

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE CHAPTER TITLE: Standards for Onsite Sewage Treatment and Disposal Systems

RULE CHAPTER NO.: 64E-6

PURPOSE AND EFFECT: Develop rules to address comments from the Joint Administrative Procedures Committee, incorporate necessary technical changes and incorporate modifications proposed through the Technical Review and Advisory Panel.

SUBJECT AREA TO BE ADDRESSED: Areas to be discussed include: existing system evaluation and modification standards and procedures; system construction application and permit requirements; system construction standards; forms used throughout the program; treatment receptacle construction and testing standards; portable restroom and holding tank permitting, construction, inspection and operating standards; issuance and renewal of contractor registration certificates; standards of practice and disciplinary guidelines for registered septic tank contractors and master septic tank contractors; issuance and renewal of certificates of partnerships and corporations; and continuing education course requirements and approval process.

SPECIFIC AUTHORITY: 154.06, 381.0011, 381.006, 381.0065, 489.553, 489.557 FS.

LAW IMPLEMENTED: 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, 386.041, 386.051, 489.552, 489.553, 489.554, 489.555, 489.556, 489.557, 489.558 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Gerald Briggs, Department of Health, Bureau of Onsite Sewage Programs, HSES, 4042 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399-1713

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II  
Proposed Rules**

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Florida Teacher Certification Examination

RULE NO.: 6A-4.0021

PURPOSE AND EFFECT: The purpose of the rule amendment is to adopt a newly revised application form, to establish a test fee for the General Knowledge Test, and to establish transitional passing scores for the Middle Grades Integrated Curriculum 5-9 and Physical Education K-12 subject area tests and the Professional Education Test. The effect is that the Florida Teacher Certification Examination application form will be available for applicants and will contain current and accurate information, a fee will be established for the General Knowledge Test, and transitional passing scores will be established for the Middle Grades Integrated Curriculum 5-9 and Physical Education K-12 subject area tests and the Professional Education Test.

SUMMARY: This rule is amended to adopt a newly revised application form, to establish a test fee for the General Knowledge Test, and to establish transitional passing scores for the Middle Grades Integrated Curriculum 5-9 and Physical Education K-12 subject area tests and the Professional Education Test.

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 the notice.

SPECIFIC AUTHORITY: 1012.56(8), 1012.59 FS.

LAW IMPLEMENTED: 1012.56, 1012.59 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., June 17, 2003

PLACE: 325 West Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathy Fearon, Accountability, Research, and Measurement, Department of Education, 325 West Gaines Street, Suite 414, Tallahassee, Florida 32399-0400, (850)488-8198

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-4.0021 Florida Teacher Certification Examinations.

(1) through (3) No change.

(4) Registration, late registration and refunds.

(a) Registration for the examinations shall be for the initial examinations or for one (1) or more examinations not previously passed. To register to take the examinations, an applicant shall submit a completed application which shall be received by the test administration agency at least fifty (50) days preceding the examination date.

1. Before ~~October 1, 2003~~, ~~July 1, 2003~~, a complete application shall consist of the following:

a. A completed application ~~Form CG-20-03~~, ~~Form CG-20-02~~, Registration Application: Certification Examinations for Florida Educators, which includes the

applicant's signature. ~~Form CG-20-03, Form CG-20-02,~~ Registration Application: Certification Examinations for Florida Educators is hereby incorporated by reference and made a part of this rule to become effective ~~July 2003~~ July 2002. This form may be obtained without cost from the Bureau of Educator Certification, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

b. A twenty-five (25) dollar fee for each registration for a subject area specialty examination or any combination of subtests for a subject area specialty examination, for each registration for the professional skills examination, and for each registration for the general knowledge test or any combination of subtests for the general knowledge test.

c. A charge of one hundred (100) dollars in addition to the fees described in Rule 6A-4.0021(4)(a)1.b., FAC., for certification applicants taking a supplemental examination.

2. Beginning ~~October 1, 2003, July 1, 2003,~~ a completed application shall consist of the following:

a. A completed application ~~Form CG-20-03A, Form CG-20-03,~~ Registration Application: Certification Examinations for Florida Educators, which includes the applicant's signature. ~~Form CG-20-03A Form CG-20-03~~ is hereby incorporated by reference and made a part of this rule to become effective ~~October 1, 2003~~ July 2003. This form may be obtained without cost from the Bureau of Educator Certification, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

b. A twenty-five (25) dollar fee for each registration for a subject area specialty examination or any combination of subtests for a subject area specialty examination, each registration for the professional skills examination, and each registration for the general knowledge test or any combination of subtests for the general knowledge test.

c. A charge of one hundred (100) dollars in addition to the fees described in Rule 6A-4.0021(4)(a)2.b., FAC., for certification applicants taking a supplemental examination.

3. An incomplete application shall be returned to the applicant. Applications which are completed and resubmitted to the test administration agency after the fifty (50) day deadline shall be acceptable only if the applicant complies with requirements specified in Rule 6A-4.0021(4)(b), FAC.

(b) Late registration for the examinations shall be for the initial examinations or for one (1) or more examinations not previously passed. An applicant who did not submit a completed application to the test administration agency within the fifty (50) day deadline may register for the examination by completing the requirements listed in Rule 6A-4.0021(4)(a)1., FAC., and submitting a fifteen (15) dollar late charge for each registration for a subject area specialty examination; each registration for the professional skills examination and each registration for any combination of the General Knowledge Test ~~College Level Academic Skills Test~~ subtests. Beginning ~~October 1, 2003, July 1, 2002,~~ an applicant who did not submit

a completed application to the test administration agency within the fifty (50) day deadline may register for the examinations by completing the requirements listed in Rule 6A-4.0021(4)(a)2., FAC., and submitting a fifteen (15) dollar late charge for each registration for a subject area specialty examination or any combination of subtests for a subject area specialty examination; each registration for the professional education examination; and each registration for the general knowledge examination or any combination of the general knowledge subtests. All items shall be received by the test administration agency at least thirty (30) days preceding the examination date. Late registrations shall be accepted on a space available basis.

(c) Refunds. Fees shall be refunded provided written requests for refunds are received by the test administration agency at least thirty (30) days preceding the examination date. Failure to appear for or to complete an examination shall result in forfeiture of fees.

(8) Scoring the professional skills examination Effective July 2003, the passing score for the professional education test shall be a scaled score of at least two hundred (200). This scaled score shall be equivalent to an examination raw score that results in an examinee passing rate of ninety-one (91) percent, which was the passing rate of teacher candidates who took the Professional Education examination for the first time during the 2001-2002 examination administration year. In the event that fewer than fifty (50) examinees are tested in the July 2003 administration, the passing score shall be sixty (61) percent of the items.

~~(a) A passing score shall be a scaled score of at least 200.~~

~~(b) Performance equivalent to a scaled score of 200 is expressed as a Rasch logit value. The minimum acceptable performance equivalent to a scaled score of 200 as determined from the field test conducted by the Department in April, 1980 is a logit value of 0.70 on the professional skills examination.~~

~~(c) The passing score on subsequent forms of the professional skills examination shall be equated to a score of 200 on the score scale derived from the field tests identified in Rule 6A-4.0021(7)(b), FAC.~~

(9) Scoring of the subject area specialty examinations.

(m) Effective July 2003, the passing scores for the subject area specialty examinations listed below shall be a scaled score of at least two hundred (200). This scaled score shall be equivalent to the raw scores on the July 2003 test administration as defined below:

1. Middle Grades Integrated Curriculum Examination. An examination raw score that results in an examinee passing rate of sixty-eight (68) percent, which was the average of the passing rates of teacher candidates who took the Middle Grades English 5-9, Middle Grades General Science 5-9, Middle Grades Mathematics 5-9, and Middle Grades Social Science 5-9 specialty examinations for the first time during the 2001-2002 examination administration year. In the event that

fewer than fifty (50) examinees are tested in the July 2003 administration, the passing score shall be fifty-nine (59) percent of the items.

2. Physical Education K-12 Examination. An examination raw score that results in an examinee passing rate of seventy-five (75) percent, which was the average of the passing rates of teacher candidates who took the Physical Education K-8 and Physical Education 6-12 specialty examinations for the first time during the 2001-2002 examination administration year. In the event fewer than fifty (50) examinees are tested in the July 2003 administration, the passing score shall be sixty (60) percent of the items.

(n) Not later than September 1, 2004, the Commissioner of Education shall review examinee performance levels for the Professional Education Examination, the Middle Grades Integrated Curriculum 5-9 Examination, and the Physical Education K-12 Examination and determine whether to recommend to the State Board of Education to maintain or change the existing passing scores.

~~(o)(m)~~ The Commissioner of Education shall review the passing score for each of the General Knowledge Subtests, each of the subject area specialty examinations, and the Professional Education Examination not less than once every five (5) years and determine whether to recommend to the State Board of Education to maintain or change the existing passing scores.

~~(p)(n)~~ Before July 1, 2003, the subject area specialty examinations approved for use in the Florida Teacher Certification Examinations are listed by subject area in the publication, "Competencies and Skills Required for Teacher Certification in Florida, Seventh Edition."

~~(q)(o)~~ Beginning July 1, 2003, the subject area specialty examinations approved for use in the Florida Teacher Certification Examinations are listed by subject area in the publication "Competencies and Skills Required for Teacher Certification in Florida, Eighth Edition."

Specific Authority 1012.55(1), 1012.56, 1012.59 FS. Law Implemented 1012.56 FS. History--New 8-27-80, Amended 1-11-82, 1-6-83, 5-3-83, 10-5-83, 10-15-84, Formerly 6A-4.021, Amended 12-25-86, 4-26-89, 4-16-90, 7-10-90, 4-22-91, 10-3-91, Amended 8-10-92, 11-28-93, 4-12-95, 7-1-96, 9-30-96, 10-1-99, 7-17-00, 7-16-01, 3-24-02, 7-16-02, 3-24-03.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cornelia Orr, Chief, Assessment and School Performance, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John Winn, Deputy Commissioner for Accountability, Research, and Measurement, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Florida Educational Leadership Examination

RULE NO.: 6A-4.00821

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the newly revised application form for persons to use when registering for the Florida Educational Leadership Examination. The effect will be a form that is current and contains accurate information relating to the examination.

SUMMARY: This rule is amended to adopt the new application form.

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 the notice.

SPECIFIC AUTHORITY: 1012.56(8), 1012.59 FS.

LAW IMPLEMENTED: 1012.56, 1012.59 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., June 17, 2003

PLACE: 325 West Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathy Fearon, Accountability, Research, and Measurement, Department of Education, 325 West Gaines Street, Suite 414, Tallahassee, Florida 32399-0400, (850)488-8198

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-4.00821 Florida Educational Leadership Examination.

(1) through (3) No change.

(4) Registration, late registration, and refunds.

(a) Registration for the examination shall be for the initial examination or for one (1) or more subtests not previously passed. To register to take the examination, an applicant shall submit a completed application to the test administration agency. The completed application shall be received by the test administration agency at least fifty (50) days preceding the examination date.

1. Before ~~October 1, 2003~~, ~~July 1, 2003~~, a completed application shall consist of the following:

a. A completed application ~~Form CG-20-03~~, ~~Form CG-20-02~~, Registration Application: Certification Examinations for Florida Educators, which includes the applicant's signature. ~~Form CG-20-03~~, ~~Form CG-20-02~~, Registration Application: Certification Examinations for Florida Educators is hereby incorporated by reference and made a part of this rule to become effective July ~~2003~~ ~~2002~~.

This form may be obtained without cost from the Bureau of Educator Certification, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

b. A fifty (50) dollar registration fee.

c. A charge of one hundred (100) dollars in addition to the fees described in Rule 6A-4.00821(4)(a)1.b., F.A.C., for certification applicants taking the examination on a supplemental administration date.

2. Beginning October 1, 2003, July 1, 2003, a completed application shall consist of the following:

a. A completed application Form CG-20-03A, Form CG-20-03, Registration Application: Certification Examinations for Florida Educators, which includes the applicant's signature. Form CG-20-03A Form CG-20-03 is hereby incorporated by reference and made a part of this rule to become effective October 2003 July 2003. This form may be obtained without cost from the Bureau of Educator Certification, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

b. A fifty (50) dollar registration fee.

c. A charge of one hundred (100) dollars in addition to the fees described in Rule 6A-4.0021(4)(a)2.b., FAC., for certification applicants taking a supplemental examination.

3. An incomplete application shall be returned to the applicant. Applications which are completed and resubmitted to the test administration agency after the fifty (50) day deadline shall be acceptable only if the applicant complies with requirements specified in Rule 6A-4.00821(4)(b), FAC.

(b) Late registration for the examination shall be for the initial examination or for one (1) or more subtests not previously passed. Before October 1, 2003 July 1, 2003, an applicant who did not submit a completed application to the test administration agency within the fifty (50) day deadline may register for the examination by completing the requirements listed in Rule 6A-4.00821(4)(a)1., FAC., and submitting a thirty (30) dollar late charge. Beginning October 1, 2003 July 1, 2003, an applicant who did not submit a completed application to the test administration agency within the fifty (50) day deadline may register for the examination by completing the requirements listed in Rule 6A-4.00821(4)(a)2., FAC., and submitting a thirty (30) dollar late charge. All items shall be received by the test administration agency at least thirty (30) days preceding the examination date. Late registration shall be accepted on a space available basis.

