related to their offending behavior, developed skills to lead a pro-social life, and mitigated their dynamic risk factors, as determined by the sex offender treatment provider. Examples of dynamic risk factors are: hostility towards women, capacity for relationship stability, deviant sexual preference, and cooperation with supervision. Dynamic risk factors aid the SOT provider in adjusting treatment requirements by providing evidence supporting a decision to raise, lower, or maintain a supervised person's level of prescribed treatment. The completion of SARATSO assessments, polygraph assessments, and the attendance of group sessions are important during the Maintenance Phase because they provide supporting evidence to raise or maintain a supervised person's level of treatment. They also provide support in the decision to determine a supervised person has met the requirements needed to complete their treatment. Some participants may only be required to attend in person sessions weekly, monthly, or quarterly, based on their predetermined needs and assessments by the SOT provider.

**Subsection 3574(a)(3) is adopted** because it is necessary to establish the Aftercare Phase to provide additional support for supervised persons who have completed the Curriculum and Maintenance Phases of treatment or have been discharged from parole supervision. This phase is on a voluntary basis for those who want to continue treatment with an SOT provider.

**Subsection 3574(a)(3)(A) is adopted** because it is necessary to establish that a person who voluntarily participates in the Aftercare Phase is responsible for the cost of any treatment during this phase. This is due to the person having fully completed the treatment and/or the person no longer being under the supervision and authority of DAPO.

**Subsection 3574(a)(4) is adopted** because it is necessary to establish a definition for containment team meeting (CTM) in regulations to remain in compliance with the settlement agreement between the CDCR and the ACSOL. It is also needed to codify the CTM for awareness and consistency, and to ensure cohesiveness with the Containment Team Approach as outlined by the CASOMB.

**Subsection 3574(a)(4)(A) is adopted** because it is necessary to establish who the containment team meeting should normally be comprised of. The department used “normally” because there will be circumstances where a containment meeting will be required; however, not all listed members are available. In those circumstances, DAPO will ensure the CTM takes place and is not delayed solely due to member’s availability. The Containment Team shall minimally consist of a contracted clinician, parole agent, unit supervisor or assistant unit supervisor, and the supervised person.

**Subsection 3574(a)(5) is adopted** because it is necessary to establish the definition for polygraph, which is required to remain in compliance with the settlement agreement between the CDCR and the ACSOL. It is also needed to codify and remain in compliance with PC 3008(d)(3), which requires polygraph exams to be a part of the sex offender management program.

**Subsection 3574(b) is adopted** because it is necessary to codify PC 3008(d) into CCR. Additionally, it is needed to clarify that participation in sex offender management is required, regardless of when the qualifying offense is committed.

**Subsection 3574(c) is adopted** because it is necessary to establish that the number of treatment hours per week will be established by the sex offender treatment provider. This is due to the sex offender treatment provider being the licensed clinician in the field of sex offender treatment and due to their training, experience, and certifications, as determined and approved by the CASOMB.

**Subsections 3574(d) is adopted** to establish that treatment may be completed prior to the participant’s discharge date. This change is necessary to create a process in which the treatment completion review is completed at the one-year benchmark pursuant to PC section 3008(d). It is also required to remain compliant with the settlement agreement.

**Subsection 3574(e) is adopted** because it is necessary to specify that the review of the sex offender management program completion is independent of whether the supervised person should be discharged from parole and independent of their electronic monitoring requirements. This is due to parole discharge reviews being a different process, and the requirement for electronic monitoring is required pursuant to PC 3010.10.

**Subsections 3574(e)(1) through 3574(e)(3) are adopted** to establish that the initial CTM should be between 90 and 100 calendar days from release to parole, or between 90 and 100 calendar days following a release of a supervised person that has spent 90 days or more in custody. This is to remain in accordance with established timeframes that identify the transitional period from the release from incarceration to parole. When an incarcerated person is released to parole, they are initially supervised at the highest level of supervision. Additionally, when a supervised person is arrested and spends 90 days or more in custody, upon their release back to parole, they return to the highest level of supervision. In that time, they are also discharged from sex offender treatment. For that reason, verbiage has been added to capture and reestablish the timeframes for CTMs upon a release from custody in accordance with CCR 3574. For supervised persons, a review is completed between 90 and 100 calendar days to identify the most appropriate supervision level, which is separate and apart from their treatment. The department determined the second CTM shall be within nine months following the first CTM. This follows the established guidelines and expectations for CTM schedules. Additionally, it allows DAPO to remain in compliance with the ACSOL settlement agreement, which requires that the first treatment completion review occur one year after the supervised person has been in treatment. This schedule allows for both reviews to take place within a schedule that satisfies all requirements. The department determined that all subsequent CTMs shall be completed at least annually thereafter in accordance with the supervised person's parole supervision category, which will also be considered as the determining factor for when CTMs are required. These are established timeframes currently utilized and approved by DAPO and the CASOMB. They have been established based on case factors and the parole adjustment as appropriate timeframes to conduct a CTM. This change is also necessary to be in compliance with the settlement agreement made between the ACSOL and the department.

