



Department of Corrections and Rehabilitation NOTICE OF CHANGE TO REGULATIONS

Sections:	NCR Number:	Publication Date:	Effective Date:
3000, 3369.6, 3369.12, 3369.14, 3370	26-06	October 2, 2026	To Be Determined

INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendment of Sections 3000, 3369.6, 3369.12, and 3370 and the adoption of Section 3369.14 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Condemned Functional Support Tool.

PUBLIC COMMENT PERIOD

The public comment period will close on November 19, 2026. 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 19, 2026.

PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held on **November 19, 2026**, from 10:00 a.m. to 11:00 a.m. in Building C-1, Room 101, located at 8260 Longleaf Drive, Elk Grove CA 95758. The purpose of the hearing is to receive comments about these 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 and 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 A. Colavita, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (279) 223-2314, or e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to R. Jauregui, Division of Adult Institutions, at (279) 223-3595.

Original Signed By:

JASON D. JOHNSON
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 Sections 3000, 3369.6, 3369.12, and 3370 and the adoption of Section 3369.14 of Title 15, Division 3, Chapter 1, regarding Condemned Functional Support Tool (CFST).

PUBLIC COMMENT PERIOD

The public comment period begins **October 2, 2026** and closes on **November 19, 2026**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpm@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the contact person listed below.

CONTACT PERSONS

Primary Contact

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Program Contact

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Division of Adult Institutions
P.O. Box 942883
Sacramento, CA 94283-0001

PUBLIC HEARING

Date and Time: **November 19, 2026 – 10:00 a.m. to 11:00 a.m.**
Place: State of California, Building C, first floor, Room 101
8260 Longleaf Drive
Elk Grove CA 95758

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.

Additional Authority and Reference Citations cited in the amended CCR sections include:

Sections 2081.5 and 6126.5, Penal Code; Sections 56.10, 1798.24 and 1798.40, Civil Code; Code of Federal Regulations, Title 45, Sections 164.512 and 164.524; and *Clark v California* (2002) USDC ND (No. C 96 1486 CRB).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Currently, condemned incarcerated persons are able to waive screening for developmental disabilities and inclusion in the Developmental Disability Program (DDP), per California Code of Regulations (CCR) subsection 3369.6(a)(1), as condemned incarcerated persons may feel that DDP screening could adversely impact their pending or future appeal of their capital sentence. This waiver does not dismiss the department's responsibility to identify condemned incarcerated persons who have waived DDP screening and may benefit from additional assistance due to their functional needs.

The purpose of the proposed regulations is to ensure compliance with the Americans with Disabilities Act (ADA) by establishing the CFST screening to identify and address the needs of the condemned incarcerated population without impacting a pending or future appeal to their capital sentence when they waive DDP screening. CFST screening will not have an impact on a condemned incarcerated person's appeal, as it is only intended to identify assistance that a condemned incarcerated person may need in the correctional setting in order to access programs, services, and activities, and, unlike DDP screening, it is not a diagnosis of a disability or an evaluation of cognitive functioning or IQ.

This action will:

- Provide for new definitions in section 3000 related to functional supports and screening.
- Require CFST screening for condemned incarcerated persons who have waived DDP screening pursuant to CCR subsection 3369.6(a)(1).
- Include functional supports as necessary reasonable accommodations to enable condemned incarcerated persons' program participation.
- Establish new Article 9.2, Functional Support Screening, and new section 3369.14, Condemned Functional Support Tool, which provide the procedures for CFST screening and set forth provisions, such as: condemned incarcerated persons determined to have functional support needs shall be scheduled for a classification committee within 14 working days after the completed screening, and staff who regularly interact with a condemned incarcerated person with functional support needs shall provide assistance and accommodations in accordance with their identified functional supports.
- Establish that incarcerated persons shall not have access to another condemned incarcerated person's CFST status.