(c) Refunds. Fees shall be refunded provided written requests for refunds are received by the test administration agency at least thirty (30) days preceding the examination date. Failure to appear for or to complete an examination shall result in forfeiture of fees.

Specific Authority 1012.56, 1012.59 FS. Law Implemented 1012.56 FS. History—New 12-25-86, Amended 1-11-89, 5-19-98, 10-5-99, 7-17-00, 7-16-01, 3-24-02, 10-17-02, 3-24-03.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cornelia Orr, Chief, Assessment and School Performance, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John Winn, Deputy Commissioner for Accountability, Research, and Measurement, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2003

DATE NOTICE OF PROPOSED DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE: Payment of Excise Taxes RULE CHAPTER NO.: 20-9

RULE TITLE: Processed Form RULE NO.: 20-9.002

PURPOSE AND EFFECT: Revising conversion units for a standard equivalent 1 3/5 bushel box used in computing equalization tax.

SUMMARY: Revising conversion units used in computing equalization tax.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of 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.

SPECIFIC AUTHORITY: 601.10(1), 601.15(1),(10)(a), 601.155(3),(7) FS.

LAW IMPLEMENTED: 601.15(5),(6), 601.155 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:30 a.m., June 18, 2003

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License and Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-9.002 Processed Form.

(1) No change.

(2) All persons or entities required to file excise tax returns pursuant to s. 601.155, Florida Statutes, shall file, each week, an excise tax return on forms furnished by the Department of Citrus (incorporated by reference in Rule 20-100.004, F.A.C.).

(a) All persons liable for the excise tax imposed by this section shall file with the Department of Citrus equalizing excise tax returns, certified as true and correct. The return, as

furnished by the Department of Citrus, shall report information as to the number of units of processed orange or grapefruit products subject to this section upon which any taxable privilege was exercised during the period of time covered by the return, in addition to the status of inventoried product. Each handler shall maintain records and documentation supporting declarations made on the excise tax return filed with the Department of Citrus. Unless the actual number of boxes is known to the processor and can be substantiated by appropriate records in his possession, the following table shall be used in determining the equivalent number of boxes:

Product	Conversion Unit		Number of Equivalent 1-3/5 Bushel Boxes
	Oranges	Grapefruit	
Concentrate	<del>6.32</del> <del>6.26</del> solids	<del>4.65</del> <del>4.56</del> solids	1
Single Strength Sections, canned	<del>6.16</del> <del>6.15</del> gallons	<del>5.12</del> <del>5.18</del> gallons	1
	4.93 gallons	4.27 gallons	1

(b) Equalizing excise taxes shall be due and payable within 61 days after the first of the taxable privileges is exercised in this state.

(c) The excise tax levied by this section shall be at the same rate per box of oranges or grapefruit utilized in the initial production of the processed citrus products so handled as that imposed, at the time of exercise of the taxable privilege, by Section 601.15, Florida Statutes.

(d) All credits and refunds will be provided by Department of Citrus in accordance with s. 601.155, Florida Statutes.

(3) through (4) No change.

Specific Authority 601.10(1), 601.15(1),(10)(a), 601.155(3),(7) FS. Law Implemented 601.15(5),(6), 601.155 FS. History—Formerly 105-1.15(2), Revised 1-1-75, § (2), Amended 11-21-77, 8-1-80, § (3), 2-1-81, 8-1-83, Formerly 20-9.02, Amended 7-21-86, 8-30-89, 8-27-91, 7-13-94, 10-22-95, 8-1-97, 8-3-00, 11-27-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ken Keck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 9, 2003

**DEPARTMENT OF CORRECTIONS**

RULE TITLES:	RULE NOS.:
Correctional Probation Officers Carrying Firearms	33-302.104
Probation and Parole – Use of Force	33-302.105

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to address requirements for the use of handcuffs by correctional probation officers, to clarify what action constitutes deadly force, and to correct titles of probation and parole staff.

SUMMARY: The proposed rule provide additional requirements for the use of handcuffs by correctional probation officers, requires that officers carrying firearms also carry handcuffs, clarifies what action constitutes deadly force, and corrects titles of probation and parole staff.

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, 120.53(1)(a), 790.06, 944.09 FS.

LAW IMPLEMENTED: 20.315, 120.53(1)(a), 790.06, 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 RULES 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 RULES IS:

33-302.104 Correctional Probation Officers Carrying Firearms.

(1) No change.

(2) Definitions.

(a) through (b) No change.

(c) “Correctional probation officer” means a person who is employed full time by the Department of Corrections whose primary responsibility is the supervised custody, surveillance, and control of assigned offenders and includes supervisory personnel whose duties include the supervision, training and guidance of correctional probation officers. This term does not include personnel above the level of regional director of probation and parole community corrections.

(d) No change.

(e) “Deadly force” means force that is likely to cause death or great bodily harm and includes firing a firearm in the direction of a person or occupied vehicle.

(f)(e) Reviewing authority, for the purpose of this rule, refers to staff who are authorized to review and approve requests to carry firearms, issue Firearm Qualification and Authorization, DC3-223, maintain lists of staff under their supervision who have been authorized to carry a firearm, and permanently remove or temporarily suspend authorization for staff to carry a firearm.

1. Circuit Administrators are the reviewing authority for Correctional Probation Officers up to the level of Deputy Circuit Administrator.

2. Regional Directors of probation and parole ~~Community Corrections~~ are the reviewing authority for Circuit Administrators and Deputy Regional Directors of probation and parole ~~Community Corrections~~.

3. The ~~Director~~ Deputy Assistant Secretary of Community Operations ~~Corrections~~ or the Assistant Secretary for probation and parole ~~of Community Corrections~~ is the reviewing authority for the Regional Directors of probation and parole ~~Community Corrections~~.

(3) Authorization Procedures.

(a) No change.

(b) Any correctional probation officer who elects to carry a firearm while on duty shall complete Form DC3-226, Request for Authorization to Carry a Firearm on Duty, and submit it for such authorization through the circuit administrator. Form DC3-226, Request for Authorization to Carry a Firearm on Duty, 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 March 4, 2001. Any circuit administrator or deputy regional director of probation and parole ~~community corrections~~ who elects to carry a firearm while on duty shall make application utilizing Form DC3-226 to the regional director of probation and parole ~~community corrections~~. A regional director of probation and parole ~~community corrections~~ who elects to carry a firearm while on duty shall make application utilizing Form DC3-226 to the director ~~deputy assistant secretary~~ of community operations ~~corrections~~. The written application shall contain documentation that the individual has complied with the training and qualification requirements set forth in paragraph (c) below. The application shall also contain a statement that the officer has read and understands Rules 33-302.104 and 33-209.103, F.A.C.

(c) through (j) No change.

(k) The officer shall immediately notify his or her immediate supervisor in the case of theft or loss of the authorized firearm. The officer shall notify local law enforcement agencies and the Florida Department of Law Enforcement in writing of the theft or loss and provide a copy to the supervisor to ensure the notification has been made as required. A Community Corrections Incident Report, Form DC3-225, shall be prepared by the officer any time a loss or theft occurs and shall be submitted to his or her immediate supervisor within 24 hours. The supervisor shall forward Form DC3-225 to the circuit administrator, who shall complete a MINS report. Form DC3-225 is hereby incorporated by reference in Rule 33-302.105. ~~A copy of this form is 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 December 5, 2001.~~

(4) through (6) No change.

(7) Use of Firearm. For the purposes of this rule, “use of a firearm” means to discharge a firearm or to have a firearm readily accessible for immediate discharge, i.e., loaded and in a person’s hand.

(a) No change.

(b) In accordance with firearms training, correctional probation officers are authorized to use deadly force only after all other reasonable efforts to avoid confrontation have been exhausted, including retreat, use of handcuffs to restrain the offender, ~~or~~ use of defensive tactics or chemical agents. Effective December 1, 2000, all officers authorized to carry firearms must be certified to carry chemical agents per Rule 33-302.105, F.A.C. and must carry chemical agents while carrying firearms. Effective \_\_\_\_\_, all officers authorized to carry firearms must complete handcuff training requirements provided by the department and must carry department issued handcuffs on his or her person while carrying a firearm.

(c) through (8) No change.

(9) Removal of Authorization to Carry a Firearm.

(a) The reviewing authority shall permanently remove or temporarily suspend the authorization to carry a firearm for a correctional probation officer if:

1. The correctional probation officer has exhibited behavior that which indicates that the carrying of a firearm by this officer could present a threat to the security of other staff, offenders, or the general public,

2. through 5. No change.

(10) through (11) No change.

Specific Authority 20.315, 120.53(1)(a), 790.06, 944.09 FS. Law Implemented 20.315, 120.53(1)(a), 790.06, 944.09 FS. History—New 5-28-86, Amended 7-7-92, 12-20-92, 3-30-94, 9-27-94, 12-19-94, 3-8-95, 2-15-98, Formerly 33-24.013, Amended 3-4-01, 12-5-01, \_\_\_\_\_.

33-302.105 Probation and Parole – Use of Force.

(1) through (3) No change.

(4) Use of Handcuffs.

(a) Officers shall use handcuffs in accordance with subsection (1) of this rule. Handcuffs shall be used only by persons authorized by the department and shall only be used for purposes as outlined in this rule. Officers shall receive handcuff training yearly. Training documentation shall be maintained in the staff training and record system that is maintained by the department.

(b) No change.

(c) No employee will be permitted to use or access handcuffs until he or she has completed the ~~basic~~ handcuff training provided by the department. Staff who have completed the training are authorized to carry department issued handcuffs upon their person during working hours. Staff who are authorized to carry firearms must have department issued

handcuffs on their persons when carrying firearms in the field. Nothing in this rule authorizes staff to carry department issued handcuffs while off duty.

(d) In any case in which handcuffs are used, except for training purposes, an accurate record shall be maintained by the circuit administrator as to the location and reason for use, and a factual description of the circumstances and the incident. This information shall be reflected on the Community Corrections Report of Force Used, Form DC3-210. The officer who used the handcuffs shall complete the report after the incident. Any additional officer(s) physically involved in the handcuffing who agrees with the facts and circumstances as reported on the DC3-210, shall prepare a Community Corrections Report of Force Used – Staff Supplement, DC3-211.

(5) Use of chemical agents.

(a) through (e) No change.

(f) Use of chemical agents on animals shall be limited to those situations in which the officer is in danger of an immediate attack from the animal. Following use of chemical agents, the officer shall immediately remove himself from the area, contact local animal control officers or local law enforcement if there is no local animal control office, and make a formal complaint regarding the attack. Under no circumstances shall chemical agents be used on animals that ~~who~~ are not posing an immediate threat to the officer.

(g) through (7) No change.

Specific Authority 944.09 FS. Law Implemented 944.35 FS. History–New 5-28-86, Amended 8-6-90, 2-15-98, Formerly 33-24.017, Amended 10-2-01, 2-19-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tina Hayes

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 1, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 4, 2003

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Inmate Discipline – Miscellaneous Provisions      RULE NO.: 33-601.311

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to require provision of feedback to employees concerning disciplinary reports which have been rejected, disapproved, or dismissed, and to correct staff titles associated with the inmate discipline process.

SUMMARY: The proposed rule requires provision of feedback to employees concerning disciplinary reports which have been rejected, disapproved, or dismissed, and corrects staff titles associated with the inmate discipline process.

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, 944.34, 944.719, 945.04 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:

33-601.311 Inmate Discipline – Miscellaneous Provisions.

(1) Interstate Compact Cases. Inmates confined in this Department on interstate transfer are to be disciplined in the same fashion as anyone sentenced within the state of Florida. Following the review process, a copy of all disciplinary reports on interstate corrections compact cases (institutions) shall be forwarded to the ~~Bureau of Interstate corrections c~~Bureau of Classification and Central Records, who will then forward the disciplinary report to the sending state for information and concurrence.

(2) through (3) No change.

(4) Once an employee has written a disciplinary report and submitted it to the shift supervisor, any rejection, disapproval, dismissal or finding of not guilty shall be communicated to the employee who initiated the report by the official making the decision, along with the reason for the rejection, disapproval, dismissal or finding of not guilty. This feedback is intended to foster overall improvement of the discipline process.

~~(5)(4) The Deputy Director of Institutions (classification) and programs~~ is authorized to order a disciplinary report expunged from the inmate record in cases effecting the integrity of the disciplinary process or procedures. No inmate has the right to request the expunging of a disciplinary report in conjunction with this subparagraph.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 944.719, 945.04 FS. History–New 3-12-84, Formerly 33-22.11, Amended 12-30-86, 5-24-90, 6-20-91, 10-01-95, Formerly 33-22.011, Amended 5-21-00, 2-11-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael Rathmann

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: April 4, 2003

## DEPARTMENT OF CORRECTIONS

RULE TITLE: Confidential Records  
RULE NO.: 33-601.901

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide clarification regarding access to and copying of department records and to ensure the confidentiality of protected health information is maintained in accordance with the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Part 160, 164.

