

RULE TITLES: RULE NOS.:
 Definitions 14-87.0011
 Penalties and Fees Due; Detaining and
 Impounding Commercial Motor Vehicles 14-87.002
 Surety Bonds 14-87.004

PURPOSE AND EFFECT: Rule Chapter 14-87, F.A.C., is being amended relating to commercial motor vehicle penalties and fees. The definitions rule is amended and restructured, the surety bonds rule is repealed, and the rule relating to penalties, fees, and detaining and impounding commercial motor vehicles is amended.

SUMMARY: Rule Chapter 14-87, F.A.C., is being amended relating to commercial motor vehicle penalties and fees.

SPECIFIC AUTHORITY: 316.302, 334.044 (2) FS.

LAW IMPLEMENTED: 316.302, 316.3025, 316.515, 316.535, 316.545, 316.550, 316.70 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been prepared.

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.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

**PAYMENT OF ~~OVERWEIGHT PENALTIES~~
~~AND OTHER COMMERCIAL VEHICLE~~
 PENALTIES AND FEES**

14-87.0011 Definitions.

The following words and phrases, when used in these rules, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(1) "Citation" means a written statement issued by the Department to a motor carrier for:

(a) ~~A violation A Load Report and Field Receipt issued to the owner or driver of a commercial motor vehicle for violation of weight or and vehicle registration laws; or~~

(b) ~~A Safety Report and Field Receipt issued to the owner or driver of a commercial motor vehicle for violation of safety laws, and regulations, or and permit violations; or~~

(c) ~~A The penalty portion of an I.R.P. Trip Permit & Temporary Fuel Use Permit issued to the owner or driver of a commercial motor vehicle in violation of the fuel use tax requirements contained in Chapter 207, Florida Statutes.~~

(2) "Commercial Motor Vehicle" means as defined in Section 316.003(66), Florida Statutes.

(3) "Department" means the Florida Department of Transportation.

(4) "Director" means the Director of the Motor Carrier Compliance Office, Florida Department of Transportation. ~~"Penalty" means a monetary amount prescribed by statute or Department rule as a civil penalty to be assessed administratively for a violation of a commercial motor vehicle law pursuant to the issuance of a citation or a notice of violation.~~

(5) "Fee" means a charge for a permit. ~~"Fee" means a charge for a permit.~~

(6) "Motor Carrier" means any person, corporation, or entity of any kind owning, controlling, operating, managing, contracting with the owner or operator of, or dispatching any commercial motor vehicle. ~~"Commercial Motor Vehicle", when used in these rules shall be as defined in Section 316.003(66), Florida Statutes.~~

(7) "Motor Carrier Compliance Office" means that office within the Department which is responsible for enforcing Commercial Motor Vehicle regulations. ~~"Director" means the Director of the Motor Carrier Compliance Office, Florida Department of Transportation.~~

(8) "Penalty" means a monetary amount prescribed by statute or Department rule as an administrative assessment for a violation of a commercial motor vehicle law or rule pursuant to the issuance of a citation or a notice of violation. ~~"Association" means an organized body of people who have a common interest in the business of transporting persons or property by commercial motor vehicle in commerce on the public roads of this State, and who have registered as an association with the Secretary of State.~~

(9) "Penalty Collections Unit" means those employees of the Motor Carrier Compliance Office assigned by the Director to ensure that penalties are collected in a manner consistent with applicable rules and laws. ~~"Notice of Violation" means a notice of violation as defined by Rule 14-108.002(5).~~

(10)(2) "Permit" means:

(a) An International Registration Plan (~~I.R.P.~~) Trip Permit issued to a motor carrier ~~the owner or driver of a commercial motor vehicle~~ authorizing temporary operation on the public roads of this State in lieu of permanent registration; or

(b) A Temporary Fuel Use Permit issued to a motor carrier ~~the owner or driver of a commercial motor vehicle~~ authorizing temporary operation on the public roads of this State in lieu of permanent registration.

(c)(3) ~~A~~ "Special Permit" means a permit issued by the Department which authorizes the operation of an oversize or overweight commercial motor vehicle and load over the State Highway System.

Specific Authority 316.302, 316.3025, 316.515, 316.535, 316.545, 316.550, 316.70, 334.044(2) FS. Law Implemented 316.302, 316.3025, 316.515, 316.535, 316.545, 316.550, 316.70 FS. History--New 7-15-91, Amended 9-12-96,_____.

14-87.002 Penalties and Fees Due; Detaining and Impounding Commercial Motor Vehicles.

(1) Penalties and fees imposed upon the operations of commercial motor vehicles are due and payable upon the issuance of a citation or a permit. Law enforcement officers and weight inspectors employed by the Motor Carrier Compliance Office, and other authorized agents of the Department, upon issuance of a citation, shall allow motor carriers in good standing to make payment of penalties within 20 calendar days from the issuance of the citation. Payment must be received by the Motor Carrier Compliance Office Penalty Collections Unit in Tallahassee, Florida, within 20 calendar days from the date of the citation. Penalties due under Chapter 14-108 are due in accordance Rule 14-108.004. All penalties and fees not guaranteed by a Surety Bond must be paid to the officer or inspector issuing the citation or permit or detaining the vehicle for nonpayment of penalties prescribed under Rule 14-108.005 prior to further operation of the affected commercial motor vehicle on the roads of this State. Payment may be in cash, by cashier's check or by money order. In the event that payment is not made when payment is due, the motor vehicle will be impounded in accordance with Sections 316.3025 or 316.545, Florida Statutes.

(2) In the event that payment of penalties is not received within the 20 calendar day period, the commercial motor vehicle(s) shall be impounded in accordance with Sections 316.545, 316.3025, 316.516, and 316.550, Florida Statutes. Motor carriers who fail to pay any and all penalties owed to the Department will be referred to the Department of Highway Safety and Motor Vehicles, where the vehicle's registrations and fuel permits shall be revoked or suspended in accordance with Section 320.18, Florida Statutes. When a Surety Bond has been properly filed and accepted by the Department, the vehicle will be released upon presenting written evidence of the surety bond to the officer or inspector detaining the vehicle and payment must be remitted to the officer or inspector within ten working days of the release of the vehicle. Company checks may be accepted when a proper Surety Bond is on file. In the event that payment is not made within ten working days of release of the vehicle, the Department will take action to recover the penalty amount from the surety bond.

(3) The Director shall develop and adopt payment and collection practices consistent with state law and sound fiscal policy, and approve all forms for citations and notices of violations to be issued for violations involving commercial motor vehicles. Payment methods for citations include cash, money orders, certified funds (electronic or manual), credit cards, and company checks. A receipt shall be provided to the motor carrier upon payment of penalties collected. All penalties collected in accordance with these rules will be made

payable to the State Treasurer, who will credit the funds to the State Transportation Trust Fund and any other accounts specified by state law.

(4) Motor carriers who owe penalties to the state or have not paid penalties in a timely fashion on one or more previous occasion, shall be deemed to be not in good standing. Commercial motor vehicles operated by such motor carriers may be detained or impounded immediately and held until all penalties are paid to the Department. A list of such motor carriers will be provided statewide to Motor Carrier Compliance Office law enforcement officers and weight inspectors by the Penalty Collections Unit.

(5) Except as set forth in Rule Chapter 14-108, F.A.C., involving penalties assessed during compliance reviews, the fact that a motor carrier has requested a hearing before the Commercial Motor Vehicle Review board does not relieve responsibility to make payment of the assessed penalty within the 20 day period.

(6)(3) Commercial mMotor vehicles impounded in accordance with this rule will be released upon payment of all penalties owed to the Motor Carrier Compliance Office Penalty Collections Unit in Tallahassee, Florida, the penalty or the posting of a bond pursuant to Section 316.545, Florida Statutes, or upon a determination by the Commercial Motor Carrier Review Board to cancel or revoke the penalty, or upon the issuance of a Department order setting aside the penalty as the result of a proceeding held pursuant to Section 120.57, Florida Statutes. Commercial mMotor vehicles released as a result of the posting of a bond under Section 316.545, Florida Statutes, remain subject to the lien imposed by that statute.

(7) Any costs associated with the detention, impoundment, and storage of commercial motor vehicles in accordance with Sections 316.545, 316.3025, and 316.516, Florida Statutes, shall be the responsibility of the motor carrier, and proof of payment of such costs shall be provided to the Department prior to the vehicle being released.