DOCUMENTS INCORPORATED BY REFERENCE

None

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

These regulations will provide a statewide, standardized screening process for condemned incarcerated persons who waive DDP screening but qualify for assistance with functional support needs. These proposed regulations comply with ADA laws and will help ensure the fair and consistent administration of these regulations as they relate to condemned incarcerated persons with functional support needs. All of the proposed changes are designed to support the department's mission of providing a safe and secure environment, and to provide equity, inclusivity, and non-discrimination for condemned incarcerated persons who qualify for functional supports.

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 the Condemned Functional Support Tool.

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 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 not have any impact on the following:

- Creation or elimination of jobs within California.
- Creation of new businesses or elimination of existing businesses within California.
- Expansion of businesses currently doing business with the state.
- Worker safety or the state's environment.

The department has determined that the proposed regulations will benefit the health and welfare of California residents; specifically, CDCR condemned incarcerated persons who qualify for assistance with functional support needs, because the proposed regulations promote equity, inclusivity, and nondiscrimination of these individuals.

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; 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 1. Behavior**

3000. Definitions.

[Section 3000 is amended to alphabetically merge the definitions below with existing definitions in this section to read:]

Condemned Functional Support Tool (CFST) is screening developed and used by departmental staff to identify condemned incarcerated persons who have waived Developmental Disability Program (DDP) screening pursuant to section 3369.6, and may benefit from functional supports. The CFST does not assess cognitive functioning or IQ but only reviews the condemned incarcerated person's possible need for assistance in activities of daily living in the correctional setting.

Functional Supports are individualized additional assistance, supervision, and accommodation that staff provide to qualifying condemned incarcerated persons who waive DDP screening pursuant to section 3369.6, which can include, but are not limited to: reading or writing assistance, assistance with communication, monitoring for victimization, prompting for activities of daily living, assisting with self-advocacy, assisting with understanding rules and procedures, and prompting for program and activities.

Note: Authority cited: Sections 243(f)(4), 2717.3, 3000.03, 3411, 3414, 5058, 5058.3, 6252 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 600, 646.9, 653, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2084, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 2905, 3003.5(a), 3007.05, 3020, 3450, 3550, 4570, 4576, 5005, 5009, 5050, 5054, 5068, 6250, 6250.5, 6258.1, 7000 et seq., 7286.5, 11180 and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Section 4512, Welfare and Institutions Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Sections 11007, 11351, 11352, 11378 and 11379, Health and Safety Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; *Madrid v. Cate* (USDC ND Cal. C90-3094 TEH); *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223; *Mitchell v. Cate*, USDC ED 2:08-CV-01196-TLN-EFB; *In re Garcia* (2012) 202 Cal.App.4th 892; and *Quine v. Beard*, No. C 14-02726 JST; *Clark v California* (2002) USDC-ND (No. C-96-1486-CRB); and Americans with Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328.

Subchapter 4. General Institution Regulations

Article 9.1. Developmental Disability Program

Section 3369.6. Reception Center Screening and Processing.

[Subsections 3369.6(a) and (a)(1) are unchanged but shown for reference.]

(a) With the exception of subsection 3369.6(a)(1), CDCR shall screen all incarcerated persons at a Reception Center for potential inclusion into the Developmental Disability Program (DDP) and house incarcerated persons in a manner that addresses their safety and security needs. The automated CDCR Form 200-A (09/24), Developmental Disability Program Adaptive Support Log -- Housing Unit, located within SOMS and incorporated by reference, with a photograph of the incarcerated person identified in the DDP, shall be maintained by custody staff in a secure location.

(1) CDCR will not screen any condemned incarcerated person (those serving a death sentence) for potential inclusion into the DDP when a CDCR Form 0201 (02/25), Condemned Incarcerated Persons -- Waiver of Developmental Disability Program Screening and Inclusion, incorporated by reference, signed by both the incarcerated person and the California Appellate Project or designated conflict assisting counsel, has been received by CDCR within 30 calendar days of the incarcerated person's arrival at a Reception Center.

[New subsection 3369.6(a)(1)(A) is adopted to read:]

(A) Condemned incarcerated persons who have waived DDP screening shall be screened for functional supports in accordance with section 3369.14.