SUMMARY: The proposed rule provides for guidelines for the dissemination and use of protected health information maintained by the department, incorporates new forms for this purpose, and provides clarification throughout regarding access to and copying of department records.

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, 945.10, 945.25 FS., 45 CFR Parts 160 and 164.

LAW IMPLEMENTED: 944.09, 945.10, 945.25, 947.13 FS., 42 USCS 290 ee-3, 45 CFR Parts 160 and 164.

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:

33-601.901 Confidential Records.

(1) Inmate and offender access to records or information.

(a) Inmate and offender access to non-medical and non-substance abuse records or information.

1. No inmate or offender under jurisdiction of the department shall have unlimited or routine access to any information contained in the records of the department. Section 945.10(3), F.S., authorizes the Department of Corrections to permit limited access to information if the inmate or offender makes a written request and demonstrates an exceptional need for information contained in the department's records and the information is otherwise unavailable. Such information shall be provided by the department when the inmate or offender has met the above requirements and can demonstrate that the request is being made under exceptional circumstances as set forth in s. 945.10(3), F.S.

2. It shall be the responsibility of the inmate or offender to maintain such information, and repeated requests for the same information shall not be honored. ~~(2)~~ Copies of documents which have been previously provided to the inmate or offender under other rules of the department will not be provided unless the inmate or offender can demonstrate that exceptional circumstances exist.

3.~~(3)~~ No inmate or offender shall have access to any other inmate's or offender's file.

4.~~(4)~~ An inmate desiring access to non-medical or non-substance abuse information shall submit the written request to his or her classification officer or officer-in-charge of a community facility; a supervised offender shall submit the request to his or her supervising officer. If the request does not meet the requirements specified in s. 945.10(3), F.S., the request shall be denied in writing. If the request meets the requirements specified in s. 945.10(3), F.S., the request shall be approved without further review. If the request meets the requirements specified in s. 945.10(3), F.S., but details exceptional circumstances other than those listed, the classification officer or officer-in-charge shall review the request and make a recommendation to the classification supervisor who shall be the final authority for approval or disapproval of requests from inmates; for supervised offenders, the recommendation shall be submitted to the correctional probation circuit administrator or designee who shall be the final authority for approval or disapproval.

(b) Inmate and offender access to their own medical or substance abuse clinical records.

1. Definitions.

a. "Medical record" as used in this rule includes the inmate's medical and dental files maintained by the department.

b. "Protected health information" or "PHI" as used in this rule means individually identifiable health information about an inmate or offender.

c. "Psychotherapy notes" as used in this rule means notes recorded by a mental health professional documenting or analyzing the contents of conversation during a private or group session. The term does not include medication prescription and monitoring, session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

d. "Substance abuse clinical record" as used in this rule means the department inmate file containing all written documents and records, including department forms compiled to detail an inmate's substance abuse history, substance abuse screening, assessment, intervention, and other substance abuse services, including the results of urinalysis testing done for treatment, program participation, and admission and discharge summaries.



e. “Substance abuse progress notes” as used in this rule means notes recorded by a substance abuse health care professional documenting or analyzing the contents of conversation during a private or group session. The term does not include session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

2. An inmate shall be allowed to have access to his own medical record and, if such exists, his own substance abuse clinical record. An inmate desiring access to his own medical record shall submit a written request to the health services administrator or his designee; an inmate desiring access to his own substance abuse clinical record shall submit a written request to the substance abuse program manager or his designee.

3. The department does not maintain medical records or substance abuse clinical records on offenders under community supervision. Access to records maintained by treatment providers under contract with the department should be requested by contacting the treatment provider.

4. Inmates shall have no access to psychotherapy notes or substance abuse progress notes maintained in the department’s records. Inmates and offenders shall have no access to health information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

5. The request for access shall be denied in whole or in part due to any of the following reasons:

a. The request is for records or information identified in subparagraph 4. above.

b. The request is for PHI that was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would with reasonable likelihood reveal the source of the information.

c. The request is for information not maintained or no longer maintained by the department in its files.

d. There has been a determination by a licensed or certified health care professional that:

I. The requested access is reasonably likely to endanger the life or physical safety of the inmate or another person;

II. The requested access is to PHI that makes reference to another person (other than a health care provider) and such access is reasonably likely to cause substantial harm to such other person; or

III. The access is requested by a personal representative of the inmate and such access is likely to cause substantial harm to the inmate.

6. All requests shall be granted, including providing access or copies or both, or denied, in whole or in part, by the health services administrator or his designee or substance abuse program manager or his designee in writing within 30 days of the date of receipt of the request, except that where the requested records are not maintained on-site, the department

shall provide or deny access, in whole or in part, within 60 days from receipt of the request. If the department is unable to grant or deny, in whole or in part, the request for access within the 30 or 60 day time periods, the department is authorized to extend the time for such action an additional 30 days by providing the inmate a written statement that the time period has been extended for 30 days and the reason(s) for the extension. This extension is available only one time.

7. Denials must provide:

a. The basis for the denial;

b. Information on where the requested information is maintained if sub-subparagraph 5.c. applies, and the department knows where the information is maintained;

c. Notification that the inmate may request a review of the denial by submitting a written request to the health services administrator or his designee in the case of medical records, or the substance abuse program manager or his designee in the case of substance abuse clinical records; and

d. That the inmate may grieve the denial through the inmate grievance process pursuant to Chapter 33-103, F.A.C.

8. Upon written request of the inmate to the staff member designated above, denials based on sub-subparagraph 5.d. shall be reviewed by a licensed or certified health care professional who is designated by the health services administrator or his designee or substance abuse program manager or his designee, and who did not participate in the original decision to deny the request. Review of the denial must be completed within a reasonable time after receipt of the request for review. Immediately upon determination on review, the inmate shall be notified in writing of the decision. The determination on review shall be followed by the department.

9. Where a request for access to an inmate’s medical record or substance abuse clinical record is denied in part, the department shall provide access to the requested record after excluding the information for which access was denied.

(c) Copies will be provided upon receipt of payment as provided in subsection (2) of this rule, except that when providing the inmate a copy of the requested information would jeopardize either the health, safety, security, custody of the inmate or of other inmates; or the safety of any officer, employee, or other person at the correctional institution or a person responsible for the transporting of the inmate, no copies shall be provided. A denial of copies on this basis shall not be subject to review under subparagraph (b)8. above.

(2)(5) If the information being requested requires duplication, the cost of duplication shall be paid by the inmate or offender, and the inmate or offender will sign a receipt for such copies. The cost for copying is \$0.15 per page for single-sided copies. Only one-sided copies will be made for inmates; two-sided copies will not be made for inmates. Additionally, a special service charge will be assessed for providing information when the nature or volume of the records requested requires extensive clerical or supervisory

assistance by department personnel. "Extensive" means that it will take more than 15 minutes to locate, review for confidential information, copy and refile the requested material. The special service charge will be computed to the nearest quarter of an hour exceeding 15 minutes based on the current rate of pay for the paygrade of the person who performed the service, but not to exceed paygrade 18. Exceptions will not be made for indigent inmates or offenders; indigent inmates will be required to pay for copies.

~~(3)~~(6) The following records or information contained in department files shall be confidential and shall be released for inspection or duplication only as authorized in this rule:

(a) Medical reports, opinions, memoranda, charts or any other medical record of an inmate or offender, including dental and medical classification reports as well as clinical drug treatment and assessment records; letters, memoranda or other documents containing opinions or reports on the description, treatment, diagnosis or prognosis of the medical or mental condition of an inmate or offender; the psychological screening reports contained in the admission summary; the psychological and psychiatric evaluations and reports on inmates or offenders; health screening reports; Mentally Disordered Sex Offender Status Reports. Other persons may review medical records only when necessary to ensure that the inmate's or offender's overall health care needs are met, or upon a specific written authorization from the inmate or offender whose records are to be reviewed, or as provided by law. If a request for inmate or offender medical records is submitted upon consent or authorization given by the patient inmate or offender, the department's Consent and Authorization for Inspection and ~~or~~ Release of Confidential Information, Form DC4-711B must be utilized in order to obtain inmate medical records held by the department. Form DC4-711B 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. ~~Requests for forms to be mailed must be accompanied by a self-addressed stamped envelope. The effective date of this form is \_\_\_\_\_ September 19, 2000.~~ Offenders under supervision, or previously under supervision, who desire information from their own records, shall be referred to the agency or office originating the report or document to obtain such information. ~~Inmates desiring access to information in their own medical records shall submit a written request to the health information specialist/supervisor. If the request does not meet the requirements specified in subsection (1), the request shall be denied. If the request meets the requirements specified in subsection (1) and falls within exceptions (a) through (e) of s. 945.10(3), F.S., the request shall be approved without further review. The records will be provided upon receipt of payment. If the request meets the requirements specified in s. 945.10(3), F.S., but details exceptional circumstances other than those listed in (a) through (e) or falls within (f), the health information~~

~~specialist/supervisor shall review the request and make a recommendation to the chief health officer who shall be the final authority for approval or disapproval.~~

(b) Preplea, pretrial intervention, presentence and post-sentence investigation reports including supplements, addenda and updates, except as provided in s. 960.001(1)(g), F.S.

(c) No change.

(d) Florida Parole Commission records which are confidential or exempt from public disclosure by law.

(e) through (h) No change.

~~(4)~~(7) Blueprints, detailed physical diagrams, photographs of institutions and facilities and computer printouts containing information on inmates or offenders except those printouts specifically designated for public use are confidential and can be released only as provided in ~~paragraph (5) subsection (8)(d)~~ of this rule.

~~(5)~~(8) Unless expressly prohibited by federal law, the following confidential records or information may be released to the Office of the Governor, the Legislature, the Parole Commission, the Department of Legal Affairs, the Department of Children and Family Services, a private correctional facility or program that operates under a contract, ~~the Department of Legal Affairs~~, a state attorney, the court, or a law enforcement agency:

(a) Preplea, pretrial intervention, presentence and postsentence investigations along with attachments to such reports, except as provided in s. 960.001(1)(g), F.S.;

(b) Florida Parole commission records;

(c) through (d) No change.

~~(6)~~(9) After victim information has been redacted, access to preplea, pretrial intervention, presentence or postsentence investigations is authorized as follows:

(a) To any other state or local government agency not specified in subsection ~~(5)~~(8) upon receipt of a written request which includes a statement demonstrating a need for the records or information;

(b) through (c) No change.

~~(d)~~ Written requests under paragraphs (b) and (c) above must be submitted to the Bureau Chief of Classification and Central Records or designee for approval if the request pertains to an inmate record. If the request pertains to a report in a supervision file, the request shall be submitted to the correctional probation circuit administrator or designee of the office where such record is maintained. If the request pertains to confidential health information is included in the presentence or postsentence investigation, authorization for release must be obtained from the inmate or offender; the request shall be submitted to the institutional chief health officer.

~~(7)~~(10) Parties establishing legitimate research purposes who wish to review preplea, pretrial intervention, presentence and postsentence investigation reports in the records of current

or prior inmates or offenders must obtain prior approval from the Bureau Chief of Research and Data Analysis. Parties seeking to review records pursuant to this section shall be required to submit a written request to the Bureau Chief of Classification and Central Records or designee if the report pertains to an inmate, or to the correctional probation circuit administrator or designee of the office where the record is located if the report pertains to a supervised offender. The written request must disclose the name of the person who is to review the records; the name of any organization, corporation, business, school or person for which the research is to be performed; the purpose of the research; any relationship to inmates or offenders or the families of inmates or offenders; and a confidentiality agreement must be signed. After submitting the required written request, research parties must receive written approval as described in this section prior to starting the project.

~~(8)(11)~~ Any information, whether recorded or not, concerning the identity, diagnosis, prognosis or treatment of any inmate or offender which is maintained in connection with the performance of any alcohol or drug abuse prevention or treatment function shall be confidential and shall be disclosed only as follows:

(a) With the prior written consent of the inmate or offender. The written consent shall include the following information:

1. through 8. No change.

9. The date, event, or condition upon which the consent will expire if not revoked before. This date, event, or condition must ensure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given. If a request for inmate medical records is submitted upon consent given by the patient inmate/offender, the department's Consent and Authorization for Inspection and ~~or~~ Release of Confidential Information, Form DC4-711B, must be utilized in order to obtain medical records held by the department.

(b) Pursuant to 42 C.F.R. Part 2, the department is authorized to disclose information about an inmate or offender to those persons within the criminal justice system who have made participation in the program a condition of the disposition of any criminal proceedings against the inmate or offender or of the inmate or offender's parole or other release from custody if:

1. No change.

2. The inmate or offender has signed Form DC4-711B meeting the requirements of subsection ~~(8)(11)~~(a) except for the revocation provision in ~~(8)(11)~~(a)8. This written consent shall state the period during which it remains in effect. This period shall be reasonable, taking into account:

a. through c. No change.