Specific Authority 316.302, 316.515, 316.3025, 316.545, 316.550, 316.70, 334.044(2) FS. Law Implemented 316.302, 316.3025, 316.515, 316.535, 316.545, 316.550, 316.70 FS. History--New 1-8-86, Amended 2-25-87, 7-15-91, Amended 9-12-96,_____.

14-87.004 Surety Bonds.

Specific Authority 316.3025, 316.515, 316.545, 316.550, 316.70, 334.044(2) FS. Law Implemented 316.302, 316.3025, 316.515, 316.535, 316.545, 316.550, 316.70 FS. History--New 1-8-86, Amended 2-25-87, 7-15-91, Repealed_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lt. Col. David Binder, Motor Carrier Compliance Office
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: José Abreu, P.E., Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2003
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 14, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Trust Fund
 RULE NO.: 33-203.201

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures for handling inmate funds.

SUMMARY: The proposed rule corrects titles used in conjunction with operation of the inmate trust fund; requires that funds for deposit be sent to a specific central location; provides for delay of availability of deposits over \$300; clarifies responsibilities related to stop payment orders; clarifies federal requirements concerning deposits of federal benefits payments; provides restrictions concerning IRS refund deposits; increases the amount per week that an inmate may withdraw for canteen purchases; provides guidelines for special withdrawals; clarifies procedures for the handling of trust fund balances upon the release or death of an inmate; clarifies requirements for provision of monthly trust fund account statements and specifies requirements which must be met for inmates to receive sixth month statements of trust fund activity.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 944.09, 944.516, 945.091, 945.215 FS.

LAW IMPLEMENTED: 57.085, 717, 944.09, 944.516, 945.091, 945.215 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-203.201 Inmate ~~Bank~~ Trust Fund.

(1) The following are the policies of the Department with respect to money received for the personal use or benefit of inmates:

(a) Inmates may establish a demand deposit account, hereinafter referred to as an inmate trust checking account, through the Inmate ~~Bank~~ Trust Fund at the Bureau of Finance and Accounting, Inmate Trust Fund Section institutions, community facilities and service centers. If an inmate establishes an inmate trust checking account through the Inmate ~~Bank~~ Trust Fund, such funds shall not accrue interest to him.

(b) In the case of probation and restitution center offenders who violate the conditions of probation and owe fees for room and board, a staff member of the probation and restitution center may file a claim for a cost judgment in conjunction with the violation report. The staff member shall file with the Office of the General Counsel Bureau of Sentence Structure and Transportation, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500, a true copy of the judgment or other monetary order or sanction which has been entered by the appropriate court, together with a cover letter stating the date and amount of the judgment, money order or sanction, or the balance remaining if less than the face amount thereof.

(c) through (d) No change.

(e) The Department may invest, through the State Treasurer, funds on deposit in the Inmate ~~Bank~~ Trust Fund in excess of such cash as needed to meet the current needs of the inmates.

(f) Interest earned on these investments and on the central Inmate Trust Fund Public Funds Interest Checking Account or any local ~~NOW~~ accounts shall be deposited to the Inmate Welfare Trust Fund to be expended for the benefit of the inmate population in general.

(g)(f) No change.

(2)(a) All monies (cashiers checks, money orders, or certified bank drafts only; no cash or personal checks allowed) that are mailed to the Bureau of Finance and Accounting, Inmate Trust Fund Section, a service center for an inmate shall be initially deposited in the Inmate ~~Bank~~ Trust Fund. Funds must be mailed with the completed deposit form and made payable to the Inmate Trust Fund and include the inmate's name and DC number. Funds will become available for the inmate's use within ten working days after receipt by the Bureau of Finance and Accounting, Inmate Trust Fund Section, in Tallahassee. Every effort shall be made to have funds available sooner. Any money order, cashiers check, or certified bank draft in the amount of \$300 or higher posted to an inmate's account will have a ten day hold placed on the funds. After ten days the funds will be available for the inmate's use. If the funds were not deposited to the inmate's account due to the fact that the money order, cashier's check or certified bank draft was lost in the mail system and it is determined that the instruments were never cashed, it is the responsibility of the sender to stop payment on the instrument. The Department is not responsible for any stop payment fees charged to the sender. Deposits mailed to institutional or other department addresses other than the Bureau of Finance and Accounting, Inmate Trust Fund Section service centers will be returned to the sender forwarded to the service center, but this process will result in delay in deposit of the funds. In order to deposit the funds the sender shall ~~must~~ complete Form DC2-303, Inmate Trust Fund Deposit Form. Form DC2-303 is hereby incorporated by reference. ~~A copy of T~~his form may be obtained from any institution, facility, ~~service center~~, or by

requesting in writing from the Bureau of Finance and Accounting, Inmate Trust Fund Section, Centerville Station, P. O. Box 12100, Tallahassee, Florida 32317-2100, or the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is _____ May 7, 2000. Other items found in the incoming mail will be returned to the sender and will not be forwarded to the inmate. The sender can also transmit funds up to \$5,000.00 using Western Union's "Quick Collect" service. To utilize this process, the sender, if residing in the U.S. or Canada, must complete a quick collect form at a Western Union agent, include the required information, and pay the transaction fee. The sender can also transmit funds via Western Union using a credit card, by telephone, or by visiting their website at www.westernunion.com. In addition, senders who reside in a foreign country can send funds using Western Union's "Quick Pay" service. The sender must complete a Quick Pay/Payment Services form at a Western Union agent and pay a transaction fee. Additional information is available on their website at www.payment-solutions.com. The funds will be sent via electronic funds transfer (EFT) and will usually be available for the inmate's use within one to three working days.

(b) In accordance with 38 U.S.C. 5301 and 42 U.S.C 407, Veterans Administration (VA) and Social Security (SS) benefit checks are exempt from attachment, levy or seizure. The department shall not place liens on the inmate's trust fund account for medical co-payments, legal copies, or other department generated liens for VA and SS benefits checks mailed directly to the Bureau of Finance and Accounting, Inmate Trust Fund Section.

(c) Federal Income Tax refund checks received by inmates shall not be deposited until a determination is made by the department that it is a valid tax refund. If it is determined that the tax return is fraudulent, the check will be returned to the IRS and the inmate will be subject to disciplinary action. Additionally, inmates involved in tax fraud are subject to penalties in accordance with the Internal Revenue Code, 26 U.S.C. 6702.

(d)(b) Deposits sent by mail are processed using an advanced high-speed processing machine which requires the use of the deposit form; the form should not be photocopied. Attempts will be made to process deposits sent without the accompanying form, but the absence of the form could cause a delay of up to 30 days to process may result in delays. If staff are unable to determine to which inmate the money is being sent, the money will be returned to the sender with a request for additional information necessary to process the deposit. If staff are unable to determine to which inmate the money is being sent and are unable to return the money because the sender did not provide a valid return address, the money will be held in a clearing account until the sender or receiving

inmate is identified. If the inmate remains unidentified for 5 years the funds shall escheat to the state as unclaimed funds held by fiduciaries in accordance with Chapter 717, F.S.

(e)(e) An inmate may, however, withdraw his funds from the Inmate ~~Bank~~ Trust Fund for deposit into a savings account or similar interest bearing account with a private financial institution. If an inmate does not wish his monies to be deposited into the Inmate ~~Bank~~ Trust Fund, he must advise the donor of the funds to send them directly to the savings institution of his choice. This option shall not be available when an inmate is on work release or a similar paid work program. In this case, the provisions of Rule 33-601.602, F.A.C., disbursement of earnings, shall apply. All inmates on work release shall submit their full pay for deposit in the Inmate ~~Bank~~ Trust Fund so that subsistence and transportation costs, restitution, 10% savings hold, and court ordered payments, if applicable, may be deducted. In the case of inmates who are paid via EFT, the funds will be deposited into the inmate trust fund and the same provisions of Rule 33-601.602, F.A.C., shall apply. The inmate may transfer any excess funds to a private account as defined in paragraph (1)(b) in accordance with the personalized program plan.

