

**Adoption of 9550, Title 9,  
California Code of Regulations**

**Offender Treatment Program**

**Initial Statement of Reasons**

**BACKGROUND**

The Substance Abuse and Crime Prevention Act was enacted in 2000 to direct nonviolent offenders into treatment in lieu of incarceration. In 2006 the Legislature and the Governor enacted legislation adopting Health and Safety Code (HSC) Section 11999.30, which established the Substance Abuse Offender Treatment Program (OTP), charged the Department of Alcohol and Drug Programs (ADP) with administration of the program, and authorized ADP to distribute State funds to counties to augment their Substance Abuse and Crime Prevention Act (SACPA). Counties are required to use OTP funds to increase the number of clients who receive treatment through SACPA programs, complete SACPA treatment, and find employment or remain employed. Counties may also use OTP funds to improve client accountability by increasing drug testing and by establishing and maintaining protocols for supervision of clients on probation and parole.

This regulatory action adopts new Section 9550, which will implement, interpret, and make specific HSC 11999.30 by establishing standards for the Offender Treatment Program (OTP). Section 9550 specifies how counties may apply for OTP funding, eligibility criteria, allocation methodology, allowable use of funds, invoicing, reimbursement, recoupment of excess funds, and monitoring.

**STATEMENT OF NECESSITY**

HSC 11999.30(i) originally authorized ADP to implement the OTP by all-county letters for Fiscal Year (FY) 2006-07. The Budget Trailer Bill for FY 2007-08 amended HSC 11999.30(i) to extend that authority through FY 2007-08. Unless the statute is amended for 2008-09 to allow implementation by all-county letters in lieu of rulemaking, this regulation will be needed in order to implement the OTP beyond July 1, 2008. This regulation merely codifies existing policy in regulation. If this regulation is not adopted in a timely manner, counties will not receive OTP funds for FY 2008-09 and will have to reduce services to accommodate that reduction in funding. As a result, counties may be less able to provide effective drug treatment services through SACPA, resulting in recidivism and the public health, welfare, and safety issues related to drug abuse. Necessity for each requirement is specified in the attached text of the emergency regulations with necessity statements, which is hereby incorporated by reference.

**FISCAL IMPACT STATEMENTS:**

Anticipated costs or savings to federal funding to the state:

None because no federal funding is involved and this regulatory action merely codifies existing policy.

Anticipated costs or savings to state agencies:

None because this regulatory action merely codifies existing policy.

Anticipated costs or savings to county or local government:

None because this regulatory action merely codifies existing policy.

Anticipated fiscal or economic impact on business:

None because this regulatory action merely codifies existing policy. ADP has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulatory action will not affect the ability of California businesses to compete with businesses in other states, as other states already require certification of AOD counselors. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Anticipated fiscal or economic impact on small businesses:

This regulatory action will impact small businesses, since most AOD programs are small businesses. However this regulatory action will not result in any negative impact or cost to small businesses because it merely codifies existing policy.

Impact on Representative Private Persons or Businesses:

ADP is not aware of any costs impacts that a representative private person or business will necessarily incur in reasonable compliance with the proposed regulatory action.

Mandate to Local Agencies or School Districts:

ADP has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

Other Non-discretionary Costs or Savings Imposed upon Local Agencies:

None.

Impact on Housing Costs:

ADP does not anticipate that this regulatory action will impact housing costs in any way.

**CONSIDERATION OF ALTERNATIVES:**

Pursuant to Section 11346.5(a)(13) of the Government Code, ADP must determine that no alternative would be more effective in carrying out the purpose for which this regulatory action was taken. ADP must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. ADP will consider any alternatives presented during the public comment periods.