(c) A disclosure may not be made on the basis of a consent which:

1. No change.

2. On its face substantially fails to conform to any of the requirements set forth in ~~(8)(11)~~(a) above:

3. through 4. No change.

(d) No change.

(e) Whether or not the inmate or offender has given written consent, 42 C.F.R. Part 2 permits disclosure of information as follows:

1. through 4. No change.

5. ~~To~~ Reports of suspected child abuse and neglect;

6. No change.

(9) Each employee of the Department of Corrections shall maintain as confidential all medical and mental health, including substance abuse information, regarding any inmate or offender that the employee obtains in conjunction with his or her duties and responsibilities, and shall not disseminate the information or discuss the medical, mental health or substance abuse condition of the inmate or offender with any person except persons directly necessary to the performance of the employee's duties and responsibilities. An employee who has been designated as a member of the healthcare transfer team or is part of a mental health or substance abuse treatment team shall not disseminate inmate medical or substance abuse information or discuss the medical or mental health or substance abuse condition of an inmate with any person except other members of the healthcare transfer team, medical, mental health or substance abuse staff, upper level management at the institution or facility level, regional level and central office level, inspectors from the Inspector General's Office, or department attorneys. Breach of this confidentiality shall subject the employee to disciplinary action. Each employee shall acknowledge receipt and review of Form DC2-813, Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC2-813 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 \_\_\_\_\_.

(10) Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall maintain as confidential all health or substance abuse information that he sees or hears while performing his duties and responsibilities, and shall not disseminate the information or discuss the medical or substance abuse information with any person except health care staff or substance abuse program staff. Failure to keep health or substance abuse information confidential and private shall subject the inmate to disciplinary action. Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other

inmates shall acknowledge receipt and review of Form DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC1-206 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 \_\_\_\_\_.

Specific Authority 20.315, 944.09, 945.10, 945.25 FS, 45 CFR Parts 160 and 164. Law Implemented 944.09, 945.10, 945.25, 947.13 FS. 42 USCS 290 ee-3, 45 CFR Parts 160 and 164. History--New 10-8-76, Amended 6-10-85, Formerly 33-6.06, Amended 1-12-89, 7-21-91, 9-30-91, 6-2-92, 8-4-93, 6-12-96, 10-15-97, 6-29-98, Formerly 33-6.006, Amended 9-19-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael Rathmann

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 1, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2003

**DEPARTMENT OF CORRECTIONS**

RULE TITLES: Inmate Property  
Control of Contraband

RULE NOS.: 33-602.201  
33-602.203

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to provide for the handling of excess inmate legal materials, to revise the list of permissible property items, and to clarify requirements for the possession of property items and the classification and handling of contraband items.

SUMMARY: The rules provide for the handling of excess inmate legal materials, revise the list of permissible property items, and clarify requirements for the possession of property items and the classification and handling of contraband items.

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, 945.215 FS.

LAW IMPLEMENTED: 944.09, 944.47, 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 RULES 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 RULES IS:

33-602.201 Inmate Property.

(1) The reception center Chief of Security shall ensure that property files are established for all new inmates. The inmate property file shall become part of the inmate's institutional file. All forms and correspondence pertaining to inmate property shall be placed in this file in chronological order. The Chief of Security or his designee shall be responsible for the maintenance of the inmate property file. An addendum will be made to the Inmate Personal Property List, Form DC6-224, any time the status of inmate personal property changes. Examples of changes include when an inmate receives additional property through an approved source or when the inmate chooses to dispose of a broken or worn out item. Form DC6-224 is incorporated by reference in subsection (17) of this rule.

(2) No change.

(3) Upon receipt at any facility of the department, a written receipt for personal property that is in excess of that allowed shall be given to the inmate. When it becomes necessary to confiscate and impound the authorized personal property of an inmate subsequent to his reception in the institution, it will be immediately inventoried by an officer in the presence of the inmate, and a written, signed receipt, Form DC6-220, Inmate Impounded Personal Property List, itemizing the property will be given to the inmate. Form DC6-220 is incorporated by reference in subsection (17) of this rule. If the inmate's behavior is such that the security and order of the institution is jeopardized by his presence during the inventory process, the inmate's presence shall not be required. In such cases a second officer shall witness the inventory process. Proper procedures will be taken to safeguard and store such property so as to prevent its loss, damage or theft. Upon release of the property, a signed receipt will be obtained from the inmate. Money in excess of the amount allowed by institutional policies found in the possession of an inmate will be handled in accordance with paragraph 33-602.203(5)(a), F.A.C.

(4) Authorized Property.

(a) The property reflected on the Approved Property List (Appendix One), in the indicated quantities, is authorized within the department once an inmate is permanently assigned, provided the inmate has sufficient storage space. An inmate may not use other inmates' storage space, ~~or~~ other non-authorized storage containers, or store property in locations other than their assigned housing unit.

(b) through (c) No change.

(d) Inmates shall be required to maintain receipts for items purchased from the canteen for as long as they possess the items. In instances where items purchased from the canteen are

added to the Inmate Personal Property List, Form DC6-224, by the property officer, the inmate will not be required to maintain the original canteen receipt.

(5) Unauthorized property. Also see Control of Contraband, Rule 33-602.203, F.A.C.).

(a) ~~Unauthorized property shall be~~ Property, which is considered contraband pursuant to Rule 33-602.203, F.A.C., shall be considered contraband and handled as provided for in Rule 33-602.203, F.A.C.

1. If an inmate receives postage stamps in the mail which, added to the number already in his possession, place him over the maximum allowed, he shall be allowed to send the excess stamps out at his own expense. It is the inmate's responsibility to make arrangements with staff to send out the extra stamps as soon as they are received. The stamps must be sent out; the institution will not store excess stamps for inmates. Excess stamps found in an inmate's property will be considered contraband.

2. An inmate who is in possession of the maximum number of articles allowed by this rule and who wishes to replace a worn item must contact the property officer to arrange to discard or send the worn item out at his own expense before purchasing a replacement item. This includes any item or article on the grounds of the department or in the possession of the inmate that was neither

1. Issued;

2. Received through approved methods from an authorized vendor;

3. Purchased in the canteen; or

4. Has been altered from its original design.

~~(b) Not later than January 1, 1998, all property not on the approved property list must be disposed of either through donation to a charitable organization, mailed to a designated individual at state expense, or discarded.~~

~~(b)(e)~~ Property that is authorized for inmates in general population such as shaving powders, oils and lotions shall be unauthorized or restricted based upon an inmate's confinement or other high security status when that item presents a security risk. Further limits on personal items for inmates in confinement or other high security statuses are authorized as referenced in Rules 33-602.220, 33-602.221, 33-602.222 and ~~33-601.800 33-601.814~~, F.A.C.

(6) Storage of Excess Legal Materials.

(a) Definitions.

1. Active Legal Material: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, correspondence, and other documents (including discovery and exhibits), in or directly pertaining to an inmate's own pending, active or prospective cases or lawsuits before the courts or administrative agencies.

2. Inactive Legal Material: Legal material not related to the inmate's ongoing litigation, or not directly pertaining to an inmate's pending, active or prospective cases or lawsuits before the courts or administrative agencies.

3. Excess Active Legal Material: Active legal material that exceeds the capacity of storage available in the inmate's locker.

4. Excess Inactive Legal Material: Inactive legal material that exceeds the capacity of storage available in the inmate's locker.

(b) Storage of Legal Material. Each inmate is authorized to possess in his or her assigned housing area his own active or inactive legal material not exceeding the capacity of storage available in the inmate's assigned locker.

(c) Storage of Excess Active Legal Material.

1. A secure space for storing excess active legal material will be provided for inmates to use to store active legal material that cannot be contained in the inmate's locker. Each facility will identify a secure area for such storage.

2. When it is determined by the assistant warden or chief of security that an inmate has legal material that cannot be contained in the inmate's assigned locker, the inmate shall be given a written order from an employee of the department providing:

a. The inmate shall have one week (seven calendar days), to organize and inventory his or her legal material and separate excess inactive legal material from excess active legal material; and

b. If, after organizing and inventorying his or her legal material the inmate will not be able to fit his active legal material in his assigned inmate locker, the inmate shall complete a Request for Storage of Excess Active Legal Material, Form DC6-2006, and an Excess Active Legal Material Inventory List, Form DC6-2008, to be submitted to the warden for review. Forms DC6-2006 and DC6-2008 are incorporated by reference in subsection (17) of this rule.

3. If time is needed in excess of seven calendar days for the inmate to organize and inventory his or her legal material, the inmate shall, prior to the expiration of the seven calendar day period, submit an inmate request to the warden to ask for additional time to complete his review. The inmate shall specify the basis for the request for additional time and how much additional time will be required to complete the inmate's organizing and inventorying of his or her legal material. The total period of time for the inmate to complete this review shall not exceed 30 calendar days.

4. In the event the inmate refuses to organize and inventory his or her legal material as ordered, the inmate shall receive a disciplinary report.

5. Prior to placing an inmate's active legal material into excess storage, the inmate's legal material shall be subject to a cursory review by department staff to ensure compliance with department rules regarding utilization of excess storage.

approved property and contraband. This review will only be conducted in the presence of the inmate. Only the case style, signature on the document (if any) and letterhead (if any) may be read. Any material that is determined by staff to not be active legal material, shall be collected by two designated employees and placed in storage box(es) with interlocking flap for storage pending disposition. The warden or designee shall notify the inmate on Form DC6-2007, Excessive Inactive Legal Material Disposition Determination, of the determination that the inmate has 30 days to make arrangements to have the excess inactive legal material picked up by an approved visitor or sent to a relative or friend at the inmate's expense, or the institution will destroy it. This notification shall be provided to the inmate within three calendar days of the determination unless the inmate provides verification of a deadline that cannot be met with the three day waiting period. The 30 day limit shall not include any time that a grievance appeal is pending provided the inmate has provided the warden or the warden's designee with the written notice required in subparagraph (7)(c)6. Form DC6-2007 is incorporated by reference in subsection (17) of this rule. For purposes of this subparagraph, the warden's designee may include the property room supervisor.

6. If the inmate intends to appeal the determination and wishes to have the order to dispose of the excess inactive legal material within 30 days stayed while the appeal is proceeding, the inmate must provide written notice to the warden on Form DC6-236, Inmate Request, that he or she intends to appeal the determination to the office of the secretary. The written notice must be filed within 15 calendar days of the determination and shall include a statement by the inmate that the inmate intends to appeal the determination and must specifically identify the documents or papers on which the appeal is to be based. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

7. If the inmate fails to file written notice with the warden within 15 calendar days, fails to provide Form DC6-2007 as an attachment to his or her appeal, addresses more than one issue or in any other way violates the grievance procedure as described in Chapter 33-103, F.A.C., his or her appeal shall be returned without response to the issue raised.

8. If the inmate's appeal is denied, he or she shall have 30 days to make arrangements to have the material picked up by an approved visitor, relative or friend, or pay to have the material sent to one of these approved individuals. If the material is not picked up or mailed out within 30 days, the institution shall destroy it.

9. Prior to being stored in excess storage, excess active legal material shall be placed in storage box(es) with interlocking flap, shall be numbered in sequential order and shall have the inmate's name and department of corrections number clearly written on the top and side of each box. Prior to being sealed, the box(es) shall be inspected by staff, in the

presence of the inmate, for contraband. Each box shall be sealed in the presence of the inmate prior to being placed into excess storage. An Excess Active Legal Material Inventory List, Form DC6-2008, shall be completed or updated by the inmate before the box(es) are sent or returned to excess storage.

10. In no event will an inmate's active legal material be destroyed or removed from the facility except, in accordance with procedures for disposition of inmate personal property provided in this rule, as authorized and directed in writing by the inmate.

11. The department will not store case law, legal texts or books, or multiple copies of legal material as excess active legal material.

(d) Excess Inactive Legal Material. Excess inactive legal material shall be sent out of the facility by the inmate at the inmate's expense. If the inmate does not want to pay to send the excess inactive legal material out, this material will be destroyed in accordance with this rule and Rules 33-602.201 and 33-602.203, F.A.C., regarding inmate property and contraband.

(e) Inmate Access to Excess Active Legal Material.

1. When an inmate wants access to a box of his or her legal material stored in excess storage, the inmate shall:

a. Notify the property room officer by Inmate Request, Form DC6-236; and

b. Clearly indicate by number the box to be requested.

2. Barring an emergency need demonstrated by the inmate, e.g., a court deadline that requires an immediate response by the inmate, the property room officer shall provide the requested box to the inmate within three workdays from date of receipt of the request, which shall be date stamped when received.

3. After receipt of a box of his or her legal materials from excess storage, the inmate shall then be permitted to exchange those active legal materials in the requested box with other active legal materials in the inmate's assigned locker.

4. The legal material to be exchanged shall be inspected for contraband by staff and sealed in the presence of the inmate prior to the box being returned to excess storage.