(3) Inmates with sufficient balances in their individual inmate trust fund accounts shall be allowed to spend an amount set by the Secretary not to exceed \$100 a week at the institution's canteen for personal use. Inmates on work release ~~extended limits of confinement~~ with sufficient balances in their individual inmate ~~bank~~ trust fund accounts shall be allowed to request a weekly draw set by the Secretary not to exceed \$100 ~~of up to \$45~~ to be expended for personal use. In order to request an expenditure of funds in excess of the authorized canteen limit or weekly draw, the inmate shall complete Form DC2-304, Inmate Trust Fund Special Withdrawal Form. Form DC2-304 is hereby incorporated by reference. ~~A copy of this~~ form may be obtained from any institution or facility or from the Bureau of Finance and Accounting, Inmate Trust Fund Section, 1711 Mahan Drive, Tallahassee, Florida 32308 or from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~If forms are to be mailed, the request must be accompanied by a stamped, self-addressed envelope.~~ The effective date of this form is _____ May 7, 2000. If the inmate's identity is verified by designated institution or facility staff approved, these funds shall be paid to the inmate or his designated payee within 30 ~~40~~ days after receipt of the written request for withdrawal. This maximum time limitation shall not delay the weekly canteen limit or draw process which is usually accomplished in a shorter period of time. If the withdrawal is for the purpose of making a deposit to a savings or similar interest bearing account in the inmate's name, the check drawn upon the inmate ~~bank~~ trust fund shall be made payable to the savings institution which has been chosen by the inmate, with the inmate as a reference, and shall be mailed to the savings institution. If an inmate requests a

copy of a cancelled check or requests to stop payment on a check, the inmate shall be responsible for the fees charged to process these transactions. Requests for special withdrawals submitted without the required signatures or on other than the approved form will be returned to the inmate without processing. Inmates wishing to send funds to inmates at other institutions must obtain approval from the wardens at both institutions.

~~(4) Staff supervising inmates on extended limits of confinement shall require that a return receipt be attached to the Special Withdrawal Form as verification that the inmate used the funds provided for the items requested. Each facility which houses inmates on work release extended limits of confinement shall establish an inmate check cashing procedure with a local bank, business or other reputable establishment so that inmates can cash checks authorized by the facility or the Bureau of Finance and Accounting, Inmate Trust Fund Section service center. Under no circumstances shall an employee countersign or endorse an inmate's check for the purpose of cashing such check.~~

~~(5) When an inmate is transferred from one Department of Corrections facility to another which is under the authority of another service center, his trust funds shall be transferred to the new service center within 10 days after the transfer. If it is impossible to meet this deadline due to circumstances beyond the control of the Department, a letter of explanation shall be placed with the inmate's withdrawal request setting forth these circumstances.~~

~~(5)(6) When an inmate is released from the control of the department, and his or her inmate trust account balance exceeds \$1.00, the inmate's balance in the inmate bank trust fund at the time of discharge shall be mailed by the Bureau of Finance and Accounting, Inmate Trust Fund Section, within 45 days of the inmate's release service center to the an address provided by of the inmate's during the release process choice. However, if deposits of checks, money orders or other negotiable instruments have been made to the inmate's account but have not cleared the account of the payer payor by the time the inmate is discharged, funds equal to the amount of the uncleared deposits shall be retained in the inmate's trust fund account. Immediately after the deposits have cleared, the balance due the inmate shall be forwarded by registered mail to the inmate. Inmates being released will be provided with cash for travel and related expenses. For inmates who meet eligibility requirements set forth in Rule 33-601.502, F.A.C., this money shall be in the form of a discharge gratuity. For inmates who are not eligible for discharge gratuities, a hold will be placed on the inmate's trust account and the amount will be later deducted from the inmate's trust fund account, with any remaining account balance shall be being forwarded as indicated above. Pursuant to Chapter 717, F.S., in the event~~

that funds are unclaimed after a period of five years, the balance shall escheat to the state as unclaimed funds held by fiduciaries.

~~(6)(7) Upon the death of any inmate affected by the provisions of this section during the period of incarceration, all funds in excess of \$1.00 shall be held pending official notification from the personal representative of the inmate. Any unclaimed money held for him in trust by the Department or by the State Treasurer shall be applied first to the payment of any unpaid state claims against the inmate. Any remaining funds shall be transferred to the inmate's designated beneficiary or to the decedent's estate. In the event that the funds are unclaimed after a period of 1 year, the balance shall escheat to the state as unclaimed funds held by fiduciaries pursuant to s. 944.516, F.S.~~

~~(7)(8) When an inmate escapes and is not captured within 30 days, any balance in his Inmate Bank Trust Fund account, in excess of \$1.00, shall be forwarded to the person designated on the inmate's notification record. If this person cannot be located after reasonable efforts, the funds shall be held for five years and, if unclaimed, shall escheat to the state pursuant to Chapter 717, F.S. forwarded to Central Office for deposit in the Dormant Inmate Fund Account. If the escaped inmate is captured within 30 days, his funds shall be forwarded to the service center for the facility where the inmate is now incarcerated.~~

~~(8)(9) Interest earned on investments of money from the Inmate Bank Trust Fund may be used to replace any funds belonging to an inmate which have been stolen, lost or otherwise misappropriated from the inmate's trust account through no fault of the Department or its employees and which cannot be replaced by appropriated funds, insurance payments, or other available resources. However, such use may only be made if, pursuant to a thorough investigation as part of the normal auditing process, the Department's Internal Auditor recommends in a written report that such use is appropriate. If the Internal Auditor concludes that a shortage in funds is attributable to the negligence of specific individuals, his report shall contain a recommendation that the shortage be recovered from the identified negligent individuals. The Internal Auditor's report may also recommend other action, including prosecution, with respect to any missing funds. If the Internal Auditor concludes that the Department is at fault, the shortage shall be recovered from the institution's or service center's operating funds.~~

(a) Reviews of periodic financial statements, by the Bureau of Finance and Accounting, will include a determination of whether any inmate trust fund shortages exist. Any trust fund shortage will be resolved during the course of the review.

(b) The bureau chief will file an incident report with the Inspector General's Office if fraudulent activity is suspected. The Inspector General's Office will process the incident report

and forward the results to the Bureau of Internal Audit. The Bureau of Internal Audit will audit the funds as part of the next regularly scheduled audit of the Inmate Trust Fund. The audit will be conducted in accordance with s. 20.055 and 944.516(1)(f), F.S.

~~(9)(10)~~ Notice to the department of an adverse claim against funds held by an inmate in the inmate bank trust fund shall not cause the department to recognize the adverse claimant unless the adverse claimant shall also either:

~~(a) Procure a restraining order, injunction or other appropriate process against the department from a court in a cause therein instituted by him in which the inmate is made a party and served with process; or~~

~~(b) Execute to the department, in form and with sureties acceptable to it, a bond indemnifying the department from any and all liability, loss, damage, costs and expense for and on account of the department, placing a hold on the inmate's account.~~

~~(c) If the claimant satisfies one of the above prerequisites, the department shall place a hold on the inmate's account until such time as the claim is resolved.~~

~~(d) If the claimant is the State of Florida and the claim is a cost judgment entered by a state or federal court against the inmate either in a civil or criminal action brought by the inmate, or in an appeal of such civil or criminal action, or if the cost judgment is the result of any other monetary judgment, order, or sanction imposed by a court against an inmate, the provisions of subsection (10)(11) of this rule shall apply.~~

~~(10)(11)~~ Any cost judgment or other monetary judgment, order, or sanction imposed against an inmate as described in paragraph ~~(9)(10)~~(d) above, shall be paid by offsetting the amount of the judgment or monetary order or sanction against the inmate's funds in his inmate bank trust fund account in the following manner:

(a) The attorney representing the state in such civil or criminal action or appeal shall file with the Office of the General Counsel Admission and Release Authority, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500, a true copy of the judgment or other monetary order or sanction which has been entered by the appropriate court, together with a cover letter stating the date and amount of the judgment, monetary order, or sanction, or the balance remaining if less than the face amount thereof, as well as the attorney's name, address and telephone number. The attorney shall also certify in the letter that:

1. through 4. No change.

(b) Upon receipt of the above documents, the Office of the General Counsel Admission and Release Authority shall determine if the inmate is still in the custody of the department. If the inmate is not in the custody of the department, the Office of the General Counsel Admission and Release Authority shall advise the attorney of that fact and, if known, advise the attorney of the last known forwarding address of the inmate. If the inmate

is in the custody of the department, the Office of the General Counsel Admission and Release Authority shall forward the letter and a copy of the judgment or relevant order to the Bureau of Finance and Accounting, Inmate Trust Fund Section service center for the institution where the inmate is presently incarcerated, specifically directed to the attention of the person who is in charge of or responsible for the inmate bank trust fund at that service center.

