

§ 180.1020 [Amended]

2. In § 180.1020, by amending paragraph (b) by changing the date "7/31/98" to read "1/31/00."

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**GENERAL SERVICES
ADMINISTRATION**
41 CFR Part 101-20

[FPMR Amendment D-96]

RIN 3090-AG61

Smoking Policy

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This rule revises the Federal Property Management Regulations to implement Executive Order 13058. As a result, the smoking of tobacco 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.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Howard Chideckel, Office of Business Performance at (202) 501-0457.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a significant regulatory action for the purpose of Executive Order 12866. This rule is not required to be published in the **Federal Register** for notice and comment, therefore the Regulatory Flexibility Act does not apply. The Paperwork Reduction Act does not apply because the change does not impose reporting, recordkeeping or information collection requirements which require the approval of the Office of Management and Budget pursuant to 44 U.S.C. 3501, et seq. This rule also is exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 101-20

Blind, Concessions, Federal buildings and facilities, Government property management, Occupational safety and health, Parking, Security measures, Smoking.

For the reasons set forth in the preamble, 41 CFR Part 101-20 is amended as follows:

PART 101-20—MANAGEMENT OF BUILDINGS AND GROUNDS

1. The authority citation for Part 101-20 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101-20.1—Building Operations, Maintenance, Protection, and Alterations

2. Section 101-20.105-3 is revised to read as follows:

§ 101-20.105-3 Smoking.

(a) Pursuant to Executive Order 13058, "Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace" (3 CFR, 1997 Comp., p. 216), 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 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.

(b) Exceptions. (1) The policy 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.

(2) The policy 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.

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

(4) The policy 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.

(5) Agency heads may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exceptions must 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.

(c) Agency heads have responsibility to determine which areas are to be smoking and which areas are to be non-smoking areas. In exercising this responsibility, agency heads will give appropriate consideration to the views of the employees affected and/or their representatives and are to take into consideration the health issues involved. Nothing in this section precludes an agency from establishing more stringent guidelines. Agencies in multi-tenant buildings are encouraged to work together to identify designated smoking areas.

(d) Agency heads 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.

(e) Agency heads shall be responsible for monitoring and controlling areas designated for smoking and for ensuring that these areas are identified by proper signs. Suitable uniform signs reading "Designated Smoking Area" shall be furnished and installed by the agency.

(f) Suitable, uniform signs reading "No Smoking Except in Designated Areas" shall be placed on or near entrance doors of buildings subject to this section. These signs shall be furnished and installed by the GSA Building Manager in buildings operated by GSA. It shall not be necessary to display a sign in every room of each building.

(g) This smoking policy applies to the judicial branch when it occupies space in buildings controlled by the executive branch. Furthermore, the Federal chief judge in a local jurisdiction may be deemed to be comparable to an agency head and may establish exceptions for Federal jurors and others as indicated in paragraph (b)(5) of this section.

(h) Prior to implementation of this section, where there is an exclusive representative for the employees, the agencies shall meet their obligation under the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 *et seq.*) In all other cases, agencies should consult directly with employees.

Dated: March 16, 1998.

David J. Barram,

Administrator of General Services.

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