5. An Excess Active Legal Material Inventory List, Form DC6-2008, shall be used and updated each time legal material is stored in or exchanged with legal material from excess storage.

(f) Transfer. An inmate being transferred to another institution shall be permitted to take along with his or her other personal property all his legal material. The transferred inmate's legal material must be maintained and possessed in accordance with the receiving institution's available locker storage space.

(7)(6) Impounded Property.

(a) When it is necessary to take and impound items of personal property belonging to or in the possession of an inmate, that property shall be taken, handled, processed, and

secured in a manner which will safeguard it from loss, damage, destruction or theft while it is under the control of the Department. If the property impounded does not belong to the inmate in possession of the property, an investigation shall be conducted to determine if the owner of the property knowingly permitted the use of the property. If so, the property shall be handled as contraband. If it can be determined that the property was stolen or otherwise taken, the impounded property shall be returned to the rightful owner. Inmates must report stolen items immediately to the housing officer. The officer shall complete an incident report and an attempt will be made to locate the missing property.

(b) When personal property of an inmate is taken, it will be inventoried according to the following procedure on Form DC6-220, Inmate Impounded Personal Property List, and, whenever practical, in the presence of the inmate. Exceptions may be made when the inmate's presence during this process jeopardizes institutional security or in times of an emergency such as a general disturbance creating security concerns. New inmates being processed into the department at one of the reception centers will have their property recorded on DC6-220 with a copy being given to the inmate. Unauthorized property will be stored pending final disposition as provided in this rule. At the time of receipt into the department each inmate will also sign an Authorization for Disposition of Mail and Property, Form DC6-226, which authorizes the department to dispose of the property should the inmate abandon it. Form DC2-226 is incorporated by reference in subsection (17) of this rule.

1. through 5. No change.

(c) through (d) No change.

(e) If it is appropriate to return part, but not all, of the impounded property to the inmate, the following procedure will be followed:

1. That part of the property being returned will be listed on the approved release Form DC6-225, Inmate Partial Property Return Receipt, and any property found to be missing at that time will be noted on the form. Form DC6-225 is incorporated by reference in subsection (17) of this rule. The employee making the release and the inmate will date and sign the release form each in the presence of the other. One signed copy of the release form shall be given to the inmate. One copy shall be attached to the original inventory list and kept with the remaining impounded property until all property is returned to the inmate, and then to the inmate's property file.

2. The remaining unauthorized impounded property shall be held by the institution for 30 days. It shall be the responsibility of the inmate to make arrangements to have the property picked up by an approved visitor, relative or friend. In the alternative, the inmate may pay to have the property mailed to one of these approved individuals. The 30-day time period shall not include any time during which an appeal or grievance proceeding relating to the impounded property is pending. This

paragraph does not apply to property that will be returned to the inmate pursuant to paragraph ~~(7)(6)~~(d) after release from close management, administrative or disciplinary confinement.

3. No change.

(f) No change.

(g) When an inmate whose personal property has been taken and impounded is transferred to another facility, that property shall be transported with the inmate or as soon as possible thereafter. It is the responsibility of the sending location to ensure that only authorized property is transported and that the inmate has signed the proper receipt for the property, Form DC6-227, Receipt for Personal Property. Form DC6-227 is incorporated by reference in subsection (17) of this rule. The procedures for returning property listed in paragraph (f) shall be followed. When the inmate has excessive authorized property which cannot be transported with the inmate, the procedures for making a partial return listed in paragraph (e) shall be followed.

(h) through (i) No change.

~~(8)(7)~~ Any inmate transferring to an outside community hospital for treatment or to a court appearance shall take only items of personal clothing and hygiene items except in those cases in which the inmate is expected to be absent for a period of more than 30 days. If the inmate is to return within 30 days, remaining personal property shall be inventoried utilizing Form DC6-220, Inmate Impounded Personal Property List, and stored in a secure location. When the inmate returns, only those items that he possessed before transfer will be allowed.

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

~~(11)(10)~~ When an inmate dies, escapes, or otherwise voluntarily abandons his or her property, the procedures listed below will be followed:

(a) through (c) No change.

(d) If the effort to locate the person or persons is not successful, or if the person or persons listed fail to make arrangements to take possession, property ~~other than money~~ will be given to charity. Funds in the inmate bank trust fund will be handled in accordance with Rule 33-203.201, F.A.C. Money will be placed in the Central Office Dormant Account.

(e) No change.

~~(12)(11)~~ No change.

~~(13)(12)~~ The warden or his designee is authorized to require an inmate to bring all of his personal property to the disciplinary hearing if he determines that this is necessary after evaluating the factors set out in subsection ~~(12)(11)~~ above.

~~(14)(13)~~ Missing Inmate Property.

(a) through (b) No change.

(c) If the loss is substantiated by the investigation, the warden or designee shall forward to the Department of Corrections Environmental Health, Safety and Risk Management Office a cover letter with recommendation of payment amount, a copy of the investigation with supporting

documentation including proof of ownership (Form DC6-224), and a completed Department of Financial Services Insurance Lien Disclosure.

(d) The Department of Corrections Environmental Health, Safety and Risk Management Office shall review and forward the claim to the Department of Financial Services Insurance, Division of Risk Management, for review and reimbursement consideration. Form DC6-238, Report of Risk Management Claim for Inmate Property, shall be used to notify the institution of action taken on the claim by the Department of Corrections Environmental Health, Safety and Risk Management Office. Form DC6-238 is incorporated by reference in subsection (17) of this rule.

(e) In the event that the Department of Financial Services Insurance, Division of Risk Management, decides to pay any or all of the inmate's claim, the following procedure will be followed:

1. through 2. No change.

~~(15)(14)~~ No change.

~~(16)(15)~~ Approved Religious Property. Inmates shall be permitted to possess the following religious items or material:

(a) No change.

(b) Items required by the tenets of a particular religion, including:

1. through 3. No change.

4. Native American – medicine bag, headband.

(c) through (g) No change.

~~(17)(16)~~ Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (e) No change.

(f) DC6-238, Report of Risk Management Claim for Inmate Property, effective date May 16, 2002.

(g) DC6-2006, Request for Storage of Excess Legal Material, effective date \_\_\_\_\_.

(h) DC6-2008, Excess Active Legal Material Inventory List, effective date \_\_\_\_\_.

(i) DC6-2007, Excess Inactive Legal Material Disposition Determination, effective date \_\_\_\_\_.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 6-4-81, Formerly 33-3.025, Amended 11-3-87, 11-13-95, 5-20-96, 1-8-97, 6-1-97, 7-6-97, 10-15-97, 2-15-98, 3-16-98, 8-4-98, 12-7-98, Formerly 33-3.0025, Amended 11-21-00, 9-12-01, 5-16-02, \_\_\_\_\_.

APPENDIX ONE  
PROPERTY LIST

This list incorporates all property authorized to be possessed by inmates in all Department institutions and facilities except community correctional centers. Except for items specified below as "exemptions", property received must be in compliance with this list. Inmates in possession of previously approved property which meets the description of property on the list shall be allowed to retain the property.

Definitions.

The "quantity" establishes a maximum possession limit. This does not mean that all state issue items will be issued to each inmate, or that the maximum number of items will be issued. Items found in the possession of an inmate that are in excess of the established "quantity" shall be treated as contraband in accordance with Rule 33-602.203, F.A.C. Where there is a "value" indicated, the authorized item shall not exceed that value. The terms "canteen" and "state issue" refer to the sources from which property can be obtained after January 1, 1996. All items with the "canteen" designation shall be available in all institutional canteens or through canteen order. All canteen items are transferable between institutions. "State issue" means that the institution has the authority to issue this item to inmates based upon the character of the institution, the location of the institution, the housing or work assignment of the inmate, or other factors related to institution or inmate needs. Institutions housing death row inmates shall make adjustments to this property list when possession of listed items by death row inmates would create a threat to the security of the institution.

Exemptions.

Inmates already in possession of the following previously approved items shall be allowed to retain the items until they are no longer serviceable, but shall not be allowed to replace them with like items.

- Clothing items of a different color than specified on the property list.
- Locks other than V68 series
- Plastic bowls, tumblers, cups and lids
- Pantyhose
- Nail clippers larger than 2-1/2"



AUTHORIZED PROPERTY LIST

CLOTHING

Quantity	Unit	Value	Articles
1	each		Athletic Bra (canteen – female only)
1	each		Belt (state issue)
4	each		Bras (state issue or canteen – female only)
1	each		Coat (state issue)
3	each		Dresses (state issue – female only)
1	pair		Gloves, work (state issue)
4	each		Handkerchief, cotton, white only (canteen)
1	each		Hats (state issue)
2	pair		Pajamas-long ( <del>light blue or white only</del> ) (state issue or canteen) <u>Light blue or white – female only</u> Light blue – male
7	each		Panties (state issue or canteen – female only)
3	each		Pants (state issue)
1	each		Raincoat – clear (state issue or canteen)
1	each		Robe (state issue – female only)
3	each		Shirt, outer (state issue)
4	each		Shirt, T-Shirt (state issue or canteen <del>order – gray</del> )* <u>inmates may possess both state-issue and canteen-purchased shirts, but the total combined number cannot exceed 4.</u>
1	pair		Shoes, Athletic (canteen)
1	pair		Shoes, Work (state issue)
2	each		Shorts, athletic (navy blue) (canteen)
1	each		Shower cap, clear only (canteen)
1	pair		Shower slides (canteen)
3	each		Slips (state issue – female only)
6	pair		Socks (state issue or canteen)
1	each		Supporter, athletic (canteen)
2	each		Sweatshirts (gray only) (canteen order)
4	each		Undershorts (male only) (state issue or canteen)
2	each		Underwear, thermal (state issue or canteen)

PERSONAL ARTICLES

Quantity	Unit	Value	Articles
Number in use			Batteries (canteen)
25	each		Bobby pins, roller clips – plastic only (females only), (canteen)
*			Books (legal, educational, religious, fiction) - * Quantity as specified by Rule 33-501.401, F.A.C.
1	package		Breath tablets (canteen)
1	each		Calendar, as specified by Rule 33-501.401, F.A.C.
*			Canteen purchases –* limited by storage space; <u>includes:</u> – <u>Food and drink perishable items – limited to possession of 10 total items, food sold in packages count as one item; food that requires refrigeration must be those which can be reasonably consumed within two 24 hours; once a food item is opened it must be consumed or thrown away, opened items cannot be stored.</u> – <u>Condiments – limited to possession of 20 of each item; if sold prepackaged or bundled by the canteen, maximum not to exceed the quantity in the package or bundle.</u> – <u>Tobacco items – includes cigarettes, cigars, tobacco, snuff, and chewing tobacco; limited to any combination of 5 items.</u>

1	set	Checkers (light wood or plastic, standard checkers only (canteen order)
1	set	Chess (light wood or plastic, 2 inches max. height) (canteen order)
<u>1</u>	<u>each</u>	<u>Coffee mug – plastic (canteen)</u>
1	each	Comb-pocket type, no handles (non-metal) (state issue or canteen)
*		Correspondence -* limited by storage space limitations.
1	pack	Cotton swabs (plastic or paper stems only) (canteen)
<u>2</u> †	each	Crème rinse and conditioner (canteen)
1	each	Cup, drinking – plastic (canteen)
1	each	Cuticle remover (non-alcohol base) (canteen)
1	package	Dental floss, (floss loops only), unwaxed (canteen)
†	<del>package</del>	<del>Dental floss strips, Rx only (canteen order)</del>
1	each	Denture adhesive (state issue or canteen)
<u>1</u>	<u>each</u>	<u>Denture cup (canteen order)</u>
<u>2</u> †	each	Deodorant (no aerosols) (canteen)
1	set	Domino (light wood or plastic, standard size) (canteen order)
<u>1</u>	<u>pair</u>	<u>Earphone pads (replacement) (canteen order)</u>
1	pair	Ear rings, post type (female only) (canteen order)
*		<u>Educational supplies (items must be pre-approved for vocational education or correspondence study programs. Items are authorized only for the duration of the course.)</u>
1	pack	Emery board – cardboard (canteen)
1	pack each	Envelopes – legal and oversized (canteen)
*		Envelopes, self-addressed stamped – * the total in the inmate’s possession shall not exceed the limit of 1 pack of envelopes or 25 1-ounce 1st class stamps as set for the individual items.
1	each	Erasers (canteen)
2	each	Eyeglasses, case, contact lens and solutions (state issue or personal; “personal” means that inmates already in possession of these items will be allowed to retain them, but any future items will be provided by the institution if needed.) Contact lenses will only be provided if medically indicated.
1	each	Eye shadow, eyeliner, mascara, eyebrow pencil, blemish preparation, lipstick, blemish and spot cover-up, lip coloring (female only) (canteen)
1	box	Facial tissue (canteen) Feminine hygiene products (internal and external) (female only) (state issue or canteen)
*		File Folders (*limited by storage space)
1	each	Hairbrush -nonmetal, handles for females only (canteen)
<u>2</u> †	each	Hairdressing (no aerosols) <del>(state issue or canteen)</del>
1	each	Hair net (female only) (canteen)
25	each	Hair rollers (female only) (canteen)
<u>2</u>	<u>each</u>	<u>Handballs (canteen)</u>
1	each	Headphones for use with radio (canteen)
1	each	Health aids – headache and cold remedies, antacids, laxatives, eye wash, antifungal preparations, cough drops, nasal spray, etc. No imidazoline, tetrahydrozoline, or hydrochlorida compounds (canteen – as approved by health services)
<u>2</u> †	each	Hearing aid (state issue or personal)
*		Hobby craft – at locations where program exists and subject to storage space limitations
1	each	Insect repellent (canteen)
1	each	Jigsaw puzzle (canteen order)
1	each	Laundry bag <del>(canteen or state issue)</del>
1	each	Lighter, disposable (approved type) (canteen)
1	each	Lip balm (canteen)