(c) Once the Bureau of Finance and Accounting, Inmate Trust Fund Section, service center receives the letter and a copy of the judgment or relevant order, a hold shall immediately be placed on the inmate's account. The inmate shall be promptly advised of the hold and that the reason therefore is an unsatisfied judgment or other monetary order or sanction. A copy of the attorney's letter or the letter from the probation and parole field office and a copy of the judgment or relevant order will be given to the inmate upon his request.

(d) No change.

(e) If there are insufficient funds in the inmate's account to satisfy the amount shown as due or the balance remaining as stated by the attorney, a check shall be issued payable to the "State of Florida" for the amount contained in the inmate's account. Each time that the inmate receives funds in his account, payment shall be disbursed to the State of Florida until the debt is satisfied. The hold shall remain on the inmate's account until sufficient funds have been paid to satisfy the amount shown as due on the balance remaining thereon. If the inmate is released from the custody of the department before he has paid the full amount of the judgment, upon his release, a notice shall be sent to the attorney or probation and parole office advising the attorney or office of the inmate's release, the inmate's last forwarding address, if known, and the fact that the inmate has not paid the full amount of the judgment. A copy of this notice shall be placed in the inmate's file.

~~(f) If the inmate is transferred to another institution or facility under a different service center within the department during the time that there is an unsatisfied judgement or other monetary order or sanction and a hold placed on his inmate account by reason thereof, the hold, as well as the attorney's letter and copy of the judgment or other monetary order or sanction, shall be transferred with the inmate to the new service center and the procedures specified above shall continue to apply.~~

~~(11)(12)~~ Inmates shall be provided with monthly statements detailing the activity in their bank trust fund accounts. Inmates will be provided one monthly trust account statement reflecting all transactions for the current month. If an inmate thinks the statement is wrong, or if additional information is needed about a transaction, the inmate must submit Form DC6-236, Inmate Request, no later than sixty days after the first statement on which the problem or error appeared. The request must provide sufficient detail for audit. The complaint will be investigated and errors will be corrected

promptly. If it takes more than ten working days to do this, a written notification of the delay will be provided. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(12)(13) When necessary for meeting state or federal requirements for demonstrating indigence indigency to the courts, inmates shall be provided with copies of printouts of their trust fund activity for the previous six months upon presentation of information demonstrating litigation – case number (if known), court, completed affidavit of indigency – attached to an inmate request. Application of this provision is limited to those requests which specifically state that the printouts are necessary for this purpose. The printout shall be provided to the inmate by the Bureau of Finance and Accounting, Inmate Trust Fund Section, service center within 10 5 working days of receipt of the request. Copies shall be authorized in accordance with Rule 33-501.302, F.A.C.

Specific Authority 944.09, 944.516, 945.091, 945.215 FS. Law Implemented 57.085, 717, 944.09, 944.516, 945.091, 945.215 FS. History--New 1-27-86, Amended 7-16-89, 5-1-90, 3-2-92, 6-2-92, 8-25-92, 10-19-92, 4-13-93, 5-28-96, 6-15-98, Formerly 33-3.018, Amended 5-7-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Prudom
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 14, 2002

DEPARTMENT OF CORRECTIONS

RULE TITLE: Routine Mail
RULE NO.: 33-210.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to ensure the protection of the public and the maintenance of order in the institution by prohibiting inmates from placing advertisements soliciting funds, goods or services and prohibiting inmates from entering contests or sweepstakes.
SUMMARY: The proposed rule prohibits from placing advertisements soliciting funds, goods or services and prohibits inmates from entering contests or sweepstakes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 944.09 FS.

LAW 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 FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-210.101 Routine Mail.

(1) through (2) No change.

(3) No other items may be received through incoming routine mail. If an impermissible item is found (other than items of an illegal nature, the entire correspondence will be returned to the sender pursuant to subsection (13)(14) of this rule. For example, the following items are not permissible for inclusion in or attachment to routine mail:

(a) through (e) No change.

(4) through (7) No change.

(8) Inmates shall not use correspondence privileges to solicit or otherwise commercially advertise for money, goods or services. For the purposes of this rule this includes advertising for pen-pals; inmates are not prohibited from corresponding with pen pals, but shall not place ads soliciting pen pals. Inmates are prohibited from receiving correspondence or materials from persons or groups marketing advertising services, or from subscribing to advertising services. Inmates who post ads or have ads posted with the assistance of another person shall be subject to disciplinary action.

(8) through (10) renumbered (9) through (11) No change.

(12) Inmates shall be prohibited from entering contests or sweepstakes through the mail while incarcerated.

(11) through (16) renumbered (13) through (18) No change.

Specific 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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joel Anderson

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 7, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: Admissible Reading Material
RULE NO.: 33-501.401

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete unnecessary language, incorporate a new form, and address admissible reading material issues related to: commercial photographs; procedures for the handling of impounded, approved and rejected publications;

individual rejections; procedures for appealing impoundment decisions; non-print media; subscription purchases; and educational correspondence study materials.

SUMMARY: The proposed rule deletes unnecessary language, incorporates a new form, and addresses admissible reading material issues related to: commercial photographs; procedures for the handling of impounded, approved and rejected publications; individual rejections; procedures for appealing impoundment decisions; non-print media; subscription purchases; and educational correspondence study materials.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 944.09, 944.11 FS.

LAW IMPLEMENTED: 944.11 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-501.401 Admissible Reading Material.

(1) The provisions of this section shall apply to all publications, including books, newspapers, magazines, brochures, flyers, and catalogues, calendars and any other printed materials addressed to a specific inmate or found in the personal property of an inmate. Personal and commercially reproduced photographs are not publications. No photograph will be approved and issued to an inmate as admissible reading material. Policy governing the receipt of photographs by inmates through the mail is established in Rule 33-210.101, F.A.C.

(2) Definitions.

(a) General circulation newspaper – a publication issued daily or weekly under the same title that contains current news, editorials, feature articles, and usually advertising.

(b) Hard-bound book – a publication with a rigid, pressboard cover that is commonly attached to the book through use of end sheets.

(c) Impoundment – the action taken by authorized department staff to withhold an inmate's incoming publication or a publication found in an inmate's personal property pending review of its admissibility by the Literature Review Committee.

(d) Inmate grievance appeal – a Request for Administrative Remedy or Appeal, Form DC1-303. Form DC1-303 is incorporated by reference in Rule 33-103.019, F.A.C.

(e) Mail order distributors and bookstores – business establishments that sell publications to the general public.

(f) Non-print media – publications published in formats other than on paper. Examples include microfilm, microfiche, computer disks, CD-ROM disks, and audio-tapes.

(g) Periodical – a publication issued under the same title and published at regular intervals of more than once a year. Examples of periodicals include journals and magazines and some newspapers and catalogs.

(h) Print media – publications that are printed or written on paper. These include hardcover books, soft cover books, magazines, newspapers, catalogs, and brochures.

(i) Publication – a document that is offered to the public by sale or by gratuitous distribution. Single photographs are not publications.

(j) Publisher – a corporation, governmental agency, private or public educational institution, church or other religious organization, professional, business or fraternal organization or association that prints publications for sale or gratuitous distribution to the public.

(k) Redaction – a procedure whereby a reviewer removes specific subject matter deemed inadmissible.

(l) Rejection – the act or procedure for declaring a book, periodical, or other single issue of a publication to be contraband.

(m) Religious testament – sacred texts, prayer books, and devotional books for the inmate's recorded faith orientation.

(n) Soft cover book – a bound publication with a flexible, paper cover, also referred to as a soft bound or paperback book.

(3)(2) Inmates shall be permitted to receive and possess publications per terms and conditions established in this rule unless the publication is found to be detrimental to the security, order or disciplinary or rehabilitative interests of any institution of the department, or any privately operated institution, or when it is determined that the publication might facilitate criminal activity. Publications shall be rejected when one of the following criteria is met:

(a) through (h) No change.

(i) It ~~pictorially~~ depicts sexual conduct as follows:

1. through 6. No change.

