

Proposed Text of Rule

TITLE 7 NYCRR

Chapter X Facility Administration

Add new Part 1705 Body Imaging Scanning Equipment as follows:

Part 1705 Body Imaging Scanning Equipment

Section 1705.1 Purpose.

The purpose of this Part shall be to ensure that body imaging scanning equipment is used in correctional facilities to prevent the entry of contraband, in a manner that ensures the safety and security of incarcerated individuals, visitors and employees.

Section 1705.2 Definitions.

For the purposes of this Part:

- (a) Body imaging scanning equipment shall mean equipment that utilizes a low dose of ionizing radiation to produce an anatomical image capable of detecting objects placed on, attached to, or secreted within a person's body.
- (b) Employee shall mean any individual employed by the department, outside agency, volunteer or service provider.

Section 1705.3 General use of body imaging scanning equipment.

- (a) The department shall ensure that the installation, registration, recordkeeping, maintenance, operation and inspection of any body imaging scanning equipment utilized in a state correctional facility shall comply with the regulatory requirements promulgated by the Department of Health.
- (b) An individual who is pregnant shall not be subject to body imaging scanning equipment at any time.
- (c) Procedures for identifying pregnant individuals shall be implemented by the department, consistent with applicable Department of Health regulations.
- (d) Body imaging scanning equipment may not be used for medical examinations or to diagnose an illness or injury.
- (e) Absent exigent circumstances, all body scans must be conducted by an officer of the same sex as the individual being scanned. Individuals who are transgender or intersex may request that they be scanned by an officer of a specific gender.

Section 1705.4 Body Imaging Scanning of Employees

- (a) Employees may randomly be processed utilizing the body imaging scanner when entering a facility or when directed as part of an official investigation. Any employee who declines to undergo body imaging scanning will be excluded from being scanned and will be processed in accordance with Directive #4936, "Search of DOCCS Employees," unless security considerations warrant otherwise.
- (b) Any employee who is pregnant, has a medical condition, or declines to undergo body imaging scanning will be excluded from being scanned and will be processed in accordance with Directive #4936, "Search of DOCCS Employees," unless security considerations warrant otherwise.
- (c) No employee who chooses to be searched by an alternative method in lieu of body imaging scanning shall be subjected to any form of harassment, intimidation, or disciplinary action.