1	each		Locks, combination (V68 series) (canteen)
1	each		Make-up bag, clear only (female only) (canteen)
1	each		Mirror – plastic, non-breakable, 5 x 7" max. (canteen)
1	each		Moisturizer - no mineral oils (canteen)
1	each		Mouthwash (canteen)
1	each		Nail clippers, not to exceed 2 1/2" (canteen)
2	pack		Notebook paper (canteen)
4	each		Pens, ballpoint, flair-type, pencils, or security pens, no markers (canteen)
*			Periodicals – * as specified by Rule 33-501.401, F.A.C., and storage space limitations
1	each		Photo album, non-metal (canteen)
50	each		Photographs (personal)
2	decks		Playing cards (standard) (canteen)
1	each		P.R.I.D.E. service pin (issued to inmate from P.R.I.D.E.)
*			Prosthesis – * as approved by health services
1	each	50.00	Radio, DC/AM/FM only, “Walkman” type, maximum 4 x 5" (canteen)
1	each		Razor, disposable (state issue)
1	each	50.00	Razor, battery operated, non-rechargeable (canteen order)
*			Religious requirements – as approved by chaplaincy services, (examples: head covering, prayer rug)
1	each	<del>50.00</del> 25.00	Religious medallion with chain (personal or canteen order)
1	each	100.00	Ring, engagement (personal, female only)
1	each	100.00	Ring, wedding (personal)
1	each		Roller cap, clear only (female only) (canteen)
1	set		Scrabble (canteen order)
<u>2</u> †	each		Shampoo (canteen)
1	each		Shaving cream (canteen)
1	each		Shaving powder (canteen)
1	pair		Shoe laces (canteen)
1	each		Shoe wax (Liquid only, non flammable, no nitrobenzene; canteen)
<u>2</u> †	each		Soap, bath (state issue or canteen)
1	each		Soap dish (canteen)
1	each		Soap, laundry (canteen)
*			Special needs – * special devices as approved for compliance with medical needs
1	each		Spoon, plastic
<u>40</u> <del>25</del>	each		Stamps (1-ounce 1st class) (canteen)
1	each		Sunglasses, no mirror type (canteen)
1	each		Sunscreen lotion (canteen)
1	each		Talcum powder (canteen)
1	each		Toothbrush (state issue or canteen)
1	each		Toothbrush holder (canteen)
<u>2</u> †	each		Toothpaste (state issue or canteen)
2	each		Towels (state issue)
1	each		Wallet (canteen)
1	each	50.00	Watch (personal or canteen)
1	each		Watch band (canteen)
<u>1</u>	<u>each</u>		<u>Watch batteries, replacement (canteen order)</u>
2	each		Washcloths (state issue or canteen)

33-602.203 Control of Contraband.

(1) General Definition of Contraband.

(a) ~~Contraband is~~ Any item or article inside an institution or facility, on the property of a facility or in the possession of an inmate that was neither:

1. Issued,
2. Approved for purchase in at the canteen commissary,
3. Purchased through an approved source with official approval,
4. Authorized and approved for delivery by mail, nor
5. Authorized to be brought into the institution or facility.

(b) No change.

(c) Any item or article which is altered from its original design or is being used for a purpose other than that for which it was designed or authorized.

(d) Any item or article which is in excess of property limits provided in Rule 33-602.201, F.A.C.

(2) through (4) No change.

(5)(a) No money shall be given directly to or received by an inmate assigned to a work release community correctional center unless authorized by the chief of security or his designated representative. On a case by case basis, each chief of security may authorize a draw of funds from the inmate's account that has not been drawn from the inmate's bank fund or that exceeds the approved amount authorized under subsection 33-203.201(3), F.A.C., if a specific request is made and a review determines it is warranted. Any money found in the possession of an inmate in excess of \$75 ~~50~~ in work release community correctional centers shall be considered contraband and shall be confiscated and deposited in the inmate welfare trust fund.

(b) No change.

(6) No inmate shall manufacture or have in his possession any alcohol or alcoholic beverage, or have in his possession any drug such as a narcotic or barbiturate or hallucinogenic drug or central nervous system stimulant or substance prohibited by law, except when authorized to do so by a physician or other authorized medical personnel. When medication is found in an inmate's possession that is beyond the labeled expiration date, or for which the inmate does not have a valid prescription, or is in quantities indicative of hoarding, the medication will be handled as contraband and turned over to the medical department for disposition.

(7) Disposition of Contraband.

(a) Those contraband items retained for use in disciplinary hearings as evidence will be stored until such time as the warden or his designee approves of their being destroyed or disposed of. A secure area within the institution will be designated as the storage area for all contraband items. A Contraband Log, Form DC6-219, will be utilized to document the storage of contraband items. Form DC6-219 is hereby incorporated by reference. Copies of this form may be obtained

from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~Requests for copies to be mailed must be accompanied by a self-addressed stamped envelope.~~ The effective date of this form is March 2, 2000.

(b) Contraband items to be used during outside court cases as evidence will be referred to the Inspector General's Office for handling held as evidence by the institution inspector or senior inspector assigned to the criminal investigation. The Inspector General's Office will either assume custody of the contraband or instruct the institution to hold it as evidence. In either case, the initial confiscating authority will establish the chain of evidence, and ensure it is properly followed. Form DC1-801, Chain of Custody, shall be used for this purpose. Form DC1-801 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 \_\_\_\_\_.

(c) No change.

(d) Legal material belonging to another inmate shall be returned to the owner.

~~(e)~~ Except as described in paragraphs (c) and (d) above, any contraband found upon, or in the possession of, any inmate, shall be confiscated and the proceeds deposited in the Inmate Welfare Fund. Items containing no monetary value or that cannot be liquidated will be disposed of in one of the following manners:

1. Given to charity
2. Reused by institution, or
3. Destroyed.

(f) The provisions of the above this paragraph shall not be construed to apply to property impounded incident to the initial reception or the subsequent transfer of an inmate unless the inmate's possession of the property was in violation of law or Department or institution rule.

~~(g)~~ (e) No change.

(h) A seized contraband item that results in criminal charges shall be stored for six months or until the conclusion of the court proceedings. Confiscated weapons shall be stored for six months pending the outcome of the disciplinary charges and conclusion of the grievance process or the court proceedings. Staff shall obtain the approval of the warden or assistant warden prior to the item being destroyed or disposed of unless the item is in the possession of the Inspector General's Office, wherein that office's destruction of evidence process will be followed.

(i) Regardless of whether or not the seized contraband results in a disciplinary report or criminal charges, the inmate is authorized to appeal the action through the grievance process to have the property returned. If the inmate chooses to file a grievance, the inmate must notify the warden of his intent on an Inmate Request, Form DC6-236, within 20 days of the

seizure of the items. If no notice is received and the inmate has not been temporarily impeded from sending such notice due to unavoidable circumstances such as court appearances or hospitalization, the warden or assistant warden is authorized to approve disposal of the contraband. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(8)(a) All cells, lockers, dormitories and other areas of an institution may be searched in a reasonable manner at any time. A copy of Form DC6-220, Inmate Impounded Personal Property List, shall be given for any property taken in such a search if the inmate acknowledges possession or if the property was taken from an area occupied by the inmate or under his control. The inmate's acceptance of his copy of Form DC6-220 shall not constitute admission of possession of contraband. Form DC6-220 is ~~hereby~~ incorporated by reference in subsection 33-602.201(16), F.A.C. Copies of the form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. Requests for copies to be mailed must be accompanied by a self-addressed stamped envelope. The effective date of this form is March 2, 2000.

(b)1. ~~The Regional Director of Institutions is authorized to may~~ declare an emergency situation to exist if he finds, upon the advice and request of the warden, that an immediate mass search ~~shakedown~~ is necessary to preserve the security and order of the institution and sufficient staff are not available to follow routine procedures of accounting and receipting for property. Within 72 hours after the declaration, the warden shall prepare a written statement setting forth the facts showing such emergency, which statement shall be forwarded to the Regional Director, who shall prepare a report to the Secretary justifying the declaration.

2. Copies of Form DC6-220 do not have to be given immediately for property taken during such a mass search ~~shakedown~~. However, the property taken shall be kept and preserved, identified as to the area from which it was taken, and the inmate shall receive a copy of Form DC6-220 as soon as practicable after the emergency has ceased. Property unclaimed after 30 days shall be disposed of as provided in subsection (7).

3. If items of inmate personal property are damaged or destroyed by Department staff during routine searches ~~shakedowns~~, emergency searches ~~shakedowns~~ or while impounded, the warden or his designee shall cause an investigation to be made to determine:

- a. through e. No change.
- 4. No change.

Specific Authority 944.09, 945.215 FS. Law Implemented 944.47, 945.215 FS. History—New 10-8-76, Amended 2-24-81, 4-18-82, 8-13-84, 2-13-85, 6-2-85, Formerly 33-3.06, Amended 2-9-87, 11-3-87, 8-14-90, 11-22-91, 1-6-94, 5-28-96, 10-26-97, Formerly 33-3.006, Amended 3-2-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael Rathmann

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 28, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 7, 2003

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Conducting a Business While Incarcerated  
RULE NO.: 33-602.207

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the department's policy prohibiting inmates from conducting a business or profession while incarcerated.

SUMMARY: The proposed rule defines "business or profession," provides guidelines for enforcement of the requirement that inmates not conduct a business or profession while incarcerated, provides a process for assignment of authority for the operation of a business when initially incarcerated, and provides a process for obtaining approval for a single transaction.

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: 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:

33-602.207 Conducting a Business While Incarcerated.

(1) No inmate shall establish or engage actively in a business or profession while incarcerated.

(2) For the purposes of this rule, a business or profession is defined as any revenue generating or profit making activity or any activity having the potential to generate revenue or profit for the inmate while incarcerated. Activity so defined is prohibited due to the fact that profit or revenue potential creates the opportunity for fraud and increases inmate interest in participation in business activity, resulting in an increase in the volume of mail and telephone activity. This increased volume places an undue burden on staff to monitor the additional mail and telephone calls to ensure the security and order of the institution and the safety of staff, inmates and the

general public. Engaging in a business or profession also includes individual activities with profit or revenue potential, such as one-time submission of a single manuscript for publication when such publication will result or has the potential to result in the generation of revenue for the inmate, unless the inmate obtains approval from the warden for the individual transaction. The warden shall base the decision to approve or disapprove the request on whether the transaction presents a threat to the security, order or effective management of the institution, to the rehabilitative objectives of the correctional system, or to the safety of any person. Inmates shall not be permitted to circumvent the purpose of this rule by making repetitive or serial single transaction requests. Such requests shall not be approved by the warden.

(3) An inmate who is engaged in a business or profession prior to commitment to the department shall assign authority for the operation of such business or profession to a person in the community within 90 days of commitment. When it is necessary to utilize the mail or telephone for this purpose, the inmate shall coordinate this activity through his classification officer.

(4) Incoming or outgoing mail relating to the direction of an inmate's business or profession shall be rejected.

(5) Any inmate who attempts to conduct a business or profession through the mail, telephone, or any other avenue of communication while incarcerated shall be subject to disciplinary action in accordance with Rules 33-601.301-.314, F.A.C.

(6) Inmates shall not be restricted from mail, telephone, or other non-prohibited communications necessary to enable an inmate to protect property and funds that were legitimately the inmate's at the time of commitment.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New

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: May 1, 2003

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Certificate of Need**

RULE TITLE: Nursing Home Subdistricts  
PURPOSE AND EFFECT: The agency proposes to amend paragraphs (2)(d) and (3)(c) of Rule 59C-2.200, F.A.C., revising the description of nursing home subdistricts for agency District 3. In the current rule, the entire 16-county area is defined as one nursing home subdistrict for purposes of

RULE NO.: 59C-2.200

certificate of need (CON) planning and review. By action of the North Central Florida Health Planning Council, which is the Local Health Council serving District 3, the 16 counties have recently been grouped into seven defined subdistricts. The proposed amendments to Rule 59C-2.200, F.A.C., reflect this change.

SUMMARY: The agency is proposing new nursing home subdistricts for agency District 3, consistent with action by the North Central Florida Health Planning Council.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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: 408.034(6), 408.15(8) FS.

LAW IMPLEMENTED: 408.033(1)(b) FS.