(j) It ~~pictorially~~ depicts nudity or a lewd exhibition of the genitals in such a way as to create the appearance that sexual conduct is imminent, i.e., display of contact or intended contact with a person's unclothed genitals, pubic area, buttocks or female breasts orally, digitally or by foreign object, or display of sexual organs in an aroused state.

(k) through (m) No change.

(4)(a) The department shall maintain a list of rejected publications that shall identify all publications that have been reviewed and rejected by the literature review committee. The list of rejected publications shall be updated after every meeting of the literature review committee. All institutions shall keep a current copy of the list of rejected publications in every institutional mailroom and at a location accessible by inmates.

(b) The department shall maintain a list of approved publications that shall identify all publications that have been approved for receipt by inmates after being impounded by institutions and forwarded to the literature review committee for review. All institutions shall keep a current copy of the list of approved publications in every institutional mailroom and at a location accessible by inmates.

(5)(3) A subscription to a periodical publication cannot be totally rejected by the institution, but each issue of the subscription shall be reviewed separately and impoundment or rejection shall be based on the criteria established in subsection (3)(2).

(6) Inmates who are foreign nationals shall be permitted to receive publications in their native language that are mailed direct from government agencies, diplomatic missions, and consular offices of their country of citizenship. Such publications can be new or used, however, all other restrictions on admissible reading material established in this rule shall apply.

(7)(4) Incoming publications previously rejected by the literature review committee.

(a) An incoming publication that has previously been rejected by the department's literature review committee due to inclusion of subject matter held to be inadmissible per the criteria established in subsection (3)(2) shall not be reviewed again unless the publisher presents proof to the literature review committee that it has been revised and in the revision process the material resulting in the original rejection has been removed. When a rejected publication is received at an institution, it shall be impounded and shall not be issued to inmates. The warden or designee shall notify the inmate in writing on Form DC5-101, Notice of Rejection or Impoundment of Publications, within 15 calendar days of receipt that the publication has been rejected by the department's literature review committee and cannot be received. Form DC5-101 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is _____. The notice shall also advise the inmate that he or she has 30 days to make arrangements to have the rejected publication picked up by an approved visitor or sent to a relative or friend or the sender at the inmate's expense, or the institution will destroy it. The 30 day limit shall not include any time that a grievance appeal is pending

provided that the inmate has provided the warden with the written notice required in paragraph (7)(b) of this rule. The actual date that the notice is mailed to the publisher or sender shall be documented by date stamp on the copies provided to the publisher or sender and the institution's copy. For purposes of this subsection, the warden's "designee" may include the mailroom supervisor. A Notice of Rejection or Impoundment of Publications, Form DC5-101, notice shall address only one publication. If a single mailing notice includes more than one rejected publication, a Notice of Rejection or Impoundment of Publications, Form DC5-101 separate rejection notices shall be prepared for each.

(b) A list of books and individual issues of periodicals that have been rejected by the department's literature review committee shall be maintained in the institution mail room.

(8)(5) Incoming publications that have not been previously rejected by the literature review committee.

(a) The warden or designee shall impound and not issue to inmates any publication that which he or she finds to be inadmissible pursuant to the criteria in subsection (3)(2) within 15 calendar days of receipt of the publication at the institution. If only a portion of a publication meets one of the criteria for rejection established in subsection (3)(2), the entire publication shall be impounded. For the purposes of approving the impoundment of publications, the warden's "designee" shall be limited to the assistant warden or chief of a work camp, road prison, or forestry camp.

(b) The warden or designee shall advise the inmate in writing on Form DC5-101, Notice of Rejection or Impoundment of Publications, of the specific reasons for the impoundment within 15 calendar days of receipt of the publication at the institution and shall provide two copies of the form impoundment notice to the inmate. The warden or designee of the institution that originated the impoundment shall also provide a copy of the completed form notice to the publisher, mail order distributor, bookstore or sender. The actual date that Form DC5-101, Notice of Rejection or Impoundment of Publications, the notice is mailed to the publisher, mail order distributor, bookstore or sender shall be documented by date stamp on the copies provided to the publisher or sender and the institution's copy. An impoundment Notice of Rejection or Impoundment of Publications, Form DC5-101, shall only address one publication. If a single mailing or package includes more than one publication and more than one are determined to be inadmissible, separate Notice of Rejection or Impoundment of Publications, Form DC5-101, notices shall be prepared for each.

(c) The inmate shall be informed that the impounded or rejected publication shall be held at the institution for 30 days, and that he or she must make arrangements to have it picked up by an approved visitor or sent to a relative or friend or the sender at the inmate's expense. The inmate shall also be

advised that if the material is not picked up or mailed out within 30 days, the institution shall destroy it. The 30 day limit shall not include any time that a grievance appeal is pending provided that the inmate has provided the warden with the written notice required in paragraph (7)(b) of this rule. However, if the inmate fails to provide the warden with written notice of his or her appeal within 15 days of the impoundment or rejection, the institution shall not be required to store the publication beyond 30 days.

(c)(~~e~~) The impoundment of a publication by a warden or authorized designee of any correctional facility of the department shall result in that publication being impounded at all correctional facilities until such time as the literature review committee reviews the action. Inmates at other institutions who also receive the impounded publication shall be provided a Notice of Rejection or Impoundment of Publications, Form DC5-101, ~~written notice~~ explaining that it has been impounded pending review for admissibility; the Notice of Rejection or Impoundment of Publications, Form DC5-101, shall also detail the specific reasons why the publication was impounded. For purposes of this subsection, the warden's "designee" may include the mailroom supervisor.

(d)(~~e~~) No change.

(9)(~~6~~) Admissible Reading Material in an Inmate's Property.

(a) The review criteria established in subsection (3)(~~2~~) of this rule also apply to publications found in an inmate's personal property. If correctional staff find a publication that has been rejected by the department, the publication shall be impounded and DC Form DC6-220, Inmate Impounded Personal Property List, shall be completed as required by Rules 33-602.201 and 33-602.203, F.A.C. Form DC6-220 is incorporated by reference in Rule 33-602~~4~~.201, F.A.C.

(b) If correctional staff believe that a publication found in an inmate's personal property is inadmissible per subsection (3)(~~2~~) of this rule, it shall be impounded and DC Form DC6-220, Inmate Impounded Personal Property List, shall be completed as required by Rules 33-602.201 and 33-602.203, F.A.C. The publication shall then be forwarded to the warden or his or her designee for review. The warden or warden's designee shall review the publication within 15 days of impoundment. If the publication is found to be inadmissible, the warden or warden's designee shall prepare a Notice of Rejection or an Impoundment of Publications, Form DC5-101, ~~notice~~ that advises the inmate of the specific reasons for the impoundment. The Notice of Rejection or an Impoundment of Publications, Form DC5-101, ~~notice~~ shall only address one publication; ~~if~~ more than one publication is determined to be inadmissible, a separate Notice of Rejection or an Impoundment of Publications, Form DC5-101, ~~notices~~ shall be prepared for each. The inmate shall be provided with two copies of the form impoundment notice.

(10) Single issues of periodicals and newspapers, any book, and any other printed material addressed to a specific inmate or found in the property of an inmate shall be impounded when circumstances detailed in an individual inmate's criminal conviction, detailed in departmental disciplinary reports, or detailed in prior criminal convictions, indicates it would be a threat to the security, order or rehabilitative objectives of the correctional system or the safety of any person to allow the inmate access to subject matter in that publication.

(a) Publications received through the mail. Within 15 calendar days of receipt of the publication at the institution, the warden or designee shall advise the inmate in writing on Form DC5-101, Notice of Rejection or Impoundment of Publications, of the specific subject matter that is cause for impoundment pursuant to this subsection, to include the page numbers in the publication where this information is found, and the specific security, safety, or rehabilitation concerns that justify denying the individual inmate access to the publication. The warden or designee shall provide a copy of the completed Form DC5-101, Notice of Rejection or Impoundment of Publications, to the publisher, mail order distributor, bookstore, or sender. The actual date that the Form DC5-101, Notice of Rejection or Impoundment of Publications, is mailed to the publisher, mail order distributor, bookstore, or sender shall be documented by date stamp on the copies provided to the publisher or sender and the institution's copy. The inmate also shall be provided two copies of the form. Form DC5-101, Notice of Rejection or Impoundment of Publications, shall only address one publication. If a single mailing or package includes more than one publication and more than one are determined to be inadmissible, a Form DC5-101, Notice of Rejection or Impoundment of Publications, shall be prepared for each.