**Subsections 3574(f) through (f)(4) are adopted to** establish provisions regarding the determination to retain a participant in treatment. This includes reasons and criteria for retention. This change is necessary for statewide consistency when determining that a supervised person has failed to meet the criteria for treatment completion for all SOT providers. The Containment Team shall be responsible for making a determination to retain the participant in treatment as they are the most knowledgeable about the supervised person's parole progress and treatment participation. The department established that a determination to retain a supervised person shall be provided within 30 calendar days of the CTM to remain in compliance with the ACSOL settlement agreement. The determination shall be documented on the CDCR Form 3043 Containment Team Meeting / Earned Discharge Consideration Committee (Rev. 11/24), which the department is incorporating by reference. A Level of Service or Case Management Inventory (LS/CMI) score of 11 or higher and a Stable-2007 score of four or higher (for males only) were established as reasons to retain a participant because they are recognized, and measurable assessment tools approved by CASOMBS and SARATSO. The Stable-2007 score may be obtained for females; however, it cannot be utilized as criteria for retention due to the tool not being valid for females at this time. It is not valid for females due to there not being a large enough sample size of female supervised persons for the research to yield significant results specific to the Stable-2007. These tools are also utilized by all SOT providers. A current polygraph completed with deception found or new disclosure admissions that the supervised person has committed acts that would otherwise incur a technical or law violation, was established for public safety. A polygraph deception or admission of new technical or law violations would establish a nexus for continued treatment. Parole violation(s), relevant to the supervised person's sex offense or

adherence to the Conditions and Special Conditions of Parole associated with their sex offense, that occurred within one year of the review, was established as a reason to retain a participant for public safety, as there would be a clear nexus for increased supervision. The aforementioned criteria are to provide a base for statewide standards when retaining supervised persons in a sex offender management program. The additional language incorporating “are not limited to” is to allow for special circumstances that are relevant to sex offender treatment but may not fall within the specific criteria listed within the section. An example would include an ongoing investigation into a supervised person who may otherwise be eligible for completion consideration. This change is necessary to comply with the settlement agreement made between the ACSOL and the department. The CDCR Form 3043 serves multiple purposes such as to assist in determining the parole supervision level of the supervised person for their initial review and every review thereafter, and to record that the CTM took place. The CDCR Form 3043 is also necessary to record information for treatment review, as required by the settlement agreement between the ACSOL and the department. The final purpose of the form is to document the outcome of an Earned Discharge Consideration Committee (EDCC). EDCC is separate from treatment and is utilized to determine a final outcome when the discharge of a supervised person from parole is not unanimous (e.g. the Unit Supervisor recommends discharge, but the District Administrator recommends retaining). When that happens, a committee is formed which is normally composed of the supervised person, Parole Agent, Unit Supervisor or designee, District Administrator (DA), mental health provider/clinician when available and requested to participate, and up to two additional people from the supervised person’s family or support system. During the committee meeting, an outcome will be determined by the District Administrator. This is completed in the Parole Violation Disposition Tracking System (PVDTS); however, there is still an option to utilize the CDCR Form 3043 to document the EDCC. Therefore, the form has been revised to include instructions on how to complete the EDCC in PVDTS to generate a PVDTS identification number for documentation, as this is a new requirement to maintain consistency for documentation and recordkeeping. There are also additional changes to the form that have been made since the emergency release. Changes were made to consolidate the sections that required signatures. This was done to reduce redundancy in signing. Prior to the change, several parties would be required to sign multiple sections. Now there is only one signature per party required, this is necessary to reduce confusion and workload. There were also non-substantive changes made in sections one and two. Changes include the removal of the CDD Date box, update the sections to be completed (to align with the consolidation of the signature sections), and move the CSRA score from section one to section two. These changes were necessary to update the reading ordering for clarity.

**Subsection 3574(g) is adopted to** allow DAPO to re-refer a participant back to a sex offender management program for evaluation upon their request to do so or upon DAPO determination. This is necessary to ensure that DAPO retains the authority and ability to refer a supervised person back to treatment under various circumstances, who has previously completed their treatment. This ability is crucial for the safety and security of the public. DAPO is charged with the supervision of supervised persons, and it is necessary to allow DAPO to refer offenders under its jurisdiction to services when there is a clear nexus in doing so. A re-referral process is done by utilizing the PVDTS, utilizing the CDCR Form 1502 (Rev. 11/24) Activity Report. PVDTS is the



software program utilized to electronically refer supervised persons to various programs to include, treatment, housing assistance, drug treatment programs, employment assistance, etc. This process is done when a parole agent logs into the system, selects the supervised person, completes the required information, and routes the form electronically to the selected program. The PVDTS is currently being utilized to send referrals (and re-send referrals to all other programs), therefore DAPO will continue to utilize PVDTS in the same manner to refer a supervised person back to treatment when needed. A re-referral is allowed upon a supervised person's request to ensure DAPO is providing appropriate resources for sex offender supervised persons who believe they are in need of additional assistance or recognize in themselves that they may need additional treatment. This would also allow the supervised person to attend without incurring the additional cost of attending the program as an aftercare participant. Additionally, this change is necessary to comply with the settlement agreement made between the ACSOL and the department.

**Subsection 3574(g)(1) is adopted to** establish that upon re-referral, the sex offender treatment provider shall complete the required risk assessments to determine if the risk of re-offense has increased. This is necessary to ensure that any recommendation to return to sex offender treatment is not an arbitrary decision and is based upon established and certified risk assessment instruments pursuant to section 3573 and PC sections 290.04 and 290.09.

**Subsection 3574(g)(1)(A) is adopted** because it is necessary to establish that the requirement to attend sex offender treatment after a re-referral would only be required if the sex offender treatment provider identifies that the risk to re-offend has increased. The SOT professionals are certified by the CASOMB to conduct and complete the SARATSO risk assessment tools, which are required to determine if the risk to re-offend has increased, which is why the SOT professionals are identified as the party to assess risk and identify when that risk has been mitigated. The CTM is re-established to ensure that the supervised person is afforded the opportunity to have a sex offender treatment review in accordance with their CTM schedule.

**Subsection 3574(g)(1)(B) is adopted to** establish the requirements for DAPO when an SOT provider determines a supervised person, who has been re-referred to treatment, has no increased risk to re-offend. This is necessary to ensure that DAPO closes out the referral and the person is not required to continue with treatment.