IF REQUESTED 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., June 10, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Davis, Certificate of Need, 2727 Mahan Drive, Building 1, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-2.200 Nursing Home Subdistricts.

(1) No change.

(2) Definitions.

(a) "Agency." The Agency for Health Care Administration.

(b) "District." A health service planning district of the agency defined in subsection 408.032(5), Florida Statutes.

(c) "Local Health Council." The council referenced in section 408.033, Florida Statutes.

(d) "Subdistrict." A group of counties, a county, or a portion of a county which forms a subdivision of a district. For purposes of this rule, ~~ten nine~~ of the eleven districts of the agency are divided into subdistricts; ~~District 3 and District 10~~ is are not divided.

(3) Nursing Home Subdistricts. The nursing home subdistricts are defined and numbered as follows:

(a) through (b) No change.

(c) Subdistricts for District 3.

1. Subdistrict 3-1 consists of Columbia, Hamilton and Suwannee Counties.

2. Subdistrict 3-2 consists of Alachua, Bradford, Dixie, Gilchrist, Lafayette, Levy and Union Counties.

- 3. Subdistrict 3-3 consists of Putnam County.
- 4. Subdistrict 3-4 consists of Marion County.
- 5. Subdistrict 3-5 consists of Citrus County.
- 6. Subdistrict 3-6 consists of Hernando County.
- 7. Subdistrict 3-7 consists of Lake and Sumter Counties all

of District 3. For purposes of need determination under rule 59C 1.036, District 3 is treated in the same manner as a subdistrict.

(d) through (k) No change.

Specific Authority 408.15(8), 408.034(6)(5) FS. Law Implemented 408.033(1)(b), 408.034(3) FS. History--New 2-12-96, Amended 10-31-96,

NAME OF PERSON ORIGINATING PROPOSED RULE: John Davis, Health Services and Facilities Consultant

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Karen Rivera, Consultant Supervisor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 30, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Purchasing**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
General Regulations	60A-1
RULE TITLE:	RULE NO.:
Vendors and Contractors	60A-1.006

PURPOSE AND EFFECT: To begin implementation of MyFloridaMarketPlace, the state-wide program for on-line procurement of commodities and contractual services, as defined in Section 287.012, F.S.

SUMMARY: Amends existing rule to conform to proposed new Rule 60A-1.030, concerning vendor registration in MyFloridaMarketPlace.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 287.042(12), 287.057(23) FS.

LAW IMPLEMENTED: 287.032, 287.042, 287.057 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: 10:00 a.m., June 9, 2003

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida, 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Frederick J. Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898, (850)922-6302 (facsimile), springf@dms.state.fl.us (e-mail).

THE FULL TEXT OF THE PROPOSED RULE IS:

60A-1.006 Vendors and Contractors.

(1) Registration of All Vendors Doing Repetitive Business with the State – All vendors desiring to sell to doing business with the State on a repetitive basis for the sale of commodities or contractual services as defined in Section 287.012, F.S., shall register in MyFloridaMarketPlace, the State e-procurement system, in compliance with Rule 60A-1.030, F.A.C. and desiring to register with State Purchasing are required to submit to State Purchasing a properly completed "Vendor Registration Application", Form PUR 7054 (Rev. 8-96), hereby incorporated by reference. When a firm is registered, a Vendor Registration Number will be issued to the applicant for retention until further notice by State Purchasing. The Vendor Number shall thereafter appear on all bid or negotiation or proposal documents submitted to any State agency for identification purposes. The integrity, reliability and qualifications of a bidder or offeror, with regard to the capability in all respects to perform fully the contract requirements, shall be determined by the agency prior to the award of the contract.

(2) through (6) No change.

Specific Authority 120.57(3)(d), 287.042, 287.057(23)(d) FS. Law Implemented 120.57(3), 287.042, 287.017, 287.057, 287.133 FS. History--New 5-20-64, Revised 2-6-68, 5-20-71, Amended 7-31-75, 10-1-78, 12-11-79, 2-26-80, 8-6-81, 10-11-81, 11-10-81, 2-11-82, 8-10-82, 10-13-83, 11-12-84, 12-17-85, Formerly 13A-1.06, Amended 2-9-87, 11-3-88, 1-18-90, 4-10-91, 9-1-92, Formerly 13A-1.006, Amended 4-24-94, 1-9-95, 7-6-98, 1-2-00,

NAME OF PERSON ORIGINATING PROPOSED RULE: Ed Rodriguez, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: William Simon, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 14, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Purchasing**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
General Regulations	60A-1
RULE TITLE:	RULE NO.:
MyFloridaMarketPlace Vendor Registration	60A-1.030

PURPOSE AND EFFECT: To begin implementation of MyFloridaMarketPlace, the state-wide program for on-line procurement of commodities and contractual services, as defined in Section 287.012, F.S.

SUMMARY: Requirement that vendors register in the MyFloridaMarketPlace system; requirement that agencies do business only with registered vendors; exceptions to registration requirement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 287.042(12), 287.057(23) FS.

LAW IMPLEMENTED: 287.032, 287.042, 287.057 FS.

IF REQUESTED 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: 10:00 a.m., June 9, 2003

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Frederick J. Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898, (850)922-6302 (facsimile), springf@dms.state.fl.us (e-mail).

THE FULL TEXT OF THE PROPOSED RULE IS:

60A-1.030 MyFloridaMarketPlace Vendor Registration.

(1) Each vendor doing business with the State for the sale of commodities or contractual services as defined in section 287.012, Florida Statutes, shall register in the MyFloridaMarketPlace system, unless exempted under subsection 60A-1.030(3), F.A.C. Information about the registration process is available, and registration may be completed, at the MyFloridaMarketPlace website (link under Business on the State portal at www.myflorida.com). Interested persons lacking Internet access may request assistance from the MyFloridaMarketPlace Customer Service at (866)FLA-EPRO, (866)352-3776 or from State Purchasing, 4050 Esplanade Drive, Suite 300, Tallahassee, Florida 32399.

(2) An agency shall not enter into an agreement for the sale of commodities or contractual services as defined in Section 287.012, Florida Statutes, with any vendor not registered in the MyFloridaMarketPlace system, unless exempted under subsection 60A-1.030(3), F.A.C.; provided, however, that an agency may do so if the agency purchasing director (or designee) determines in writing (or electronically)

that it is necessary to do so to prevent significant interference with the agency's mission, in which case the following provisions apply:

(a) Before the agency legally binds itself to the transaction, the agency shall advise the unregistered vendor of this Rule 60A-1.030, F.A.C.:

(b) In entering into the transaction, the vendor agrees that it is subject to the terms of use of the MyFloridaMarketPlace system and to the related rules; and

(c) The vendor shall be registered in the system within twenty days after providing the commodities or services at issue, and the goods or services shall not be deemed finally approved until the registration process is completed.

(3) Notwithstanding subparagraphs (1) and (2), an agency may enter into an agreement for the sale of commodities or contractual services as defined in section 287.012, Florida Statutes, with an unregistered vendor if, and only if, one or more of the following conditions is satisfied:

(a) The transaction can be consummated only through use of the State purchasing card (e.g., when a state employee is away from the office and needs to make a field purchase);

(b) The transaction, though capable of being consummated through the system, involves commodities or contractual services concerning which the Department has delegated to agencies written permission to purchase through use of the State purchasing card (e.g., travel arrangements);

(c) Information about the vendor is exempt from disclosure under the Public Records Law, Chapter 119, F.S.;

(d) The transaction is with a person or entity providing one of the following:

1. Health care services at or below Medicaid rates;
2. Commodities or services compensated for by payments from the Agency for Health Care Administration fiscal agent;
3. Children's medical services under Chapter 391, Florida Statutes;
4. Services under the Brain and Spinal Cord Injury Program;
5. Commodities or services specific to the Department of Health, Division of Disability Determination;
6. Commodities or services specific to the Child Care Food Program;
7. Commodities or services specific to the Developmental Disabilities Program;
8. Commodities or services specific to purchase-client services under the Vocational Rehabilitation or Blind Services programs;
9. Commodities or services related to investigations or prosecutions in professional license disciplinary matters;
10. Any commodity which is necessary for a public project and which is acquired by a governmental entity possessing the power of eminent domain in connection with a public project; or



11. Any commodity or service with respect to which the provider is deemed not to be a vendor, but rather a recipient of a disbursement of state financial assistance as defined in Section 215.97, Florida Statutes, or a sub-recipient of a disbursement of a federal award as defined in Circular A-133 of the U.S. Office of Management and Budget.

(4) An agency entering into an agreement with an unregistered vendor for the sale of commodities or contractual services as defined in Section 287.012, Florida Statutes, is solely responsible for establishing with the Department of Financial Services a means for ensuring that the agency can pay the vendor through the State accounting system (FLAIR or its successor).

(5) Notwithstanding any contrary terms of use agreed to during the vendor registration process, a governmental body registering as a vendor shall not be deemed thereby to have waived any immunity accruing under the law.

Specific Authority 287.042(12), 287.057(23) FS. Law Implemented 287.032, 287.042, 287.057 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Ed Rodriguez, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: William Simon, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 14, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Purchasing**

RULE CHAPTER TITLE: General Regulations RULE CHAPTER NO.: 60A-1

RULE TITLE: MyFloridaMarketPlace Transaction Fee RULE NO.: 60A-1.031

PURPOSE AND EFFECT: To begin implementation of MyFloridaMarketPlace, the state-wide program for on-line procurement of commodities and contractual services, as defined in Section 287.012, F.S.

SUMMARY: Requirement that agencies include language relating to the MyFloridaMarketPlace transaction fee in all agency purchasing transaction; requirement that vendors report and pay transaction fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 287.042(12), 287.057(23) FS.

LAW IMPLEMENTED: 287.032, 287.042, 287.057 FS.

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

TIME AND DATE: 10:00 a.m., June 9, 2003

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Frederick J. Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898, (850)922-6302 (facsimile), springf@dms.state.fl.us (e-mail).

THE FULL TEXT OF THE PROPOSED RULE IS:

60A-1.031 MyFloridaMarketPlace Transaction Fee.

(1) Each agency shall include language substantially similar to the following in the terms and conditions of all agency purchasing transactions involving commodities and contractual services as defined in Section 287.012, Florida Statutes (including formal solicitations, contracts, and purchase orders), unless the transaction is exempt from the Transaction Fee pursuant to Rule 60A-1.032, F.A.C.:

MyFloridaMarketPlace Transaction Fee

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to Section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the vendor shall pay to the State.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the vendor. If automatic deduction is not possible, the vendor shall pay the Transaction Fee pursuant to subsection 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

The vendor shall receive a credit for any Transaction Fee paid by the vendor for the purchase of any item(s) if such item(s) are returned to the vendor through no fault, act, or omission of the vendor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the vendor’s failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the vendor in default and recovering procurement costs from the vendor in addition to all outstanding fees. VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.

(2) On a monthly calendar basis, each vendor registered in MyFloridaMarketPlace shall report its business activity relating to State agreements using Form PUR 3776 (07/03), which is hereby incorporated by reference.

(a) The vendor shall report. (i) the total amount of payments received against State agreements during the reporting period, (ii) the portion of that total that is exempt from the Transaction Fee pursuant to Rule 60A-1.032, F.A.C., (iii) the amount of Transaction Fees that have been automatically deducted by the system, and (iv) the amount of Transaction Fees that have been billed by the system but not automatically deducted.

(b) With its report, the vendor shall include payment of any Transaction Fee amounts due for the reporting period that have not been automatically deducted. Amounts due include both the amount billed during the reporting period and any amounts not billed but otherwise due (e.g., sales to non-State entities eligible to purchase from State contracts).

(c) For all vendors that have a current State or agency term contract, a report is required even if there are no sales. For all other vendors, a report is required only when fee-eligible payments have been received during the reporting period (no report is required if all payments are exempt from the Transaction Fee); provided, however, that if total Transaction Fees due are less than \$50, such vendors may carry over the balance to the next reporting period.

(d) All information provided by the vendor is material and will be relied upon by the Department in administering MyFloridaMarketPlace. Failure to file a report shall be deemed a representation by the vendor that it received no reportable payments for the quarter and that it owes no Transaction Fees. Any knowing and material misstatement shall be treated as fraudulent concealment from the State of the true facts relating to the conduct of the vendor's business with the State. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes, and shall be grounds for precluding the vendor from doing future business with the State.

Specific Authority 287.042(12), 287.057(23) FS. Law Implemented 287.032, 287.042, 287.057 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ed Rodriguez, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: William Simon, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 14, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Purchasing**

RULE CHAPTER TITLE: RULE CHAPTER NO.:  
General Regulations 60A-1

RULE TITLE: RULE NO.:  
MyFloridaMarketPlace Transaction

Fee Exceptions 60A-1.032

PURPOSE AND EFFECT: To begin implementation of MyFloridaMarketPlace, the state-wide program for on-line procurement of commodities and contractual services, as defined in Section 287.012, F.S.

