

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-601.800 Close Management

PURPOSE AND EFFECT: The proposed rule is intended to increase the safety, security, and good order of state correctional institutions by providing inmates greater access to kiosk and tablet services and removing items which pose institutional security concerns from a restrictive housing environment.

SUMMARY: Rule 33-601.800 is being amended to allow inmates in CM to possess a tablet and have limited access to kiosk and tablet services. The changes also prohibit inmates in CM from possessing Walkman-type radios, battery-operated razors, and batteries due to institutional security concerns associated with these items in a restrictive housing environment. Additionally, references to self-harm observation status and procedures have been added to match current policies and procedures. Finally, Form DC6-163 will be incorporated into 33-601.800, and Form DC6-229 is being updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or, if no SERC is required, the information expressly relied upon and described herein: The Department used an itemized checklist to conduct an economic analysis and determine if there is an adverse impact or regulatory cost associated with this rule that exceeds the criteria. Upon review of the proposed changes to the rule, the Department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in s. 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 944.09, F.S.

LAW IMPLEMENTED: 944.09, 944.241, F.S.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Office of the General Counsel, Attn. FDC Rule Correspondence, 501 South Calhoun Street, Tallahassee, Florida 32399, FDCRuleCorrespondence@fdc.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.800 Close Management

(1) Definitions.

(a) through (b) No Change

(c) Critical Event – involvement of a CM inmate in one or more of the following events or behaviors: assignment to ~~self-harm~~ ~~suicide~~ observation status, homicide, attempted homicide, escape, attempted escape, physical or sexual assault or battery, or attempted physical or sexual assault or battery.

(d) through (t) No Change

(2) through (5) No Change

(6) Close Management Institutions and Facilities.

(a) through (d) No Change

(e) All CM cells will be equipped with toilet facilities and running water for drinking and other sanitary purposes. Water in the cell can be turned off when necessary due to misbehavior. Misbehavior is defined as any

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activity exhibited by an inmate that causes an interruption in the water system and its proper function, such as intentionally clogging a toilet bowl or sink with paper in order to flood the housing area. It also includes the intentional misuse of the water for such purposes as throwing it on staff or other inmates, or mixing it with another substance for an unauthorized purpose. In such event, the inmate will be furnished with an adequate supply of drinking water by other means to prevent dehydration. This action can be taken in addition to formal disciplinary action being taken against the inmate pursuant to established procedures regarding disciplinary action. Any misbehavior from an inmate and subsequent action by security staff will be documented on the Daily Record of Special Housing, Form DC6-229. Form DC6-229 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 S. Calhoun St., Tallahassee, FL 32399, <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>
~~<https://www.flrules.org/Gateway/reference.asp?No=Ref-00220>~~. The effective date of the form is XX/XX 4-6-11.

(f) through (h) No Change

(7) through (9) No Change

(10) Conditions and Privileges in Close Management Units.

(a) through (b) No Change

(c) Personal Property – Inmates in CM shall be allowed to retain personal property including stamps, watches, rings, writing paper, envelopes, and health and comfort items unless they pose a threat or potential threat to the public, staff, visitors, other inmates, or the secure and orderly operations of an institution. Inmates in CM may not possess a Walkman-type radio ~~or batteries with approved headphones in accordance with Rule 33-602.201, F.A.C.~~ Inmates in CM CMIH may possess a tablet in accordance with Rule 33-602.900, F.A.C., and this rule. Exceptions or restrictions regarding any item will be documented on Form DC6-229. An Inmate Impounded Property List, Form DC6-220, will be completed by security staff and signed by the inmate designating any personal items that are removed. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C. The original Form DC6-220 shall be placed in the inmate's property file and a copy of the form will be given to the inmate for his or her records. If items of clothing, bedding, or personal property are removed in order to prevent the inmate from inflicting injury to himself, herself, or others, to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security, staff shall reassess the need for continued restriction every 72 hours thereafter. Based on these reassessments, the warden will make the final determination regarding the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred during any 72-hour reassessment period.

(d) No Change

(e) Personal Hygiene – Inmates in CM shall meet the same personal hygiene standards as required of inmates in general population.

1. At a minimum, each inmate in CM shall shower three times per week and on days that the inmate works.

2. Any male inmate who elects to be clean-shaven ~~clean-shaven~~ shall be clipper shaved three times per week. Any male inmate who elects to grow and maintain a half-inch beard shall have his beard maintained in accordance with Rule 33-602.101, F.A.C. The possession and use of shaving powder and battery-operated razors in CM is prohibited.

3. Hair care shall be the same as that provided to and required of inmates in general population.

(f) through (n) No Change

(11) Programs and Privileges in Close Management Units.

(a) No Change

(b) CMI. Privileges for an inmate assigned to CMI are as follows:

1. through 6. No Change

7. Inmates in CMI are ~~not~~ permitted limited ~~to~~ access to kiosks, kiosk services, or tablet services as provided for in Rule 33-602.900, F.A.C. Access shall be limited to free books and games, educational materials, programs, religious materials, incoming secure mail with attachments, wellness material, and scanned routine mail as defined in Rule 33-210.101, F.A.C.

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8. No Change

(c) CMII. In addition to the programs provided for inmates in CMI and those privileges outlined in subparagraphs (11)(b)1.-4. of this rule, the following privileges are authorized for inmates in CMII:

1. through 4. No Change

5. Inmates in CMII are ~~not~~ permitted limited ~~to~~ access to kiosks, kiosk services, or tablet services as provided for in Rule 33-602.900, F.A.C. Access shall be limited to free books and games, educational materials, programs, religious materials, incoming secure mail with attachments, wellness material, incoming videograms, content purchased prior to placement in CMII, and scanned routine mail as defined in Rule 33-210.101, F.A.C.

6. No Change

(d) No Change

(12) Suspension of Privileges. The ICT shall suspend or limit an inmate's privileges if security and safety concerns would preclude an inmate from receiving certain privileges.

(a) When a disciplinary report has been written and the hearing is pending, staff shall complete the Close Management Privilege Suspension Request, Form DC6-163, to suspend privileges between the time the disciplinary report is written and the hearing is held. Form DC6-163 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 S. Calhoun St., Tallahassee, FL 32399, <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>. The effective date of the form is XX/XX.

(b) Any action taken by the ICT regarding the suspension or limiting of privileges will be documented on Form DC6-229. Privileges suspended by the ICT in excess of 30 days will require the review and approval of the SCO.

(13) through (18) No Change

Rulemaking Authority 944.09 FS. Law Implemented 944.09, 944.241 FS. History—New 2-1-01, Amended 12-16-01, 4-8-04, 3-10-05, 4-9-06, 8-23-07, 4-27-08, 6-28-10, 4-6-11, 7-31-11, 1-4-12, 12-9-12, 12-24-13, 3-6-14, 8-17-16, 1-18-21, 6-1-21,

NAME OF PERSON ORIGINATING PROPOSED RULE: Hope Gartman, Assistant Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ricky D. Dixon, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 15, 2022

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: February 10, 2022