



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

22 MAY 1998

CECW-ON

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS
AND DISTRICT COMMANDS

SUBJECT: Policy Letter 98-03 -- Executive Order 13058. Protecting Federal Employees and the Public From Exposure to Tobacco Smoke at Civil Works Water Resources Development Projects

1. This memorandum provides policy guidance on smoke free environments in order to protect Federal Government employees and members of the visiting public from exposure to tobacco smoke in Federal facilities.
2. Reference, Executive Order 13058, signed by President Clinton on 9 August 1997.
3. Smoking of tobacco products is prohibited in all interior space owned, rented, or leased by the Executive Branch of the Federal Government, and in any outdoor areas under Executive Branch control in front of air intake ducts. Interior space includes vehicles, boat cabins, office space, conference rooms, Visitor Centers, kitchen food preparation areas, restroom facilities, shower houses, changing rooms, portable toilets, park attendant (entrance) buildings, and any other public building or heavy equipment owned, rented, or leased by the U.S. Army Corps of Engineers.
4. The Executive Order also addresses smoking in doorways and in courtyards. These areas will be smoke free. Other areas that should be evaluated are amphitheaters and picnic shelters. Smoking in these areas is discouraged, however, local managers should determine the smoking policy for each of these facilities case by case, based on the airflow characteristics and normal density of public events at those facilities.
5. Posting of public facilities is necessary to designate non-smoking areas. Signs and decals are available from UNICOR. Evaluate each structure for maximum effect of minimum signage. Example: Posting a sign at the entrance may be sufficient to inform the visiting public, rather than posting each facility.
6. Implementation shall be achieved by 9 August 1998.

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7. A lenient enforcement policy is recommended during the implementation period. Authority for enforcement is 36 CFR, Part 327.12 (a) Posted Restrictions.

8. The CECW-ON point of contact for this matter is Ms. Cindy Jackson (202) 761-1797.

FOR THE COMMANDER:

Encl
as



RUSSELL L. FUHRMAN
Major General, USA
Director of Civil Works

1ST DOCUMENT of Level 2 printed in FULL format.

Public Papers of the Presidents

August 9, 1997

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HEADLINE: Executive Order 13058 -- Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace

BODY:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the Federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the executive branch to establish a smoke-free environment for Federal employees and members of the public visiting or using Federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the executive branch of the Federal Government, and in any outdoor areas under executive branch control in front of air intake ducts.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions: (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.

(b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.

(c) The order does not extend to those portions of federally owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.

(d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more Federal employees.

(e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing, approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Other Locations. The heads of agencies shall evaluate the need to restrict smoking at doorways and in courtyards under executive branch control in order to protect workers and visitors from environmental tobacco smoke, and may restrict smoking in these areas in light of this evaluation.

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Sec. 4. Smoking Cessation Programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 5. Responsibility for Implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the legislative and judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 6. Phase-In of Implementation. Implementation of the policy set forth in this order shall be achieved no later than 1 year after the date of this order. This 1 year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 7. Consistency with Other Laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.) and the National Labor Relations Act (29 U.S.C. 151 et seq.) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of Federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies shall review their current policy to confirm that agency policy comports with this order, and policy found not in compliance shall be revised to comply with the terms of this order.

Sec. 8. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or affect in any way the liability of the executive branch under the Federal Tort Claims Act.

Sec. 9. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the Federal workplace for employees and members of the public visiting or using Federal facilities.

William J. Clinton

The White House,
August 9, 1997.

[Filed with the Office of the Federal Register, 8:45 a.m., August 12, 1997]

NOTE: This Executive order was published in the Federal Register on August

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