(b) Publications found in an inmate's personal property. Correctional staff shall impound the publication and complete DC Form DC6-220, Inmate Impounded Personal Property List, as required by Rules 33-602.201 and 33-602.203, F.A.C. The publication shall then be forwarded to the warden or his or her designee for review. The warden or warden's designee shall review the publication within 15 days of impoundment. If the warden or designee agrees that the publication should be impounded, he or she shall prepare a Form DC5-101, Notice of Rejection or Impoundment of Publications, identifying the specific subject matter that is cause for impoundment pursuant to this subsection, to include the page numbers in the publication where this information is found, and the specific security, safety, or rehabilitation concerns that justify denying the individual inmate access to the publication. Form DC5-101, Notice of Rejection or Impoundment of Publications, shall only address one publication. If more than one publication is determined to be inadmissible, a Form DC5-101, Notice of Rejection or Impoundment of Publications, shall be prepared for each. The inmate shall be provided with two copies of the form.

(c) A copy of the completed Form DC5-101, Notice of Rejection or Impoundment of Publications, shall also be sent to the Literature Review Committee, together with any other information that the warden or designee believes justifies the institution's decision to deny the inmate the publication.

(d) Publications that are impounded pursuant to this subsection shall be handled as provided in subsections (8) and (9) of this rule.

(e) Inmates may appeal impoundment decisions undertaken pursuant to this subsection through use of the inmate grievance procedure as provided in subsection (13) and paragraph (14)(c) of this rule and Chapter 33-103, F.A.C.

1. If the impoundment decision is disapproved, the institution shall give the publication to the inmate.

2. If the impoundment decision is approved, the institution shall advise the inmate that he or she has 30 days from date of receipt of notice that the grievance appeal has been denied to make arrangements to have the publication picked up by an approved visitor or sent to a relative or friend or the sender at the inmate's expense. If the publication is not picked up or mailed out within 30 days, the institution shall destroy it.

(f) Impoundment decisions that are approved pursuant to this subsection are individualized in nature and do not have affect on any other inmate. If institution staff believe that a publication is inadmissible per the criteria established in subsection (3) of this rule, and should be denied to all inmates, they shall follow the procedures established in subsections (8) and (9) of this rule.

(f) Inmates who otherwise secure publications that they were specifically prohibited from receiving pursuant to this subsection shall be subject to formal disciplinary action as provided in Rules 33-601.300-314, F.A.C. Any such publications found in the possession of the inmate shall be impounded as contraband, and may be destroyed upon conclusion of disciplinary proceedings and related grievance or legal appeals.

(b) At any time during the 30 day limit, an inmate may elect to have an impounded or rejected publication picked up by an approved visitor, relative, or friend or to pay to have the publication mailed to one of these approved individuals, or to have it disposed of or destroyed. If the inmate authorizes the institution to have the publication disposed of or destroyed before the 30 day limit or while a grievance appeal is known to be pending, such authorization shall be secured in writing.

(11)(a) Rejected and impounded publications shall be held at the institution for 30 days. Upon receipt of a Form DC5-101, Notice of Rejection or Impoundment of Publications, an inmate shall have 30 days from date of receipt of the form to make arrangements to have the publication picked up by an approved visitor or sent to a relative or friend or the sender at the inmate's expense. If the publication is not picked up or mailed out within 30 days, the institution shall destroy it. The 30 day limit shall not include any time that a grievance appeal

is pending provided that the inmate has provided the warden with the written notice required in paragraph (13)(b) of this rule. However, if the inmate fails to provide the warden with written notice of his or her appeal within 15 days of the impoundment or rejection, the institution shall not be required to store the publication beyond 30 days.

(12) Institutions shall store impounded or rejected publications in a secure location that is inaccessible by inmates. A copy of the completed Form DC5-101, Notice of Rejection or Impoundment of Publications, shall be kept with the impounded or rejected publication.

(13)(7) Inmates may appeal the impoundment or rejection of reading material through use of the inmate grievance procedure, Chapter 33-103, F.A.C. ~~Florida Administrative Code~~. When publications are impounded or rejected pursuant to the criteria established in this rule, inmates shall bypass the informal and formal institutional level of review, and file grievances direct to the office of the secretary. The grievance appeal shall be addressed to the office of the secretary and not to the literature review committee or to the library services administrator.

(a) If the inmate decides to appeal the impoundment or rejection to the office of the secretary, he or she shall file the appeal within 15 calendar days of the impoundment or rejection and must include a copy of Form DC5-101, Notice of Rejection or the Impoundment of Publications or rejection notice with the appeal. The inmate shall identify the grievance as being related to admissible reading material by writing the words "Admissible Reading Material" at the top of the grievance. Only one impounded or rejected publication shall be addressed in the appeal.

(b) through (d) No change.

(14)(8) Literature Review Committee.

(a) through (b) No change.

(c) Upon receipt of a Form DC5-101, Notice of Rejection or Impoundment of Publications, ~~impoundment notices~~ from a correctional facility ~~facilities~~ or receipt of inmate grievance appeals forwarded by the Bureau of Inmate Grievance Appeals, the library services administrator or designee shall schedule a meeting of the literature review committee to review institutional decisions to impound publications and inmate appeals within 30 days of receipt. ~~The literature review committee shall meet at least once every month if impoundment notices or appeals have been received.~~ The committee shall review the inmate's appeal, or, in the case of institutional impoundment decisions, the rule authority and reasons for the impoundment cited on the Form DC5-101, ~~Notice of Rejection or Impoundment of Publications~~, the portions of the publication that have been cited as cause for impoundment, and any other specific material relating to the decision to impound the publication or the inmate's appeal. The committee shall affirm or overturn the impoundment

decision, or approve or deny the appeal based upon the criteria set forth in this rule. Decisions shall be by majority vote. The decision of the committee shall be final.

(d) No change.

(e) If the inmate's grievance appeal is approved or if the literature review committee notifies institutions that the impoundment of a publication has been overturned, the institution shall issue the publication to the inmate. The following guidelines shall be followed:

1. The publication shall be retrieved from secure storage and turned over to security or service center staff authorized by the warden or designee to issue impounded publications to inmates.

2. A copy of the completed Form DC5-101, Notice of Rejection or Impoundment of Publications, shall be attached to the publication.

3. Institution staff shall stamp the completed Form DC5-101, Notice of Rejection or Impoundment of Publications, "Received by (signature of inmate) on (date)" in the upper right-hand corner on page 1 of the form.

4. The stamped Form DC5-101, Notice of Rejection or Impoundment of Publications, shall be presented to the inmate. The inmate shall be required to sign and date the form. The inmate shall be issued the publication only after he or she has signed and dated the form.

5. The signed form shall be retained by institutional or service center staff as documentation that the inmate was issued the publication.

(15)(9)(a) The publisher, ~~wholesale or~~ mail order distributor, bookstore or sender may obtain an independent review of the warden's decision to impound a publication by writing to the library services administrator at 2601 Blair Stone Road, Tallahassee, Florida 32399-2500 within 15 days following receipt of Form DC5-101, the Notice of Rejection or Impoundment of Publications or rejection by the warden. The request for review must be accompanied by:

1. A copy of the completed Form DC5-101, Notice of Rejection or Impoundment of Publications or rejection notice; and

2. A copy of the impounded or rejected publication.

(b) The library services administrator shall forward this information to the literature review committee for review. If the appeal is approved, the publisher, ~~wholesale or~~ mail order distributor, bookstore or sender shall be notified of the decision. The decision shall also be communicated to all institutions of the department, and all privately operated institutions under contract with the department.

(16)(10)(a) through (b) No change.

(c) Inmates subscribe to periodicals or other reading materials at their own risk and expense. Inmates will not be reimbursed by the Department of Corrections for materials that ~~which~~ are rejected.

(d) No change.

(e) Inmates may only receive and possess print media publications. Incoming publications published on non-print media or print media publications that include non-print media that are an integral part of the publication will be rejected and returned to the sender along with an explanation as to why the material is being rejected. However, unsolicited promotional computer diskettes and CD-ROMs that are mailed with a periodical issue, e.g. the CD-ROMs promoting America Online's Internet service, will be handled as provided in subsection (24) of this rule.