[Subsections 3369.6(a)(2) through (d) are unchanged.]

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Clark v California* (2002) USDC-ND (No. C-96-1486-CRB).

[Sections 3369.7 through 3369.11 are unchanged.]

3369.12. Incarcerated Person Work and Program Assignments.

[Subsections 3369.12(a) and (b) are unchanged but shown for reference.]

(a) All incarcerated persons with disabilities are entitled to equal access to work and programs, as incarcerated persons without disabilities.

(b) Once an incarcerated person has been assigned to a program, staff shall be made aware the incarcerated person has a disability and needs reasonable accommodation(s). The staff administering the program shall make the necessary reasonable accommodation(s) to enable the incarcerated person's participation.

[Subsection 3369.12(b)(1) is amended to read:]

(1) Accommodations may include, but are not limited to the provision of adaptive supports, functional supports, assistive devices, and modifications or adjustments to a program.

[Subsections 3369.12(c) and (d) are unchanged.]

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Clark v California* (2002) USDC-ND (No. C-96-1486-CRB).

[Section 3369.13 is unchanged.]

[New Article 9.2. is adopted and titled:]

Article 9.2. Functional Support Screening

[New section 3369.14 is adopted to read:]

3369.14. Condemned Functional Support Tool.

(a) The department shall screen all condemned incarcerated persons who have waived Developmental Disability Program screening, pursuant to subsection 3369.6(a)(1), for functional support needs utilizing the Condemned Functional Support Tool (CFST). The CFST consists of Level I screening, and, if needed, Level II screening.

(b) Level I screening shall be conducted by custody staff who have been trained in using the CFST.

(1) Level I screening consists of:

(A) Interviewing the condemned incarcerated person to assess the condemned incarcerated person's possible need for assistance with communicating with staff and peers, understanding instructions, maintaining self-care and proper hygiene, self-directing and independently making choices, self-advocacy and use of available resources, academics, work, acquiring new skills, and leisure activities.

(B) Interviewing staff familiar with the condemned incarcerated person to determine if they are self-sufficient, and if they are at risk for victimization due to their functional support needs.

(2) If the results of the Level I screening identify the condemned incarcerated person as having potential functional support needs or they are determined to be at risk for victimization due to their functional support needs, the condemned incarcerated person shall be referred to mental health staff for additional Level II screening within five working days of completion of Level I screening.

(3) If the results of the Level I screening do not identify the condemned incarcerated person as having potential functional support needs, the custody staff shall notify a mental health clinician of the negative finding within five working days of the completion of Level I screening. The mental health clinician shall document the negative finding in the department's electronic database within five working days of notification, in accordance with subsections 3369.14(c)(2)(C) and 3369.14(c)(3).

(c) Level II screening shall be completed by a mental health clinician to assess the condemned incarcerated person's need for functional supports.

(1) Level II screening consists of evaluating the condemned incarcerated person's need for functional supports using the results of Level I screening, the condemned incarcerated person's case records file and healthcare record, interviews with custody staff and mental health staff familiar with the condemned incarcerated person, and an interview with the condemned incarcerated person.

(2) Based on the Level II screening results, the mental health clinician shall place the condemned incarcerated person into one of the following CFST designations:

(A) CFST1 – identifies the condemned incarcerated person as having functional support needs.

(B) CFST2 – identifies the condemned incarcerated person as having functional support needs and indicates they may be vulnerable to victimization by other incarcerated persons due to their functional support needs.

(C) CFSTneg – identifies the condemned incarcerated person as not having functional support needs.

(3) Within five working days of completing Level II screening, the mental health clinician shall document the condemned incarcerated person's CFST designation (CFST1, CFST2, or CFSTneg), and, if applicable, specific functional support needs, in the department's electronic database, which provides department staff access to the condemned incarcerated person's CFST information.

