

July 23, 2013

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-401.401

RULE TITLE: Use of Tobacco Products.

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify current language in the rule, to clarify which inmates are prohibited from possessing tobacco products, and to add language to establish limits on the possession of tobacco products by inmates in a Community Release Program.

SUMMARY: Rulemaking was initiated to clarify the rule and establish limits on the possession of tobacco products by inmates in a Community Release Program.

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

RULEMAKING AUTHORITY: 944.09, 944.115 FS

LAW IMPLEMENTED: 386.201, 386.202, 386.203, 386.204, 386.205, 386.206, 944.09, 944.115 FS

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

RULE IS: Paul Vazquez, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-401.401 Use of Tobacco Products.

(1) – (5) No change.

(6) All inmates at all state correctional facilities, with the exception of those participating in a community release program under Rule 33-601.602, F.A.C., or as otherwise provided in subsection (7) of this rule, ~~in administrative confinement, disciplinary confinement, close management, and maximum management housing at all institutions~~ shall not be allowed to possess any tobacco products or lighters.

(7) Inmates on death row shall ~~not be limited to~~ purchase more than two (2) of 2 packages of smokeless tobacco products per week and shall not exceed the possession limit of two (2) 2 packages. Inmates assigned to a Community Release Program in accordance with “Community Release Programs,” Rule 33-601.602, F.A.C., shall not possess more than ten (10) packs of cigarettes, or ten (10) packages of smokeless tobacco products, or twenty (20) individual cigars, and one (1) non Bic-style disposable lighter at any time while on the property of a state correctional facility.

(8) – (9) No change.

Rulemaking Authority 944.09, 944.115 FS. Law Implemented 386.201, 386.202, 386.203, 386.204, 386.205, 386.206, 944.09, 944.115 FS. History– New 12-31-80, Formerly 33-20.01, Amended 3-12-86, 2-24-92, 1-4-94, Formerly 33-20.001, Amended 2-3-00, 10-1-03, 6-18-08, 10-1-11, 6-18-13, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 7-19-13

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 7-8-13