(f) If an inmate does not have space to store admissible reading material in his or her personal living area without creating a fire, safety, or sanitation hazard, the institution is authorized to not issue the items or to impound the items if previously issued until the inmate disposes of other personal property in order to create storage space for the publications.

(g) Inmates shall not order publications from publishers or senders on a "bill me later" basis. All book or periodical subscription purchases that are initiated by inmates shall include an Inmate Bank Trust Fund Special Withdrawal, Form DC2-304, that covers the complete cost of the purchase, and postage, if necessary, and shall include an envelope that is properly addressed to the publisher or sender. Such requests shall be submitted to the warden or designee for approval. If approved, the warden or designee shall forward the request to the Bureau of Finance and Accounting, Inmate Bank Section, for processing. Any outgoing correspondence that does not comply with these requirements shall be returned to the inmate. Form DC2-304 is incorporated by reference in Rule 33-203.201, F.A.C.

(17)(11) No change.

(18)(12) Books, periodicals or other publications shall be sent directly from the publishers, ~~wholesale or~~ mail order distributors or bookstores to the inmate unless otherwise authorized by the warden.

(19)(13) No change.

(20) The address of all incoming books, periodicals and other publications must contain the inmate's committed name, identification number, and institutional address.

(21)(14)(a) Publications and training materials selected for use in authorized programs of the Department, or in private correctional institutions operated under contract with the Department, PRIDE or the Corrections Medical Authority shall be reviewed by the department head or person designated by the warden to ensure that the subject matter contained therein is admissible and does not meet any of the criteria for inadmissibility in subsection (3)(2).

(b) Institutions shall permit inmates to enroll in correspondence study programs provided that the subject matter of course materials is not inadmissible pursuant to the criteria stated in subsection (3)(2). The warden shall designate one or more department heads to screen and approve all materials received pursuant to participation in correspondence

study programs. Individual items shall be inspected by institution staff upon receipt and shall either be approved and issued to the inmate, or rejected and handled as contraband in accordance with Rules 33-602.201 and 33-602.203, F.A.C. Upon delivery to the institution, course or training materials shall be forwarded to the department head that approved the request for inspection prior to delivery to the inmate.

1. Inmates shall secure prior approval from the warden or designee to receive any item not listed on the Inmate Property List, Appendix One, to Rule 33-602.201, F.A.C. Any such item that was not approved by the warden or designee in advance of receipt shall be rejected as contraband and handled in accordance with Rules 33-602.201 and 33-602.203, F.A.C.

2. Inmates in close management or on death row shall not be permitted to receive hardcover correspondence study materials. Paperback materials shall not have metal or spiral bindings.

3. All educational correspondence study materials shall be mailed directly from the course provider to the institution's education department via U.S. Postal Service mail.

~~(22)(15)~~ No change.

~~(23)(16)~~ Calendars.

(a) No change.

(b) Authorized sources:

1. Inmates shall be permitted to receive calendars from publishers, ~~wholesale or~~ mail order distributors and bookstores.

2. through 3. No change.

(c) Calendars that contain written or pictorial matter that is inadmissible per subsection ~~(3)(2)~~ of this rule shall be rejected and shall not be issued to inmates.

(d) No change.

~~(24)(17)~~ No change.

Specific Authority 944.09, 944.11 FS. Law Implemented 944.11 FS. History--New 10-8-76, Amended 3-3-81, 9-24-81, Formerly 33-3.12, Amended 6-9-87, 3-11-91, 12-17-91, 3-30-94, 11-2-94, 5-10-98, 10-20-98, Formerly 33-3.012, Amended 3-21-00, 8-10-00, 10-13-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Allen Overstreet

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 21, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE:
Sex Offender Visiting Restrictions

RULE NO.:
33-601.720

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the factors to be considered by the warden when determining whether to grant a request for a visit between an inmate sex offender and a minor accompanied by an authorized adult.

SUMMARY: The proposed rule clarifies the factors to be considered by the warden when determining whether to grant a request for a visit between an inmate sex offender and a minor accompanied by an authorized adult.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 20.315, 944.09, 944.23 FS.

LAW IMPLEMENTED: 944.09, 944.23 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.720 Sex Offender Visiting Restrictions.

(1) No change.

(2) A warden, with a recommendation from the CVA supervisor, is authorized to approve a visit between a minor who is accompanied by an authorized adult and an inmate who meets the criteria in subsection 33-601.720(1), F.A.C., above if visiting is not restricted by court order and the warden determines the visit to be in the minor's best interest. Factors to be considered are:

(a) An evaluation from a Florida licensed mental health counselor, marriage and family therapist, clinical social worker, psychologist or psychiatrist professionally certified or licensed counselor from the community, which reports the impact on the minor of such visits or the lack of visits,

(b) The duration and frequency of prior visits without adverse incidents,

~~(c) A psychological evaluation of the inmate as to the danger presented to the minor and any continuing issues regarding visits with the minor,~~

~~(c)(d)~~ The availability of non-contact visiting facilities at the institution, and

~~(d)(e)~~ Other factors related to the safety and best interest of the minor.

(3) The warden shall also consider the disciplinary history of the inmate when making the determination of whether to allow visitation. In order to be eligible to visit, an inmate must

not have been found guilty of any of the following disciplinary charges in Rule 33-601.314, F.A.C., during the three months prior to the request for visitation:

(a) 1-1 Assault or battery or attempted assault or battery, with a deadly weapon;

(b) 1-2 Other assault or battery or attempted assault or battery;

(c) 1-3 Spoken or written threats;

(d) 1-4 Disrespect to officials, employees, or other persons of constituted authority expressed by means of words, gestures, and the like;

(e) 1-5 Sexual battery or attempted sexual battery;

(f) 2-1 Participating in riots, strikes, mutinous acts or disturbances;

(g) 2-2 Inciting or attempting to incite riots, strikes, mutinous acts or disturbances – Conveying any inflammatory, riotous or mutinous communication by word of mouth, in writing or by sign, symbol or gesture;

(h) 2-3 Participating in or inciting a minor disturbance;

(i) 2-4 Fighting;

(j) 3-1 Possession or manufacture of weapons, ammunition or explosives;

(k) 7-6 Arson or attempted arson;

(l) 9-1 Obscene or profane act, gesture, or statement – oral, written or signified;

(m) 9-3 Breaking and entering or attempted breaking;

(n) 9-7 Sex acts or unauthorized physical contact involving inmates;

(o) 9-18 Unauthorized physical contact involving non-inmates;

(p) 9-20 Extortion or attempted extortion; or

(q) 9-22 Robbery or attempted robbery.

(4) Inmates shall not be permitted to visit with minors who are victims of their offenses unless a family court makes the determination that the visitation is necessary.

(5)(3) The warden shall provide documentation required in 33-601.720(2)(a) and (e), F.A.C., above to the CVA supervisor who shall recommend approval or denial to the warden.

(6) If visitation is recommended, the custodial parent or guardian of the child must complete and sign Form DC6-138, Consent for Visitation with Minor Child. Form DC6-138 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500 The effective date of this form is _____.

(7)(4) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History—New 11-18-01, Formerly 33-601.707, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Roderick Hall

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 21, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: Permissible Items for Visitors
RULE NO.: 33-601.725

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to add facial tissues and non-prescription sunglasses to the list of items which visitors are allowed to bring into a department facility.

SUMMARY: The proposed rule adds facial tissues and non-prescription sunglasses to the list of items which visitors are allowed to bring into a department facility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 20.315, 944.09, 944.23 FS.

LAW IMPLEMENTED: 944.09, 944.23 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.725 Permissible Items for Visitors.

(1) Visitors shall be allowed to bring only authorized items listed into any department facility. Entry shall be denied if the visitor attempts to enter the institution or facility while possessing any unauthorized item or any authorized item in more than the approved amounts. Authorized items include:

(a) through (g) No change.

(h) ~~Prescription~~ Sunglasses.

(i) Small package of facial tissues in clear plastic.

(2) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History—New 11-18-01, Amended 5-27-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
James Upchurch

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2003
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 28, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Nursing Home Services
 RULE NO.: 59G-6.010

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan payment methodology, effective January 1, 2003, to provide the following changes based on Senate Bill 1202, 2001-2002 Florida Legislature and House Bill 27E, General Appropriations Act, 2002-03 Florida Legislature.