(d) For condemned incarcerated persons designated CFST1 or CFST2, the Health Care Associate Warden, or designee, shall notify the assigned correctional counselor the condemned incarcerated person has completed CFST screening and requires scheduling of a classification committee within 14 working days of the completed screening.

(e) Staff who regularly interact with a condemned incarcerated person with a CFST1 or CFST2 designation shall review the person's functional support needs and shall provide assistance and accommodations in accordance with their identified functional supports.

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

Article 9.5. Case Records

3370. Case Records File and Unit Health Records Material – Access and Release.

[Subsections 3370(a) through (f) are unchanged.]

[New subsection 3370(g) is adopted to read:]

(g) Incarcerated persons shall not have access to another condemned incarcerated person's Condemned Functional Support Tool status.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2081.5, 5054 and 6126.5, Penal Code; Sections 56.10, 1798.24 and 1798.40, Civil Code; Code of Federal Regulations, Title 45, Sections 164.512 and 164.524; and *Clark v California* (2002) USDC-ND (No. C-96-1486-CRB).

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend the California Code of Regulations (CCR), Title 15, Division 3, sections 3000, 3369.6, 3369.12, 3370 and adopt section 3369.14 regarding the screening of condemned incarcerated persons for functional support needs utilizing the Condemned Functional Support Tool (CFST).

No qualified incarcerated person with a disability shall, because of that disability, be subjected to discrimination or be denied the benefits of programs, services, or activities of the department. As part of the department's commitment to providing equal access to its programs, services, and activities, effective October 1, 2025, CDCR adopted regulations for the Developmental Disability Program (DDP), concerning the care and treatment of incarcerated persons with developmental disabilities. Condemned incarcerated persons, however, are able to waive screening for developmental disabilities and inclusion in the DDP per CCR subsection 3369.6(a)(1), as condemned incarcerated persons may feel that DDP screening could adversely impact their pending or future appeal of their capital sentence. This waiver does not dismiss the department's responsibility to identify condemned incarcerated persons who have waived DDP screening and may benefit from additional assistance due to their functional needs.

The purpose of the proposed regulations is to ensure compliance with the Americans with Disabilities Act (ADA) by establishing the CFST screening to identify and address the needs of the condemned incarcerated population, without impacting a pending or future appeal to their capital sentence when they waive DDP screening. CFST screening will not have an impact on a condemned incarcerated person's appeal, as it is only intended to identify assistance that a condemned incarcerated person may need in the correctional setting in order to access programs, services, and activities, and, unlike DDP screening, it is not a diagnosis of a disability or an evaluation of cognitive functioning or IQ.

CFST consists of Level I screening, and, if needed, Level II screening. Level I screening is completed by trained custody staff to identify if a condemned incarcerated person who waives DDP screening may have indications of needing additional screening for functional supports. If the Level I screening indicates the need for additional screening, the condemned incarcerated person is referred to mental health for completion of Level II screening. Level II screening is completed by a mental health clinician who evaluates if the condemned incarcerated person has functional support needs. Level II screening results are entered into the department's electronic database to provide the condemned incarcerated person's CFST information to department staff who will use the functional support information to better assist the condemned incarcerated person with their functional support needs.

CONSIDERATION OF ALTERNATIVES:

In accordance with Government Code section 11346.5, subdivision (a)(13), 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 the action is proposed, 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 made the following assessments regarding the proposed regulations:

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

The department has determined 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 internal management of CDCR institutions.

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

The department has determined 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 affect the internal management of CDCR institutions.

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 benefit the health and welfare of California residents; specifically, CDCR condemned incarcerated persons who qualify for assistance with functional support needs, because the proposed regulations promote equity, inclusivity, and nondiscrimination of these individuals. The proposed regulations will not have an impact on worker safety or the State's environment, as the proposed regulations only affect the internal management of CDCR institutions.

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, testimonies, or other evidence provided that would alter the department's initial determination.

