

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Rhode Island Department of Corrections

RULE IDENTIFIER: ERLID 4192

REGULATION TITLE: Narcotics Detection Program

RULEMAKING ACTION: Notice of Proposed Rulemaking

TYPE OF FILING: Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public Notice Date: May 1, 2018

End of Public Comment Period: May 31, 2018

SUMMARY OF PROPOSED RULE:

Pursuant to the update of R.I. Gen. Laws §42-35, Administrative Procedures, the Rhode Island Department of Corrections (RIDOC) no longer meets the criteria for having to carry out the public hearing process and filing requirements administered by the Administrative Procedures Act (APA) for several of its rules currently filed with the Secretary of State's Office. RIDOC is hereby repealing this rule.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **May 31, 2018** to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Chief of Program Development/Policy Unit
Maximum Security Administration Wing, 1st floor
1375 Pontiac Avenue
Cranston, RI 02920

Email Address: doc.policy@doc.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address: Maximum Security Administration Wing, 1st floor
1375 Pontiac Avenue
Cranston, RI 02920

PUBLIC HEARING INFORMATION:

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

FOR FURTHER INFORMATION CONTACT:

Chief of Program Development/Policy Unit
Maximum Security Administration Wing, 1st floor
1375 Pontiac Avenue
Cranston, RI 02920
(401) 462-3533

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

The repeal of this regulation does not impose significant economic impacts on Rhode Island. The regulation does not alter the status quo in any way; therefore, the post-action state of the world is identical for all interested parties.

Authority for This Rulemaking:

R.I. Gen. Laws § 42-56-10(22), Powers of the director; R.I. Gen. Laws § 42-56-1, Declaration of Policy.

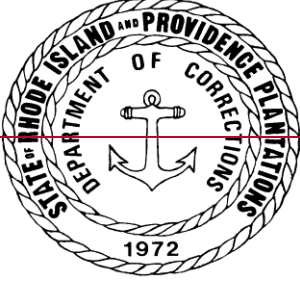
Regulatory Findings:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Amendment:

Rhode Island Department of Corrections proposes to amend **ERLID 4192** as follows:

~~RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE~~

	POLICY NUMBER: 9.46-2 DOC	EFFECTIVE DATE: 10/23/06	PAGE 1 OF 7
	SUPERCEDES: 9.46-1 DOC	DIRECTOR: _____ <small>Please use BLUE ink.</small>	
SECTION: SECURITY AND CONTROL		SUBJECT: NARCOTICS DETECTION PROGRAM	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10 (22), Powers of the director			
REFERENCES: ACA Standards 3-4184, Control of Contraband; 3-4445, Visitor Registration; RIDOC Policy # 24.03-1 DOC, Visits; 9.16-1 DOC, Procedure for Protecting, Gathering and Preserving Evidence			
INMATE/PUBLIC ACCESS? _____ X YES			
AVAILABLE IN SPANISH? _____ X NO			

~~I. PURPOSE:~~

~~_____ To establish guidelines for the use of narcotics detection equipment by specifically trained Rhode Island Department of Corrections (RIDOC) employees.~~

~~II. POLICY:~~

~~_____ The Rhode Island Department of Corrections (RIDOC) uses narcotics detection equipment to detect exposure to controlled substances and explosives, to reduce or eliminate the introduction of this contraband, and to assist outside law enforcement agencies when they request use of this equipment.~~

Date of Public Notice: 07/02/2006

Date of Public Hearing: 07/26/2006

III. PROCEDURES:

A. Definitions

1. Non-Intrusive Search — A search of a non-intrusive nature of the clothed body by technical means which may include a walk through a metal detector or a hand-held scanner. This may also include the wiping or vacuuming of the person and/or personal articles.
2. Narcotics Detection Equipment — Chemical detection systems (e.g., Ion scan, vapor trace device) used to detect exposure to illicit narcotics and explosives. Samples are collected by wiping or vacuuming the person and/or his/her personal articles and then placing the filter or swipe into the unit; up to six (6) seconds later, the results are displayed.
3. Narcotics Detection Program Coordinator — RIDOC employee appointed by the Director or designee who is responsible for overseeing the use of narcotics detection equipment and reporting results to the Director or designee.
4. Narcotics Detection Program Operator — RIDOC employee appointed by the Director or designee, who is trained in the operation of narcotics detection by the Narcotics Detection Program Coordinator. At no time shall any person other than a RIDOC Narcotics Detection Operator/Coordinator operate the narcotics detection equipment.

B. Applicability

These regulations apply to:

1. visitors who have been approved to visit an inmate (see policy 24.03-1 DOC; Visits, or a successive policy);
2. any member of the public entering the institution who is not:
 - (a) an employee of the Rhode Island Department of Corrections;
 - (b) a contract employee;
 - (c) an attorney or attorney's agent;

~~(d) a volunteer;~~

~~(e) an intern; or~~

~~(f) a contractor.~~

~~3. all RIDOC offenders.~~

~~C. Duties and Responsibilities of Personnel~~

~~1. Narcotics Detection Program Coordinator~~

~~a. The Director or designee selects a RIDOC employee to act as the Narcotics Detection Program Coordinator. S/he is responsible for reporting on the status of the Program to the Director or designee.~~

~~b. The primary duties and responsibilities of the Narcotics Detection Program Coordinator are:~~

~~(1) Scheduling of narcotics detection equipment for deployment.~~

~~(2) Providing training, guidance and leadership to Narcotics Detection Program Operators.~~