1. The Agency is amending the Long-Term Care Reimbursement Plan to provide for an increase in the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility, a minimum certified nursing assistant staffing increase to 2.6 hours of direct care per resident per day beginning January 1, 2003.
2. The nursing home upper payment limit (UPL) calculation methodology will be revised from the current formula based 100% on bed allocations to a formula based 50% on bed allocations and 50% on cost allocations.
3. Update to AHCA Document Number 5300-0001 which incorporates a revised chart of accounts approved by the Auditor General August 23, 2002.

The effect of the proposed amendment will be:

1. An increase from the 2.3 minimum staffing ratio for Florida Medicaid nursing facilities to 2.6 hours of direct care per resident per day beginning January 1, 2003.
2. A revision to the current upper payment limit (UPL) formula based 100% on bed allocations to a formula based 50% on bed allocations and 50% on cost allocations.
3. Update to AHCA Document Number 5300-0001 which incorporates a revised chart of accounts approved by the Auditor General August 23, 2002.

SUMMARY: The proposed amendment to Rule 59G-6.010, F.A.C., incorporates revisions to the Florida Title XIX Long-Term Care Reimbursement Plan. The amendment seeks to: increase Florida Medicaid nursing home minimum staffing ratios from 2.3 hours per patient day to 2.6 hours per patient day effective January 1, 2003, revise the nursing home upper payment limit (UPL) methodology allocation, and incorporate by reference a revised chart of accounts.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory cost has not been prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., April 30, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Butler, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.010 Payment Methodology for Nursing Home Services.

Reimbursement to participating nursing homes for services provided shall be in accord with the Florida Title XIX Long-Term Care Reimbursement Plan, Version ~~XXIV~~ ~~XXX~~ Effective Date ~~January 8, 2003~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Director for Medicaid, 2727 Mahan Drive, Mail Stop 8, Tallahassee, Florida 32308. The plan incorporates Provider Reimbursement Manual (CMS Pub. 15-1).

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History—New 7-1-85, Amended 10-1-85, Formerly 10C-7.482, Amended 7-1-86, 1-1-88, 3-26-90, 9-30-90, 12-17-90, 9-15-91, 3-26-92, 10-22-92, 4-13-93, 6-27-93, Formerly 10C-7.0482, Amended 4-10-94, 9-22-94, 5-22-95, 11-27-95, 11-6-97, 2-14-99, 10-18-99 1-11-00, 4-24-00, 9-20-00, 11-20-01, 2-20-02, 7-14-02, 1-8-03, _____.

NAME OF PERSON ORIGINATING THE PROPOSED RULE: Mr. Robert Butler

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Bob Sharpe

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 10, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 20, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Disciplinary Guidelines

RULE NO.: 61G18-30.001

PURPOSE AND EFFECT: The Board proposes the rule amendments to update unlicensed practice violations and penalties.

SUMMARY: The proposed rules address violations and penalties for leading the public to believe one is licensed when not or practicing without a valid active license; and, operating a veterinary establishment without a valid premise permit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.2273(1) FS.

LAW IMPLEMENTED: 455.2273, 474.213, 474.214 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW FOR THE BOARD'S NEXT MEETING, JUNE, 2003.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Veterinary Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-30.001 Disciplinary Guidelines.

(1) When the Board finds an applicant or licensee whom it regulates under Chapter 474, Florida Statutes, has committed any of the acts set forth in Section 474.213(1), Florida Statutes, which are felonies of the third degree as well as violations of the Practice act, it shall issue a final order imposing appropriate penalties, using the following disciplinary guidelines:

(a) through (i) No change.

(j) Leading the public to believe that the person is licensed as a veterinarian or is engaged in the licensed practice of veterinary medicine without a valid active license.

In the case of an applicant, the usual action of the Board shall be to request the Department issue a Cease and Desist Order, which will remain in effect until licensure is granted, plus an administrative fine of two thousand dollars (\$2,000.00) and, upon eligibility for licensure, imposition of a one year probationary period. In the case of a non-licensed veterinarian the Board shall request that the Department issue a Cease and Desist order and an administrative fine of two thousand dollars

(\$2,000.00) plus one year's probation if the subject should become licensed in the State of Florida.

In the case of a non-veterinarian the Board shall request that the Department issue a Cease and Desist Order and an administrative fine of two thousand dollars (\$2,000.00) for each count.

The usual action of the Board shall be an administrative fine of two thousand dollars (\$2,000.00). The Board shall also require that a premise permit be obtained or request the Department to issue a Cease and Desist order.

(k) Knowingly operating a veterinary establishment or premises without a valid premise permit.

(2) through (4) No change.

Specific Authority 455.2273(1) FS. Law Implemented 455.2273, 474.213, 474.214 FS. History--New 12-8-86, Amended 5-27-91, Formerly 21X-30.001, Amended 8-18-94, 5-13-96, 2-18-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Veterinary Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Veterinary Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 3, 2003

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE TITLE: Examination Requirements for Licensure
RULE NO.: 64B14-4.004

Candidates Pursuant to Section 468.805(3) PURPOSE AND EFFECT: The Board proposes to repeal this rule due to Legislative action in 2001.

SUMMARY: This rule is being repealed as it is no longer necessary pursuant to s. 468.805, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 468.805(3) FS.

LAW IMPLEMENTED: 468.805(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.004 Examination Requirements for Licensure Candidates Pursuant to Section 468.805(3).

Specific Authority 468.805(3) FS. Law Implemented 468.805(3) FS. History--New 11-2-98, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2001

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE TITLE: Emergency Medical Services Grants Procedures
 RULE NO.: 64E-2.030

PURPOSE AND EFFECT: To amend current rule to modify requirements for grant fund distribution.

SUMMARY: The proposed rule removes language relative to the denial process and related remedies.

STATEMENT OF ESTIMATED REGULATORY COSTS: None prepared.

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.

SPECIFIC AUTHORITY: 401.121 FS.
 LAW IMPLEMENTED: 401.111, 401.113, 401.121 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE LISTED BELOW.

TIME AND DATE: 10:00 a.m., April 29, 2003
 PLACE: Division of Emergency Medical Services and Community Health Resources, 4025 Esplanade Way, Room 301 A & B, Tallahassee, Florida 32311-7829

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Lesley, Government Analyst, Division of Emergency Medical Services and Community Health Resources, 4052 Bald Cypress Way, Bin C-18, Tallahassee, Florida 32399-1738, (850)245-4440, ext. 2733, Email Pam_Lesley@doh.state.fl.us; or FAX (850)921-8162

THE FULL TEXT OF THE PROPOSED RULE IS:

64E-2.030 Emergency Medical Services Grants Procedures

(1) through (2) No change.
 (3) All grant award decisions shall be posted on a date and time certain at a specific location in Tallahassee, Florida. All grant award notices shall be published on the Bureau of Emergency Medical Services website at www.doh.state.fl.us/ems, at the date and time established in the FAW notice as outlined-in (2) above. ~~The 21 days for denied applicants to file a petition for an administrative hearing as provided in Section 120.569 and Section 120.57, F.S., shall commence at the date and time of the award posting. If any award denial results in a timely and legally sufficient petition for administrative hearing as provided by Rule 28 106.201, F.A.C., and Rule 28 106.301, F.A.C., no award shall be made until final order and, if applicable, appellate proceedings have concluded, on the action if the denied applicant. The department shall proportionately adjust awards should the result of an administrative proceeding dictate.~~

(4) through (6) No change.
 Specific Authority 401.121 FS. Law Implemented 401.111, 401.113, 401.121 FS. History--New 6-6-90, Amended 12-10-92, 1-26-97, Formerly 10D-66.205, Amended 8-4-98, 11-3-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Lesley, Management Analyst
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Phil E. Williams, Division Director
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 20, 2003
 NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 3, 2003
 P.O. B00829

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NO.: 6E-2.0041
 RULE TITLE: Delivery of Programs through Nontraditional Assessments, Modes, and Methods

NOTICE OF CHANGE

Notice is hereby gives notice that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 43, October 25, 2003, issue of the Florida Administrative Weekly and the notice of change published in Vol. 29, No. 5, January 31, 2003, issue of the Florida Administrative Weekly.