

September 9, 2014

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.101

RULE TITLE: Care of Inmates

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to increase security and to promote the safety of inmates and staff by limiting the availability of razors that are used by inmates to harm themselves, other inmates, and staff. The rule amendment will limit the availability and use of razors by inmates by allowing for clipper shaves three times per week at certain Department of Corrections institutions and facilities under certain circumstances.

SUMMARY: The proposed rule limits the availability and use of razors by inmates by allowing for clipper shaves three times per week at certain Department of Corrections institutions and facilities. The proposed rule establishes a criteria for determining when a Warden can limit razor possession and use.

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, 945.215 FS

LAW IMPLEMENTED: 944.09, 945.215 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: Paul Vazquez, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.101 Care of Inmates.

(1) – (3) No change.

(4) For security and identification purposes, no inmate shall be permitted to have his or her hair, to include eyebrows and facial hair, dyed, cut, shaved or styled according to fads or extremes that would call attention to the inmate or separate inmates into groups based upon style. This would include, for example, tails, woven braids, cutting, sculpting, clipping or etching numbers, letters, words, symbols or other designs into the hair. Male inmates shall have their hair cut short to medium uniform length at all times with no part of the ear or collar covered. Male inmates shall be permitted to shave their entire heads in a uniform manner unless the inmate is using his hairstyle or lack thereof to demonstrate gang affiliation or otherwise pose a threat to institutional security. Partial shaving of the head in a Mohawk or other distinctive style shall not be permitted. Sideburns shall not extend beyond the bottom of the earlobes and will have straight lines with no flare at the base. All inmates shall be clean shaven, with the exception of inmates housed at facilities designated by the Department to house those with a mental health classification of S-3 or above, who shall be clipper shaved three times per week. A mental health classification of S-3 or above refers to inmates who need, at a minimum, ongoing outpatient mental health services with psychiatric consultation as clinically indicated. At those facilities that do not house inmates with a mental health classification of S-3 or above, the warden shall require that inmates be clipper shaved three times per week if allowing the possession and use of razors creates a substantial risk to the security of the institution or the safety of inmates and staff. In determining whether to require inmates to be clipper shaved, the warden shall consider the number of inmate-on-inmate and inmate-on-staff assaults, the number of incidents of self-injurious behavior, and the number of homemade weapons discovered at the facility involving the use of razors, and any other factors related to the security, order, or effective management of the institution. Additionally an exemption from the requirement to remain clean shaven shall be granted on the basis of a medical diagnosis when it is determined by the staff physician that shaving would be detrimental to the inmate's health. Inmates granted a medical exemption from the shaving requirement may be required to keep their facial hair closely trimmed with scissors or clippers. For the purposes of

this rule, “closely trimmed” means trimmed so that no part of the facial hair exceeds the length prescribed by the physician as necessary to prevent the appearance or reappearance of skin disorders. If no specific length is prescribed, then facial hair shall be kept trimmed to within one-quarter inch. An inmate who has been granted a shaving exemption shall maintain the written exemption on his person at all times when outside the assigned housing unit.

(5) – (13) No change.

Rulemaking Authority 944.09, 945.215 FS. Law Implemented 944.09, 945.215 FS. History—New 10-8-76, Amended 4-19-79, 4-24-80, 10-14-84, 1-9-85, Formerly 33-3.02, Amended 11-3-87, 10-6-88, 7-23-89, 8-27-91, 3-30-94, 11-13-95, 6-2-99, Formerly 33-3.002, Amended 11-21-00, 1-25-01, 1-19-03, 9-23-03, 3-5-06, 10-23-06, 1-18-07, 5-13-08, 6-22-10, 5-24-11, 2-6-12, 5-27-12, 3-3-13, 10-14-13, 12-12-13,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Upchurch, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael D. Crews, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 1, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 23, 2014