~~(3) Ensuring discipline, control and accountability of Narcotics Detection Program Operators.~~

~~(4) Ensuring all required reports and logs are prepared and submitted in accordance with this policy.~~

~~(5) Developing an annual training plan for approval by the Director or designee.~~

~~(6) Coordinating handler information, including site and shift assignments and telephone numbers.~~

~~(7) Acting as the liaison with RIDOC facility managers and the Narcotics Detection Program Operators.~~

~~(8) Ensuring that all daily, weekly, and monthly maintenance for narcotics detection equipment is performed.~~

~~(9) Ensuring that all supplies for narcotics detection equipment are ordered and kept in stock for machine use.~~

~~(10) Investigating and resolving complaints concerning narcotics detection equipment.~~

~~2. Narcotics Detection Program Operators~~

~~a. The Director or designee selects RIDOC employees to serve as Narcotics Detection Program Operators.~~

~~b. The primary duties and responsibilities of Narcotics Detection Program Operators are:~~

~~(1) Operating narcotics detection equipment accurately, expeditiously and efficiently.~~

~~(2) Reporting any deficiencies and failures to the Narcotics Detection Program Coordinator.~~

~~(3) Maintaining all required reports and logs.~~

~~D. Visitor Searches~~

~~1. Signs will be posted (in English and Spanish) at all visiting entrances that state:~~

~~———— Please be advised that as part of its continuing effort to prevent the introduction of drugs into its facilities, the Rhode Island Department of Corrections utilizes narcotics detection equipment. This equipment detects exposure to controlled substances/explosives on persons, property and clothing.~~

~~2. All visitors entering a randomly selected facility are scanned by Narcotics Detection Program Operators. Scans of visitors may also be initiated based upon reasonable suspicion or intelligence information. The Operators maintain a log of all scans and positive results.~~

- ~~— Infants and children are tested by their parents or legal guardians only after the parents/guardians have been tested and do not exceed the threshold or alarm levels. The parents/guardians are instructed by Narcotics Detection Program Operators on how to administer the test. At no time does the Program Operator touch or hold the infant/child. If the parent/guardian refuses to scan the child, the child is not permitted entry into the facility. The parent/guardian is also informed that minors cannot be left unattended in the reception area or on the grounds.~~
- ~~3. Where the visitor does not exceed the threshold or alarm levels, s/he is permitted entry and a regular visit.~~
 - ~~4. If exposure to controlled substances and/or explosives is detected, the visitor is given a second test.
 - ~~a. If the results are negative, the visitor is processed as usual.~~
 - ~~b. If the results are positive, the visitor is denied entrance to the facility.~~~~
 - ~~5. The following guidelines will be utilized when a visitor has tested positive with narcotics detection equipment.~~

NOTE: ~~A refusal to be tested constitutes a positive result with the narcotics detection equipment. The following guidelines will also be utilized when a visitor who has been “processed” (i.e., signed in, approved to visit) refuses to be tested with the narcotics detection equipment.~~

First Occurrence:	Visiting privileges suspended for seven (7) days.
Second Occurrence:	If within six (6) months of first occurrence, visiting privileges suspended for thirty (30) days.
Third Occurrence:	If within six (6) months of second occurrence, visiting privileges suspended for one hundred and eighty (180) days.

Fourth Occurrence:	If within one (1) year of third occurrence, visiting privileges suspended for a minimum of one (1) year. Reinstatement of visiting privileges requires written approval of the Warden.
Fifth Occurrence:	If within one (1) year of the fourth occurrence, visiting privileges permanently rescinded. Reinstatement of visiting privileges requires written approval of the Director of Corrections or designee.

- a. ~~Wardens, at their discretion, may reduce the period of visiting suspension for the first and second occurrences. Deviation from established guidelines for subsequent occurrences requires the Assistant Director of Institutions and Operations' ("ADIO") approval.~~
 - b. ~~All deviations from guidelines which increase the period of visiting suspensions require the ADIO's approval.~~
 - c. ~~Visitors who wish to appeal suspensions of visiting privileges should refer to section III. E., Visitor Registration and Search Procedures, of policy 24.03-1 DOC; Visits, or a successive policy.~~
6. ~~The following guidelines will be utilized when a visitor, who is allowed to visit only once a month, has tested positive with narcotics detection equipment.~~

First Occurrence:	Visiting privileges suspended for ninety (90) days.
Second Occurrence:	Visiting privileges suspended for one hundred and eighty (180) days.
Third Occurrence:	Visiting privileges suspended for one (1) year.

Fourth Occurrence:	Visiting privileges permanently rescinded. Visitors who would like their visiting privileges reinstated must submit a written request to the Director of Corrections or designee.
---------------------------	---

E. Confiscated Controlled Substances/Explosives

Any controlled substance or explosive confiscated is handled in accordance with Chain of Custody Procedures (see policy 9.16-1 DOC; Procedure for Protecting, Gathering and Preserving Evidence, or successive policy) and turned over to the Special Investigations Unit (SIU) for investigation.

F. Reporting and Recording of Data

All positive visitor tests are documented, including the date; facility; operator; name, race, and gender of the visitor; and the result. This information is forwarded by the Narcotics Detection Program Operator to the Narcotics Detection Program Coordinator or designee, who will, in turn, forward said results each week to the Director, ADIO, facility Warden(s), Deputy Warden(s), Chief Investigator and the Correctional Emergency Response Team (CERT) Commander.