

February 16, 2016

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-210.101

RULE TITLE: Routine Mail

PURPOSE AND EFFECT: The purpose and effect of the amendment is to make clear that inmates of the Department of Corrections are prohibited from sending or receiving photographs that depict nudity through routine mail.

SUMMARY: The proposed rulemaking adds a provision to the rule, and to a form incorporated in the rule, to make clear that sending nude pictures through routine mail is prohibited.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE

RATIFICATION: The Department has determined that this rule will not have an adverse impact on small business and is not expected to directly or indirectly increase regulatory costs more than \$200,000 within a year of taking effect. A SERC has not been prepared by the Department. The Department has determined that the proposed rule is not expected to require legislative ratification based on the SERC or, if no SERC is required, the information expressly relied upon and described herein: upon review of the proposed changes to the rule, the Department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in s. 120.541(2)(a), FS. Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09 FS

LAWS IMPLEMENTED: 20.315, 944.09 FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED

RULE IS: Adam Stallard, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-210.101 Routine Mail.

{1) through (10) No change

(II) Outgoing or incoming mail shall be disapproved for mailing or delivery to the inmate if any part of it:

(a) through U) No change

{k) Contains photographs which depict nudity;

ill.00 Contains criminal history, offender registration, or other personal information about another inmate or offender which, in the hands of an inmate, presents a threat to the security, order or rehabilitative objectives of the correctional system or to the safety of any person;

.(m)_fB Contains an advertisement promoting any of the following where the advertisement is the focus of, rather than incidental to, the publication, or the advertising is prominent or prevalent throughout the publication.

I. through 4. No change

[i]IIs not in compliance with incoming mail regulations set forth in subsections (2) and (3) of this rule (incoming mail only);

i.Q2W Contains or appears to contain unknown or unidentifiable substances; or

MW Otherwise presents a threat to the security, order, or rehabilitative objectives of the Correctional System, or to the safety of any person.

{12) through (13) No change

(14)(a) through (c) No change

(d) If unauthorized items are discovered in the mail (other than items of an illegal nature), the unauthorized item and the correspondence will be returned to the sender with Form DC2-521, Unauthorized Mail Return Receipt, included. Form DC2-521 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXXX>. The effective date of this form is _____

(15) through (22) No change

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History-New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81,3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93,9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, Formerly 33-602.401, Amended 12-4-02, 8-5-03, 10-27-03,9-20-04,3-23-08, 7-2-09, 5-9-10, 12-5-12,4-1-13, 7-8-14....._____

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard D. Comerford, Director of Institutional
Operations

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie L. Jones, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 6, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 25, 2015