has communications capabilities and weather observation reporting when the Vero Beach tower is closed. Therefore, the airport will meet criteria for Class E2 airspace. Class E2 surface area airspace is required when the control tower is closed to contain Standard Instrument Approach Procedures (SIAPs) and other Instrument Flight Rules (IFR) operations at the airport. This action establishes Class E2 airspace extending upward from the surface to and including 2,500 feet MSL within a 4.2-mile radius of the airport and within 3.2 miles each side of the 261° bearing from the Vero Beach Nondirectional Radio Beacon (NDB) extending from the 4.2-mile radius of the Vero Beach Municipal Airport to 7 miles west of the NDB.

DATES: Effective Date: 0901 UTC, October 25, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Group Manager, System Support, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On May 22, 2007, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E2 airspace at Vero Beach, FL (72 FR 28623). This action provides adequate Class E2 airspace for IFR operations at Vero Beach Municipal Airport when the tower is closed. Designations for Class E airspace areas designated as surface areas are published in FAA Order 7400.9P, dated September 16, 2006, and effective September 16, 2006, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E2 airspace at Vero Beach, FL.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; 2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASO FL E2 Vero Beach, FL [NEW]

Vero Beach Municipal Airport, FL
(Lat. 27°39′20″ N., long. 80°25′05″ W.)
Vero Beach NDB
(Lat 27°39′51″ N., long. 80°25′10″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within 4.2 mile radius of the Vero Beach Municipal Airport and within 3.2 miles each side of the 261° bearing from the Vero Beach NDB extending from the 4.2-mile radius of the Vero Beach Municipal Airport to 7 miles west of the NDB. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on June 26, 2007.

Kathy Kutch,

Acting Group Manager, System Support, Eastern Service Center.

[FR Doc. 07–3346 Filed 7–10–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 552

[BOP–1089–F]

RIN 1120–AA90

Searches of Housing Units, Inmates, and Inmate Work Areas: Electronic Devices

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This document adopts as final a Bureau of Prisons (Bureau) proposed rule on searches of inmates, housing units, and inmate work areas with respect to the use of electronic devices. This document also withdraws the Bureau's proposal to amend its rules on searches of non-inmates, which will be incorporated into a new and separate proposed rule. We intend this change to provide for the continued efficient and secure operation of the institution and prevent the introduction of contraband into Bureau institutions.

DATES: Effective Date: August 10, 2007.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

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

SUPPLEMENTARY INFORMATION: The Bureau amends its regulations on searches of inmates, housing units, and inmate work areas with respect to the use of electronic devices (28 CFR part 552, subpart B). This document also withdraws the Bureau's proposal to amend its rules on searches of non-inmates (28 CFR part 511, subpart B), which has been incorporated into a separate rule (72 FR 31178, June 6, 2007, effective July 6, 2007). We published a proposed rule contemplating changes to both sets of rules on February 25, 1999 (64 FR 9431) (1999 proposed rule).

Our current regulations allow for the use of electronic devices as part of our general security measures. While the regulations refer to electronic devices in general in some instances, in other instances, they merely refer to metal detectors.

When we first issued regulations on this subject, the most commonly used electronic devices (that we used) were metal detectors. Due to advances in technology, new types of electronic devices (such as ion spectrometers) are now available which can detect non-metal contraband, such as narcotics or illegal drugs. We therefore revise our regulations to remove possible confusion regarding the use of the various electronic devices. Technically, this is a minor change in policy.

Regulations on searching visitors. The 1999 proposed rule would have amended current procedures for searching visitors in the following manner: We had planned to revise the definition of reasonable suspicion at 28 CFR 511.11(a), which stated that we may base reasonable suspicion on a positive reading of a metal detector, to state that we may base reasonable suspicion on an electronic detection device's positive reading. We had also planned to revise the reference to ''electronic means'' in § 511.12(b)(1) to read ''electronic devices'' to maintain consistency.

However, because the Bureau recently published a final rule (72 FR 31178, June 6, 2007, effective July 6, 2007) that revises regulations on searches of visitors and other non-inmates, we withdrew the change contemplated by the 1999 proposed rule, and revisited that change as part of the new final rule. We note that the changes made by the final rule regarding searches of non-inmates have no impact on the changes regarding searches of inmates described below.

Regulations on searches of housing units, inmates, and inmate work areas. The previous regulations required staff to use the least intrusive search method practicable, as indicated by the type of contraband and the method of suspected introduction. Procedures governing pat searches of inmates (§ 552.11(a)) further noted that a metal detector search may be done under the same circumstances (*i.e.*, on a routine or random basis to control contraband).