BENEFITS OF THE REGULATIONS:

These regulations will provide a statewide, standardized screening process for condemned incarcerated persons who waive DDP screening but qualify for assistance with functional support needs. These proposed regulations comply with ADA laws and will help ensure the fair and consistent administration of these regulations as they relate to condemned incarcerated persons with functional support needs. All of the proposed changes are designed to support the department's mission of providing a safe and secure

environment, and to provide equity, inclusivity, and non-discrimination for condemned incarcerated persons who qualify for assistance with functional support needs.

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.

LOCAL MANDATES:

The department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

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

3000. Definitions.

Section 3000 is amended to include new definitions for Condemned Functional Support Tool (CFST), and Functional Supports. These terms require defining in order to properly understand their meaning.

Section 3369.6. Reception Center Screening and Processing.

New subsection 3369.6(a)(1)(A) is adopted to establish that condemned incarcerated persons who waive DDP screening shall be screened for functional supports in accordance with proposed new section 3369.14. It is necessary to direct staff to conduct functional support screening for condemned incarcerated persons who waive DDP screening as they may feel that DDP screening could adversely impact their pending or future appeal of their capital sentence. This waiver does not dismiss the department's responsibility to identify condemned incarcerated persons who have waived DDP screening and may benefit from additional assistance due to their functional support needs.

Subsection 3369.12(b)(1) is amended to include "functional supports" to the list of accommodations staff shall administer to enable condemned incarcerated persons' participation in programs. This language is necessary to provide equity, inclusivity, and non-discrimination of condemned incarcerated persons with functional support needs, and to comply with federal ADA laws.

New Article 9.2 titled Functional Support Screening, and new section 3369.14 are adopted.

3369.14. Condemned Functional Support Tool.

New subsection 3369.14(a) is adopted to establish regulatory provisions in accordance with provisions of the law on the procedures staff shall follow if a condemned incarcerated person has waived DDP screening, which is necessary to ensure all condemned incarcerated persons who have waived DDP screening are provided with assistance in the form of functional supports, if needed, consistent with federal ADA laws.

New subsection 3369.14(b) is adopted to establish the procedure for CFST Level I screening. CFST Level I screening is to be completed by custody staff who have completed department CFST training; this is necessary to ensure the proper completion of the screening by qualified staff members. Level I screening is necessary to determine if there are indications that the condemned incarcerated person needs additional screening for functional supports. Level I screening includes interviewing the condemned incarcerated person regarding: communication, self-care, socialization, self-direction, self-advocacy and use of resources, academic/work/skill acquisition, and leisure time. Interviewing the condemned incarcerated person concerning these areas is necessary, because they represent typical daily needs and activities of an incarcerated person and the responses are used to indicate if the condemned incarcerated person needs assistance in these areas in the correctional setting.

Level I screening also includes interviewing a staff member who is familiar with the condemned incarcerated person to determine how self-sufficient the condemned incarcerated person is in the correctional setting, and if they are at risk for victimization due to their functional support needs. The interview with staff familiar with the condemned incarcerated person is necessary to determine if Level II screening is required. Level II screening is required if the condemned incarcerated person demonstrates they need assistance with daily tasks, or if they are at risk for victimization due to their functional support needs.

If the results of the Level I screening identify the condemned incarcerated person as having potential functional support needs or they are determined to be at risk for victimization due to their functional support needs, the condemned incarcerated person shall be referred to mental health for additional screening within five working days of the completion of Level I screening. It is necessary to refer the condemned incarcerated person to mental health for additional screening, because a mental health professional is needed to determine what functional supports, if any, are needed to accommodate the condemned incarcerated person's needs. It is necessary for custody staff who conducted the Level I screening to report the results to mental health within five working days as the department determined that this amount of time is sufficient for the custody staff to provide the Level I results to mental health.

