attention Director, Appellate Staff. Consult title 2 of the United States Attorney's Manual for procedures and time limitations. An appeal of such a decision, as well as an appeal of an adverse decision by a district court or bankruptcy appellate panel reviewing a bankruptcy court decision or a direct appeal of an adverse bankruptcy court decision to a court of appeals, cannot be taken without approval of the Solicitor General. Until the Solicitor General has made a decision whether an appeal will be taken, the Government attorney handling the case must take all necessary procedural actions to preserve the Government's right to take an appeal, including filing a protective notice of appeal when the time to file a notice of appeal is about to expire and the Solicitor General has not yet made a decision. Nothing in the foregoing directive affects this obligation.

Section 7. Definitions

(a) For purposes of this directive, in the case of claims involving only civil penalties, other than claims defined in 28 CFR 0.169(b), the phrase ''gross amount of the original claim'' shall mean the maximum amount of penalties sought.

(b) For purposes of this directive, in the case of claims asserted in bankruptcy proceedings, the phrase ''gross amount of the original claim'' shall mean liquidation value. Liquidation value is the forced sale value of the collateral, if any, securing the claim(s) plus the dividend likely to be paid for the unsecured portion of the claim(s) in an actual or hypothetical liquidation of the bankruptcy estate.

Section 8. Supersession

This directive supersedes Civil Division Directive No. 1–10 regarding redelegation of the Assistant Attorney General's authority in Civil Division cases to Branch Directors, heads of offices, and United States Attorneys.

Section 9. Applicability

This directive applies to all cases pending as of the date of this directive and is effective immediately.

Section 10. No Private Right of Action

This directive consists of rules of agency organization, procedure, and practice and does not create a private right of action for any private party to challenge the rules or actions taken pursuant to them.

* * * * *

Dated: June 1, 2015.

Benjamin C. Mizer,

Principal Deputy Assistant Attorney General, Civil Division.

[FR Doc. 2015–13782 Filed 6–4–15; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 552

[BOP–1162–F]

RIN 1120–AB62

Searches of Housing Units, Inmates, and Inmate Work Areas: Use of X-Ray Devices—Clarification of Terminology

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) clarifies that body imaging search devices are ''electronic search devices'' for routine or random use in searching inmates, and are distinguished from medical x-ray devices, which require the inmate's consent, or Regional Director approval, for use as search devices.

DATES: This rule is effective on July 6, 2015.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: In this document, the Bureau finalizes its regulation on searches of inmates using x-ray devices and technology (28 CFR part 552, subpart B). We change this regulation to clarify that body imaging search devices are ''electronic search devices'' for routine or random use in searching inmates, and are distinguished from medical x-ray devices, the use of which require the inmate's consent, or Regional Director approval, for use as search devices. We published a proposed rule on this subject on February 14, 2014 (79 FR 8910). We received a total of twenty comments on the proposed rule. Three comments were generally in favor of the proposed changes. Eleven comments were copies of the same form letter. We respond below to the issues raised by that form letter and the remaining six comments.

The Electronic Devices That the Bureau Uses Are Unsafe or Will Cause Harm to Inmates

Fifteen comments (including the eleven form letters) were concerned that the electronic devices used by the Bureau, particularly those which use x-ray technology, will be harmful to inmates. Another commenter stated that the use of x-ray technology as intended by the Bureau is so unsafe that it ''is a clear violation of human rights.''

The x-ray technology used for searches by the Bureau employs a very low level of radiation. Radiation is measured in units called ''sieverts.'' A person scanned by a Bureau body scanner would receive only 0.25 sieverts and can be scanned up to 1,000 times a year. For context, a scan from this machine is equal to eating two and a half bananas (the potassium in bananas emit radiation). Sleeping next to someone exposes you to .05 sieverts, because we all have minerals in our bones that emit radiation. Also, people living in areas of high elevations are exposed to almost 5 times (1.2 sieverts) as much radiation as one scan from a Bureau body scanner, because there is more cosmic radiation at high elevations. An airplane flight from New York to Los Angeles exposes a human body to 40 sieverts of radiation. Again, the Bureau's x-ray technology scanners employ only .25 sieverts, so low a level of radiation as to be safe.

Further, the Bureau requested an independent study (''Radiation Protection Report'') of its pilot program use of the ''Radpro SecurPass'' technology. The review, conducted in 2012, was generated and peer reviewed by radiological physicists holding Certified Health Physicist credentials and board certification of the American Board of Radiology in Diagnostic Radiology. The Report concluded that the average effective reference dose was 0.233 sieverts, which is representative of the maximum possible radiation dose for the machine to one person for one scan. The Report concluded that the system may be operated at that dose level up to 1,000 times per year while maintaining the recommended safe radiation dose.

The use of electronic search devices described in the proposed rule is also within established inmate search procedures. There is no impact it will have on the federal inmate population which is not already present. The proposed rule clarified that body x-ray imaging search devices are ''electronic search devices'' for routine or random use in searching inmates. This change does not affect physical contact with inmates or require disrobement. Other than increased effectiveness at identifying contraband through the use of new minimally invasive hand-held technology, there exists no actual or perceivable difference between already-in-use electronic search devices and the proposed x-ray search device. In fact, the use of the technology will cut down the frequency and need for more invasive searches of the type that inmates seek to avoid.