We revise these provisions to clarify the role of electronic devices in general. We redesignate existing procedures in § 552.11 to make room for a new paragraph (a) regarding electronic devices. Listing electronic devices first emphasizes the non-intrusive nature of such searches.

Summary of Public Comment

We received comment from the American Civil Liberties Union (ACLU) and five other respondents, all of whom opposed the proposed rule. The ACLU commented only with regard to the portion of the 1999 proposed rule relating to searches of non-inmates. Other commenters raised concerns similar to those of the ACLU. Because these comments relate to the portion of the 1999 proposed rule regarding searches of non-inmates, we will not address those comments in this document, as we published a final rule regarding searching non-inmates (72 FR 31178, June 6, 2007, effective July 6, 2007). We address comments regarding searches of non-inmates as part of that new rulemaking.

With regard to the portion relating to searches of inmates, one commenter expressed concern that random sampling was susceptible to racial profiling. Another was concerned that Bureau staff would be unable to operate the electronic detection devices in a fair manner. We disagree with concerns raised over possible racial profiling or the ability of staff to operate the testing devices in a fair manner. Both training for staff and documented procedures for random and follow-up sampling ensure nondiscriminatory and professional operation of the testing devices.

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 not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not 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 28 CFR Part 552

Prisoners.

Harley G. Lappin,

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. In § 552.11, revise the section heading, redesignate paragraphs (a) through (c) as paragraphs (b) through (d), add a new paragraph (a), and revise newly redesignated (b) to read as follows:

§ 552.11 Searches of inmates.

(a) *Electronic devices.* Inspection of an inmate using electronic devices (for example, metal detector, or ion spectrometry device) does not require the inmate to remove clothing. The inspection includes 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.

(b) *Pat Search.* Inspection of an inmate using the hands does not require the inmate to remove clothing. The inspection includes a search of the inmate's clothing and personal effects. Staff may conduct a pat search of an inmate on a routine or random basis to control contraband.

* * * * *

[FR Doc. E7–13403 Filed 7–10–07; 8:45 am]

BILLING CODE 4410–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2007–0354 ; FRL–8338–7]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Delaware, and West Virginia; Control of Emissions From Existing Other Solid Waste Incinerator Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is notifying the public that it has received negative declarations for other solid waste incinerator (OSWI) units from the States of Delaware, and West Virginia. These negative declarations certify that OSWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist within the jurisdictional boundaries of these air pollution control agencies.

DATES: The effective date is July 11, 2007.

ADDRESSES: Docket: All documents are located in the Regional Material Edocket, identified by Docket ID Number EPA–RO3–OAR–2007–0354. The RME index can be found at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. EPA requests that if all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. Copies of the State agency submittals are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903; and the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E. at (215) 814–2190, or by e-mail at *topsale.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Sections 111(d) and 129 of the CAA require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources. However, section 129 of the CAA, also requires EPA to promulgate EG for other solid waste incineration (OSWI) units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity).

On December 16, 2005 (70 FR 74870, and 74907), EPA promulgated OSWI unit new source performance standards, 40 CFR part 60, subparts EEEE, and emission guidelines (EG), subpart FFFF, respectively.

The designated facilities to which the EG apply are existing very small municipal solid waste combustion (MWC) units that have a design combustion capacity of less than 35 tons per day and institutional waste incineration units that commenced construction on or before December 9, 2004.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants. Also, 40 CFR parts 62 provides the procedural framework for the submission of these plans. When designated facilities are located in a state, the state must then develop and submit a plan for the control of the designated pollutant. However, 40 CFR 60.23(b) and 62.06 provide that if there are no existing sources of the designated pollutant in the state, the state may submit a letter of certification to that effect (i.e., negative declaration) in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B that require the submittal of a 111(d)/129 plan. Under subpart FFFF, State are required to submit by December 18, 2006 a negative declaration or approvable section 111(d)/129 plan.

II. Final EPA Action

The States of Delaware and West Virginia have determined that there are no designated facilities, subject to subpart FFFF requirements, in their respective air pollution control jurisdiction. Accordingly, each air pollution control agency has submitted to EPA a negative declaration letter certifying that fact. The submittal dates of these letters are June 26, and June 2, 2006, respectively.

Accordingly, EPA is amending part 62 to reflect the receipt of these negative declaration letters from the noted air pollution control agencies. Amendments are being made to the following 40 CFR part 62 subparts: I—Delaware, and XX—West Virginia.

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely notifies the public of EPA receipt of negative declarations from state air pollution control agencies without any existing OSWI units in their jurisdiction. This action imposes no requirements. Accordingly, the Administrator certifies