

Department of Corrections and Community Supervision

Pursuant to Section 207 of the State Administrative Procedure Act (SAPA), the following is a list of rules which were adopted by the Department of Corrections and Community Supervision in calendar years 1998, 2003, and 2008, and which must be reviewed in calendar year 2013. Public comment on the continuation or modification of these regulations was invited. Two comments were received. Based upon the belief that said rules further the Department's mission to provide a safe, stable and humane correctional system in New York State, the Department has determined and hereby gives notice pursuant to SAPA, Section 207(4) that the rules shall be continued without modification.

COR-22-08-00001 Amendment of Part 220 of Title 7 NYCRR.
Statutory Authority: Correction Law, sections 112 and 146.
Assessment of Public Comment: Two identical comments were received concerning the Family Reunion Program at a specific correctional facility. While the comments indicated they have had access and participated in this program, there were comments alleging delays in processing FRP requests, closing of the FRP units for repairs, inefficient use of the FRP units, and disagreement with the facility policy that vacancies that result from cancellations are given to first time applicants. The current regulation requires the first time applicant to go through an extensive review process. Once an inmate has successfully participated in the program, subsequent application may be processed and approved at the facility level. This is occurring at the facility, however, all facilities are given discretion as how to implement their programs based upon the level of inmate participation in the program and the resources available. If there are operational issues concerning how the FRP is being implemented at a particular facility, it should be addressed through the Inmate Grievance Program (IGP) by the inmate participants. Any grievance will be review and investigated at the facility level, can be appealed to the facility Superintendent, and may be appealed to the Central Office Review Committee (CORC) which is represented by Central Office representatives for all of the Deputy Commissioners and has the authority to correct any deficiencies or revise departmental policies. The IGP has reviewed and responded to some of these issues at the CORC level for this facility. The issue of the facility's policy of providing cancellation dates to first time applicants was addressed by CORC where it upheld the discretion of the facility administration to promulgate local policies. These comments alleged operational difficulties due to staff performance which should be addressed through an administrative process such as the IGP. There is no intention to amend the current rule as it is written.

Analysis of the need for this rule: The rule is needed as the Family Reunion Program (FRP) is designed to provide selected inmates and their families the opportunity to meet for an extended period

of time in privacy with minimum staff supervision. This rule improves the review process for inmates applying for the FRP, better identify programming requirements, and define eligibility.

COR-10-08-00001 Repeal of section 270.2(B)(6)(iii), addition of sections 270.2(B)(iv)-(v) and amendment of section 712.2(i) of 7 NYCRR.
Statutory Authority: Correction Law, sections 112 and 138.
Assessment of Public Comment: None received.

Analysis of the need for this rule: The rule reiterates the security concerns associated with an inmate's possession of gang related written material as well as written material that could facilitate organizational activity within a correctional facility by other unauthorized organizations.

COR-05-08-00001 Repeal and replacement of Part 1000 to 7 NYCRR.
Statutory Authority: Correction Law, section 112.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This regulation provides the Department with the means to expeditiously revise or amend the Central Monitoring Case (CMC) procedure, promulgate CMC review, identification and appeal procedures as necessary and in the best interest of the public safety.

COR-48-07-00002 Amendment of sections 1020.1, 1020.4(a)(1), (2), (c), (d)(2), (3), (4), (e)(1)(iv), (2)(iii), 1020.5(a)(1) and 1020.6 of 7 NYCRR.
Statutory Authority: Correction Law, section 112.
Assessment of Public Comment: None received.

Analysis of the need for this rule: To detect and deter the use of illicit drugs and alcohol substances within the correctional environment, the Department has relied on random urinalysis testing of the general population and of selected groups of inmates. This rule improves clarity, readability and refines procedures in response to field experience and new testing equipment.

Regulations adopted in 2003

COR-40-03-00003 Addition of section 305.2(f) to 7 NYCRR.
Statutory Authority: Correction Law, section 112.
Assessment of Public Comment: None received.

Analysis of the need for this rule: Deprivation orders, as authorized in section 305.2(a), allow correctional staff to turn off the water supply to the cell when inmates flood them. This rule creates a procedure for the distribution of water to inmates in special housing who are subject to this deprivation order.

COR-12-03-00001 Amendment of section 280.2(d) of 7 NYCRR.

Statutory Authority: Correction Law, sections 112, 803 and 805.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule is to afford credit for merit time for those program achievements which have been earned by an inmate while serving their current sentence and not from a prior incarceration.

COR-17-03-00003 Repeal and replacement of section 720.4(a) to 7 NYCRR.
Statutory Authority: Correction Law, section 112.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule emphasizes the need to accurately identify the addressee before processing the mail in order to prevent the errant delivery of mail and resulting conflicts among inmates who may have the same or nearly the same name and to more easily forward the mail to another address when appropriate.

COR-05-03-00014 Amendments of section 1900.4(c), (h) and (n) of 7 NYCRR.
Statutory Authority: Correction Law, section 851.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule makes the temporary release program to be in compliance with Correction Law § 851, Subdivision 2-a, under Chapter 251 of the Laws of 2002. It authorizes the Commissioner of DOCCS to permit inmates serving sentences for homicide or assault offenses, who are eligible for parole or will be eligible for release on parole or conditional release within two years, to participate in a temporary release program if the inmate can demonstrate that: (i) the victim of such homicide or assault was a member of the inmate's immediate family; (ii) he or she was subjected to substantial physical, sexual or psychological abuse by the victim of the homicide or assault; and, (iii) such abuse was a substantial factor in causing the inmate to commit the homicide or assault. The Commissioner is required to request the opinion of both the sentencing court and district attorney who prosecuted the underlying offense and to consider opinions before making a determination.

Regulations adopted in 1998

COR-35-98-00001 Amendments of sections 100.69, 100.100, 100.110 and 100.117 of 7 NYCRR.
Statutory Authority: Correction Law, section 70
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule is necessary to update information where the department has elected to change security classifications and functions to more efficiently use available facility spaces at Butler, Mohawk, and Sullivan Correctional Facilities.

COR-36-98-00003 Addition of section 100.128 to 7 NYCRR.

Statutory Authority: Correction Law, section 70.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule is necessary as section 70 of the Correction Law requires the Commissioner of Corrections and Community Supervision to publish a designation of each correctional facility, identifying it by name and location, gender and age range of inmates, and a classification, identifying its security level and function. This rule identifies Gowanda Correctional Facility although the VAST program was removed by an amended rule in 2008 since the program no longer existed.

COR-25-98-00002 Repeal and replacement of sections 305.3 and 305.4 of 7 NYCRR.
Statutory Authority: Correction Law: section 112.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule and subsequent amendments provide clarification of procedures for the application of restraints on inmates assigned to special housing units (SHU). This regulation replaced the term “shackles” with a more precisely defined “mechanical restraints.” Restraint options are identified in order to help SHU staff manage inmate movements with enhanced safety and security.

COR-19-98-00001 Amendment of Appendix 1-J under Part 1701 of 7 NYCRR.
Statutory Authority: Correction Law, section 112.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule revised a form used by departmental staff in evaluating inmate suitability and compatibility for double-cell housing. The amendment corrected the age limitation from 64 years of age or older to 69 years of age or older.

COR-09-98-00004 Repeal and replace section 720.3(i) of 7 NYCRR.
Statutory Authority: Correction Law, section 112.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule gives the Department better control over outgoing inmate correspondence because it requires an inmate to put his or her return address on outgoing correspondence in a uniform format which conspicuously identifies the sender’s return address as a correctional facility. This helps deter inmates from attempting to mail correspondence to persons with whom they are forbidden to correspond. It also makes it more likely that recipients of inmate correspondence will recognize it as such prior to opening it or accepting it into their households.

COR-15-98-00001 Amendment of section 50.1 of 7 NYCRR.
Statutory Authority: Correction Law, section 112, and Criminal Procedure Law, section 2.10(25).

Assessment of Public Comment: None received.

Analysis of the need for this rule: The Commissioner has discretion to designate certain department officials as peace officers in order that they may carry out their official duties. This rule added three peace officer designations and changes a civil service title from “supervisor” to “coordinator.” This rule was amended in 2012 where one of the officials was removed from this designation.

COR-09-98-00005 Repeal and replace section 701.3(h) and amendment of section 701.7 of 7 NYCRR.
Statutory Authority: Correction Law, section 139.
Assessment of Public Comment: None received.

Analysis of the need for this rule: This rule ensures fair access to the inmate grievance program by disabled inmates or any others who may have difficulty communicating, and contributes to the implementation of the consent judgment in the case of Clarkson v. Goord, 91 CIV 1792, on behalf of deaf and hard of hearing inmates. This rule was repealed and replaced in 2006. While much of the substance of this rule was kept in the new rule, this rule will be removed from the five year review process since it has been superseded.

COR-51-97-00023 Amendment of section 270.2 of 7 NYCRR.
Statutory Authority: Correction Law, sections 112 and 138.
Assessment of Public Comment: None received.

Analysis of the need for this rule: These amended rules were necessary to the inmate rulebook to enhance its practical application for management and discipline which makes it easier for facility staff to sanction inappropriate behavior. The revision to item (B)(8)(ii) prohibits inmates from communicating messages of a personal nature to employees or volunteers in order to reduce instances of abuse or compromises to staff functions and authority.