Further, prisoners, visitors, and staff have diminished Fourth Amendment protections in a correctional setting

under the constellation of rules created by *Bell, Hudson,* and *Turner.* In *Bell* v. *Wolfish,* 441 U.S. 520 (1979) and *Hudson* v. *Palmer,* 468 U.S. 517 (1984), inmates brought challenges to searches of their person and cells, respectively. The *Bell* court noted prisons are uniquely dangerous environments, and held that the interest in keeping out contraband outweighed inmate privacy concerns. Similarly, the *Hudson* court found prison cell searches are categorically reasonable since a prisoner's expectation of privacy must always yield to the paramount interest in institutional security. *Turner* v. *Safley,* 482 U.S. 78 (1987) created a new standard: When a prison regulation impinges on the constitutional rights of an inmate, staff member, or visitor, the regulation is valid if it is reasonably related to legitimate penological interests.

The *Turner* standard, with the fact-specific principles of *Bell* have been consistently used guidelines to reference for inmate body searches. The Supreme Court specifically invoked both cases as primary guidance in *Florence* v. *Bd. of Chosen Freeholders of County of Burlington.* The Court held it was reasonable in a physical search to command ''detainees to lift their genitals or cough in a squatting position.'' These procedures, similar to the ones upheld in *Bell,* are designed to uncover contraband that can go undetected by a patdown, metal detector, and other less invasive searches. 132 S. Ct. 1510, 1520, 182 L. Ed. 2d 566 (2012). Physical manipulation of an unclothed area, however, would not be permissible. *Id.* The non-contact electronic device search is precisely within the ''less-invasive,'' non-controversial ambit described in *Florence.*

It is also important to note that the regulations will retain current language stating that use of any electronic device ''does not require the inmate to remove clothing.'' 28 CFR 552.11.

Bureau Staff Do Not Have Adequate Training To Use New X-Ray Body Scan Technology

One commenter was concerned that Bureau staff are not qualified to use new technology. This is not true. Policy accompanying the change to this regulation and the implementation of any new search device under these regulations will require training on the use of the devices. Operators Manuals for the technological devices will be required for all employees who operate the scanners. This training will be re-implemented annually.

Implementation of the Devices Will Be Costly to the Public

One commenter felt that ''the cost of instituting [body scanners would be] incredible.'' The scanning technology used by the Bureau is also routinely used in other public safety sectors (*e.g.* airport security, military, state jail security, etc.) and is not prohibitively expensive. The Bureau evaluated and tested several different types of whole body imaging devices, some acquired through surplus acquisition at no cost from other federal agencies. During the evaluation period, a significant amount of dangerous contraband (*i.e.,* weapons, drugs and contraband cell phones), were detected with these devices and confiscated. Because the technology provides enhanced institution security, promotes staff and inmate safety, and ultimately increases the safety of the public, the return on investment for the cost of these devices is significant. In the Bureau's correctional judgment, the loss of life or serious injury, whether staff, inmate or a member of the public, is immeasurable and as such, the use of scanning technology to prevent such occurrences is reasonable and warranted.

For the aforementioned reasons, we now finalize the proposed rule published on February 14, 2014 (79 FR 8910), without change.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 552

Prisoners.

Charles E. Samuels, Jr.,

Director, Bureau of Prisons.

Accordingly, under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, we amend 28 CFR part 552 as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 552—CUSTODY

■ 1. The authority citation for 28 CFR part 552 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Revise § 552.11(a) to read as follows:

§ 552.11 Searches of inmates.

(a) *Electronic devices.* Inspection of an inmate's person using electronic devices (for example, metal detector, ion spectrometry device, or body imaging search device) does not require the inmate to remove clothing. The inspection may also include a search of the inmate's clothing and personal effects. Staff may conduct an electronic device search of an inmate on a routine or random basis to control contraband.

* * * * *

■ 3. Revise § 552.13 to read as follows:

§ 552.13 Medical x-ray device, major instrument, or surgical intrusion.

(a) The institution physician may authorize use of a major instrument (including anoscope or vaginal speculum) or surgical intrusion for medical reasons only, with the inmate's consent.

(b) The institution physician may authorize use of a medical x-ray device for medical reasons and only with the consent of the inmate. When there exists no reasonable alternative, and an examination using a medical x-ray device is determined necessary for the security, good order, or discipline of the institution, the Warden, upon approval of the Regional Director, may authorize the institution physician to order a non-repetitive examination using a medical x-ray device for the purpose of determining if contraband is concealed in or on the inmate (for example: In a cast or body cavity). The examination using a medical x-ray device may not be performed if it is determined by the institution physician that it is likely to result in serious or lasting medical injury or harm to the inmate. Staff shall place documentation of the examination and the reasons for the examination in the inmate's central file and medical file.

(1) The Warden and Regional Director or persons officially acting in that capacity may not redelegate the authority to approve an examination using medical x-ray device for the purpose of determining if contraband is present. An Acting Warden or Acting Regional Director may, however, perform this function.

(2) Staff shall solicit the inmate's consent prior to an examination using a medical x-ray device. However, the inmate's consent is not required.

(c) The Warden may direct searches of inanimate objects using a medical x-ray device where the inmate is not exposed.

[FR Doc. 2015–13710 Filed 6–4–15; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972, as amended (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS DETROIT (LCS 7) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective June 5, 2015 and is applicable beginning May 13, 2015.

FOR FURTHER INFORMATION CONTACT: Commander Theron R. Korsak, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), of the DoN, under authority delegated by the Secretary of the Navy, has certified that USS DETROIT (LCS 7) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I paragraph 2(a)(i), pertaining to the location of the forward masthead light at a height not less than 12 meters above the hull; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended by:

■ a. In Table One, adding, in alpha numerical order, by vessel number, an entry for USS DETROIT (LCS 7); and

■ b. In Table Five, adding, in alpha numerical order, by vessel number, an entry for USS DETROIT (LCS 7).

The additions read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

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