If the results of the Level I screening do not identify the condemned incarcerated person as having potential functional support needs, the custody staff shall notify a mental health clinician of the negative finding within five working days of the completion of the Level I screening. The five working days establishes a reasonable amount of time for the custody staff to provide the Level I results to mental health staff. The mental health clinician shall document the negative finding in the department's electronic database (e.g., Electronic Health Record System) within five working days of notification in accordance with subsections 3369.14(c)(2)(C) and (3). It is necessary to provide the mental health clinician with the proper procedure for the timely entry of screening results and ensure staff accountability. The five working days establishes a reasonable amount of time for the mental health clinician to enter the results into the department's electronic database. Additionally, it is necessary to enter the negative finding into the department's electronic database to document and notify staff who interact with the condemned incarcerated

person, so they are aware they have been screened and do not have functional support needs.

New subsection 3369.14(c) is adopted to establish the procedure for CFST Level II screening. CFST Level II screening is to be completed by a mental health clinician; this is necessary to ensure the proper completion of the screening by qualified medical staff members.

Level II screening is used to determine if the condemned incarcerated person has functional support needs as determined by a mental health clinician utilizing the Level I screening results, department's electronic databases (e.g., Strategic Oversight Management System, and Electronic Records Management System), Healthcare Record, and interviews with custodial staff, mental health staff, and the condemned incarcerated person. The information gathered from the Level II screening and the mental health clinician's professional assessment are used to determine if functional supports are needed. Level II screening is necessary to comply with ADA laws by providing assistance to those with functional support needs.

The results of Level II screening are summarized by placing the condemned incarcerated person into CFST designations as CFST1, CFST2, or CFSTneg. CFST1 designates the condemned incarcerated person as having functional support needs. CFST2 designates the condemned incarcerated person as having functional support needs and indicates they may be vulnerable to victimization by other incarcerated persons due to having functional support needs. CFSTneg identifies the condemned incarcerated person as not having functional support needs. These CFST designations are necessary to comply with federal disability laws and are used by staff to quickly identify the condemned incarcerated person's functional support needs, if any. Additionally, the designation of CFST2 is necessary to ensure the safety of the condemned incarcerated person and assist with housing assignments.

Within five working days of the completion of Level II screening, the mental health clinician shall enter the results of the Level II screening in the department's electronic database (e.g., Electronic Health Record System), which is necessary to provide the mental health clinician with the proper procedure for the timely entry of screening results and ensure staff accountability. The five working days establishes a reasonable amount of time for the mental health clinician to enter the results into the department's electronic database, while ensuring condemned incarcerated persons with functional support needs are afforded appropriate accommodations. Timely Level II screening results entry in the department's electronic database by the mental health clinician is necessary to alert staff who interact with the condemned incarcerated person so they may provide assistance with their functional support needs consistent with federal ADA laws.

New subsection 3369.14(d) is adopted to direct the Health Care Associate Warden, or designee, to schedule condemned incarcerated persons designated as CFST1 or CFST2 for a classification committee within 14 working days after screening completion. It is necessary for condemned incarcerated persons designated as CFST1 or CFST2 to be scheduled for a classification committee meeting, because a determination as to the condemned incarcerated person's housing shall be made. The condemned incarcerated person is to be housed consistent with custodial case factors. The identification of

functional support needs does not necessarily dictate the condemned incarcerated person's housing determination. However, the classification committee may determine single cell designation is appropriate based on victimization concerns identified through the CFST process.

It is necessary for the condemned incarcerated persons designated as CFST1 or CFST2 to be scheduled for the classification committee within 14 working days of screening completion, because this time period was determined to be the amount of time necessary for staff to arrange for this classification committee meeting.

New subsection 3369.14(e) is adopted to ensure staff who regularly interact with a condemned incarcerated person designated as CFST1 or CFST2 familiarize themselves with the condemned incarcerated person's functional support needs and provide assistance and accommodation in accordance with those needs. This is necessary to comply with federal ADA laws.

3370. Case Records File and Unit Health Records Material – Access and Release.

New subsection 3370(g) is adopted to establish regulations that a condemned incarcerated person's CFST status is to be kept confidential from other incarcerated persons. This language is necessary to ensure respect, privacy, and confidentiality of condemned incarcerated persons with functional support needs, to avoid victimization, and comply with state and federal ADA and privacy laws.