SUMMARY: Exceptions to the MyFloridaMarketPlace transaction fee that otherwise would apply under Rule 60A-1.031, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 287.042(12), 287.057(23) FS.

LAW IMPLEMENTED: 287.032, 287.042, 287.057 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: 10:00 a.m., June 9, 2003

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Frederick J. Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898, (850)922-6302 (facsimile), springf@dms.state.fl.us (e-mail)

THE FULL TEXT OF THE PROPOSED RULE IS:

60A-1.032 MyFloridaMarketPlace Transaction Fee Exceptions.

(1) The following transactions are exempt from the Transaction Fee that would otherwise apply under Rule 60A-1.031, F.A.C. Exemption from paying the Transaction Fee does not in itself exempt the vendor or an agency from the registration requirements of Rule 60A-1.030, F.A.C.

(a) Procurements under Section 337.11, Florida Statutes; provided, however, that the procuring agency may elect to conduct such procurements via MyFloridaMarketPlace and impose the Transaction Fee, in which case the agency shall ensure that such terms are conspicuously included in the solicitation documents.

(b) Procurements under Section 287.055, Florida Statutes.

(c) Procurements under Chapter 255, Florida Statutes, provided, however, that the procuring agency may elect to conduct such procurements via MyFloridaMarketPlace and impose the Transaction Fee, in which case the agency shall ensure that such terms are conspicuously included in the solicitation documents.

(d) Transactions with an entity designated as non-profit under the Internal Revenue Code or by the Florida Secretary of State, unless such entity is awarded a contract following a competitive solicitation involving for-profit entities and the contract, if awarded to a for-profit entity, would be subject to the transaction fee.

(e) Transactions with another governmental agency, as defined in Section 163.3164, Florida Statutes, with a private university in Florida, with an agency of another state, or with another sovereign nation, unless such entity is awarded a contract following a competitive solicitation involving private entities and the contract, if awarded to a private entity, would be subject to the transaction fee.

(f) Transactions in which law or government regulation requires that the commodity or service be provided by a sole provider (e.g., regulated utilities, legislatively mandated transactions, etc.) and transactions in which the price paid and the payee are established by federal or private grant.

(g) Payments to unregistered vendors under subsection 60A-1.030(3), F.A.C.

(h) Payments to a vendor in exchange for providing health care services at or below Medicaid rates, even if the vendor is otherwise registered in MyFloridaMarketPlace.

(i) Disbursements of State financial assistance to a recipient as defined in the Florida Single Audit Act, Section 215.97, Florida Statutes; disbursements of federal awards to sub-recipients as defined in Circular A-133 of the U.S. Office of Management and Budget; payments of State dollars to satisfy federal Maintenance of Efforts requirements; and payments of State dollars for matching federal awards.

(2) With the Department's prior written approval an agency may exempt a particular transaction from the Transaction Fee. As a necessary condition to obtaining this approval, the requesting agency shall provide to the Department its agency head's (or designee's) written (or electronic) determination, with all supporting facts and circumstances, that:

(a) The transaction is critical to the agency's mission or necessary for the public health, safety, or welfare; and

(b) Imposition of the fee would prevent the consummation of the transaction.

The requesting agency shall direct the request and supporting documentation to the Director of State Purchasing, who shall respond to the agency within fourteen days, either granting approval, denying approval, or requesting additional information. Requests outstanding for more than fourteen days shall be deemed approved. Once the Department has approved

a transaction under this subsection, the agency need not seek approval of subsequent directly related transactions (e.g., individual payments under a multi-year contract or under a blanket purchase order).

(3) An agency may exempt a particular transaction from the Transaction Fee if (a) the governor suspends purchasing regulations due to an emergency or (b) the agency head declares an emergency under Section 287.057(5)(a), Florida Statutes, or other statutory basis. In case of an agency-declared emergency under Section 287.057(5)(a), Florida Statutes, the agency shall identify every transaction that it has exempted from the Transaction Fee in the documentation it submits to the Department.

Specific Authority 287.042(12), 287.057(23) FS. Law Implemented 287.032, 287.042, 287.057 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ed Rodriguez, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: William Simon, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 14, 2003

## **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

### **Board of Architecture and Interior Design**

RULE TITLE: Probable Cause Determinations

RULE NO.: 61G1-11.005

PURPOSE AND EFFECT: The Board proposes the rule amendments in response to comments from the Joint Administrative Procedures Committee.

SUMMARY: The proposed rule amendments address the membership of the probable cause panel.

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: 455.225 FS.

LAW IMPLEMENTED: 455.225 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: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-11.005 Probable Cause Determinations.

Probable cause determination as to violation of Chapter 481, Chapter 455 and rules promulgated pursuant thereto shall be made by a probable cause panel of three (3) Board members; ~~consisting of two (2) architects and one (1) interior designer.~~ Said members shall be appointed as a standing probable cause committee at the first board meeting of each calendar year and shall serve for a period of one (1) year. ~~Former A-former Board members, if willing to serve, may be appointed. Any panel must include one of the Board's former or present consumer members if one is available, willing to serve, and authorized by the Board Chair.~~ All proceedings of the probable cause panel shall be conducted in accordance with Chapters 120 and 455, Florida Statutes.

Specific Authority 455.225 FS. Law Implemented 455.225 FS. History--New 12-23-79, Amended 2-3-81, Formerly 21B-11.05, Amended 8-20-89, Formerly 21B-11.005, Amended 6-8-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Architecture and Interior Design  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 3, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 10, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Foreign Degrees  
RULE NO.: 61G15-20.007

PURPOSE AND EFFECT: The Board proposes to amend the existing text to ensure that the stated requirements are more closely aligned to the criteria for approval of engineering programs as established by the Education Accreditation Commission of the Accreditation Board for Engineering and Technology (EAC/ABET).

SUMMARY: The amendments to this rule update the requirements for documenting substantial equivalency to an EAC/ABET accredited degree through regrouping of mathematics and basic sciences, deletion of obsolete language concerning Board independent evaluation of engineering programs, and regrouping remaining provisions of the rule to show what must be demonstrated in course work to document "substantial equivalency" to an EAC/ABET accredited engineering degree, as established by criteria in the 2002 annual report of ABET.

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: 471.013 FS.

LAW IMPLEMENTED: 471.013, 471.015 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: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-20.007 Foreign Degrees.

(1) Applicants having degrees from foreign institutions shall be required to document "substantial equivalency" to the Accreditation Board for Engineering and Technology, Inc. (ABET) engineering criteria, as found in the 2002 ~~1996~~ annual report of ABET. This document is hereby incorporated by reference.

(2) In order to document "substantial equivalency" to an ABET accredited engineering degree, the candidate must demonstrate:

(a) 32 ~~16~~ college credit hours of higher mathematics and basic sciences. The ~~These~~ hours of mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential calculus, integral calculus, and differential equations are required. Additional courses may include probability, statistics, linear algebra, numerical analysis, and advanced calculus. As for the hours in basic sciences, ~~(b) 16 college credit hours of basic sciences.~~  ~~Courses~~ in general chemistry and calculus-based general physics are required, with at least a two semester (or equivalent) sequence of study in either area. Additional basic sciences courses may include life sciences (biology), earth sciences (geology), and advanced chemistry or physics. Computer skills and/or programming courses cannot be used to satisfy mathematics or basic science requirements.

~~(b)(e)~~ 16 college credit hours in humanities and social sciences. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, and no more than 6 credit hours of languages other than English or other than the applicant's native language. Courses in technology and human affairs, history of technology, professional ethics and social responsibility are also acceptable. Courses such as accounting, industrial management, finance, personnel administration, engineering

economics and military training are not acceptable. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not.

~~(c)(d)~~ 48 college credit hours of engineering science and engineering design. Courses in this area have their roots in mathematics and basic sciences but carry knowledge further toward creative application. Examples of traditional engineering science courses are mechanics, thermodynamics, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. In order to promote breadth, at least one engineering course outside the major disciplinary area is required.

~~(d)(e)~~ In addition, evidence of attainment of appropriate laboratory experience, computer based skills with engineering applications, competency in English, knowledge of probability and statistics, and understanding of the ethical, social, economic and safety considerations of engineering practice must be presented. As for competency in English, transcripts of coursework completed, course content syllabi, notarized testimonials from employers, college level, advance placement tests, Test of English as a Foreign Language (TOEFL) scores of at least 550 in the paper based version, or 213 in the computer based version, will be accepted as satisfactory evidence.

(3) The FBPE Educational Advisory Committee shall make the final decision regarding equivalency of programs and shall make recommendations to the Board as to whether an applicant shall be approved for admittance to the examination or for licensure by endorsement.

~~(4) The Educational Advisory Committee in making its evaluation will consider the following elements: faculty, curricula, students, administration and commitment.~~

~~(a) Institutional factors including but not limited to, recognition by appropriate governmental authority, standing within the profession, accreditation status, and recognition by other evaluation agencies shall be considered.~~

~~(b) ABET minimum curricular content requirements in mathematics and basic sciences, humanities and social sciences, engineering sciences, and engineering design must be met as set forth in subsection (2).~~

~~(c) Transcripts of coursework completed, course content syllabi, notarized testimonials from employers, college level advance placement tests, Test of English as a Foreign Language (TOEFL) scores of at least 550 in the paper based version, or 213 in the computer based version, will be accepted as satisfactory evidence.~~

~~(4)(5)~~ The applicant must request an evaluation of substantial equivalency of his or her credentials to ABET standards through either Engineering Credentials Evaluation International, P. O. Box 13084, Baltimore, MD 21203-3084, or Joseph Silny & Associates, Inc., P. O. Box 248233, Coral Gables, Florida 33124.

~~(5)(6)~~ Applicants who have completed a post baccalaureate engineering program from a school or college in the United States which has an ABET accredited engineering curriculum in that discipline at the baccalaureate level shall be deemed to have met the required hours in humanities and social sciences.

~~(6)(7)~~ Any applicant whose only educational deficiency under subsection (2) involves humanities and social sciences shall be entitled to receive conditional approval to take the Fundamentals examination. Such an applicant shall not become eligible for the Principles and Practice examination until satisfactory completion and documentation of the necessary hours in humanities and social sciences as provided in subsection (2), or completion and documentation of a post baccalaureate degree in engineering as provided in subsection (6).

Specific Authority 471.008 FS. Law Implemented 471.013, 471.015 FS. History—New 7-20-95, Amended 6-5-96, 4-16-98, 1-17-99, 7-28-99, 1-6-02, 6-13-02, 6-30-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 24, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 28, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Definitions  
RULE NO.: 61G15-22.002

PURPOSE AND EFFECT: The Board proposes to add a definition for “commercial educator.”

SUMMARY: For the purpose of defining a continuing education provider category, “Commercial educator” is defined as an individual or business organization trained in teaching/offering education courses for a profit.

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: 455.213(6), 455.2177, 455.2178, 455.2179, 471.017(3), 471.019 FS.

LAW IMPLEMENTED: 455.213(6), 455.2177, 455.2178, 455.2179, 471.008 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: Natalie Lowe, Administrator, Board of Professional Engineers, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-22.002 Definitions.

(1) through (5) No change.

(6) Commercial educator: An individual or business organization trained in teaching and offering education courses for a profit.

Specific Authority 455.213(6), 455.2177, 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179, 471.008 FS. History--New 9-16-01, Amended 8-1-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 24, 2003

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

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Banking**

RULE NO.:	RULE TITLE:
3C-100.600	Appraisals, and Appraisal Standard Policies of State Financial Institutions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule development, as noticed in Vol. 28, No. 52, December 27, 2002, Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Banking**

RULE NO.:	RULE TITLE:
3C-105.407	Branch Office Closing

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 52, December 27, 2002, Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Office of Agricultural Water Policy**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5M-4	Interim Measures for Tri-County Agricultural Area Farms

RULE NOS.:	RULE TITLES:
5M-4.001	Purpose
5M-4.002	Approved Interim Measure Best Management Practices
5M-4.003	Notice of Intent to Implement
5M-4.004	Record Keeping

NOTICE OF WITHDRAWAL

Pursuant to Section 120.54(3)(d)1., Florida Statutes, notice is hereby given that the above proposed rule, as noticed in Vol. 29, No. 17, April 25, 2003, issue of the Florida Administrative Weekly, has been withdrawn in response to comments received from the Joint Administrative Procedures Committee.

**PUBLIC SERVICE COMMISSION**

DOCKET NO. 020398-EQ

RULE NO.:	RULE TITLE:
25-22.082	Selection of Generating Capacity

NOTICE OF CORRECTION

Notice is hereby given that the following corrected changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 17, April 25, 2003, issue of the Florida Administrative Weekly, which erroneously omitted the strikeouts from the following subsection:

~~(5)(f) All criteria, including weighting and ranking factors that will be applied to select the finalists. Such criteria may include price and non-price considerations, but no criterion shall be employed that is not expressly identified in the RFP absent a showing of good cause;~~

**DEPARTMENT OF CORRECTIONS**

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

NOTICE OF CHANGE

Notice is hereby given 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. 29, No. 14, (April 4, 2003), issue of the Florida Administrative Weekly: