

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-20

(FPMR Amendment D-)

SMOKING REGULATIONS

AGENCY: Public Buildings Service, GSA

ACTION: Final rule

SUMMARY: Numerous studies have concluded that smoking adversely affects the health of those persons "passively" exposed to tobacco smoke. In view of these findings, and in the interest of protecting Federal employee health and well being, GSA proposed regulations to protect the non-smoking worker's and public building visitor's right not to be exposed involuntarily to secondhand tobacco smoke at the Federal work site. The proposed regulations also recognized the needs of those who smoke and permitted the designation of smoking areas. These areas were proposed to allow those who smoke to continue to do so conveniently and without affecting productivity. Hence, the policy attempted to recognize the rights, needs, and concerns of all employees.

The proposed regulations were designed to improve the overall quality of GSA-controlled space and to assure the health and safety of Federal employees and the visiting public. The General Services Administration received numerous comments on the proposed regulations. The comments were from the general public as well as from special interest groups, Government employees, unions, and Government agencies. All comments were considered.

General Services Administration believes the final regulations are responsive to the concerns raised by employee representatives, agencies, and the public.

EFFECTIVE DATE: (Insert date of publication in the FEDERAL REGISTER.)

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-20

Smoking, Federal buildings and facilities

Title 41, Part 101-20 of the Code of Federal Regulations 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 101-20.109-10 is revised to read as follows:

Section 101-20.109-10 Regulation of smoking.

- (a) Regulations for controlling smoking in GSA-controlled buildings and facilities, including leased space and delegated facilities, are set forth below. Smoking is defined as a lighted cigar, cigarette, pipe, or any other lit tobacco product. These regulations reflect the following considerations:

- (1) In recognition of the increased health hazards of passive smoke on the non-smoker, smoking is to be held to an absolute minimum in areas where there are non-smokers.

- (2) In recognition of the needs of smokers, smoking areas should be designated in Federal buildings which are convenient, do not negatively impact worker productivity, and do not impinge on the health of those who do not smoke.

- (3) Agency heads are to be given the responsibility to determine which areas are to be smoking areas and which areas are to be non-smoking areas. In exercising this responsibility, agency heads are to give appropriate consideration to the views of the employees affected and/or their representatives and are to take fully into consideration the health issues involved.

NOTE: Agencies are encouraged to develop additional guidelines for internal use for action when violations of these regulations occur. Nothing in these regulations precludes an agency from establishing more stringent guidelines. For purposes of these regulations, general office space is defined as space occupied by personnel performing their daily work functions; this includes, but is not limited to: ADP areas, mail rooms, file rooms, duplicating areas, court and jury rooms, office space, etc.

- (b) Smoking is prohibited in the following areas:
 - (1) general office space, except as permitted under (b)(2)(iii), below;
 - (2) auditoriums, classrooms, and conference rooms;
 - (3) elevators ("No Smoking" signs shall be posted in elevators and adequate receptacles shall be placed outside the entrances if designated as a smoking area);

- (4) corridors, lobbies, restrooms, and stairways, except as permitted under (b)(2)(iv), below;
 - (5) medical care facilities such as medical clinics and units;
 - (6) libraries; and
 - (7) hazardous areas. Each agency shall post and enforce "No Smoking" rules in any location under its jurisdiction which involves flammable liquids, flammable gases, or flammable vapors, or in all other locations where there is a collection of readily ignitable, combustible materials.
- (c) Designated smoking areas shall be established as follows:
- (1) Smoking areas in cafeterias.
 - (i) Each agency head shall establish "smoking areas" in cafeterias.
 - (ii) The areas designated shall be based upon an estimate of the number of smoking and non-smoking patrons served. This may be adjusted on the basis of local experience. The designated "smoking" areas shall be identified by appropriate signs.
 - (2) "Designated smoking areas" established by agency heads.
 - (i) Agency heads shall establish "designated smoking areas" except those areas set forth

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

(ii) Agencies in multi-tenant buildings are encouraged to work together to identify "designated smoking areas".

(iii) Office space may be designated as a smoking area provided that the office space is configured so as to limit the involuntary exposure of non-smokers to secondhand smoke to a minimum; e.g., the office space involved must be large enough and sufficiently ventilated to provide separate smoking and non-smoking sections which protect the non-smokers against involuntary exposure to smoke.

(iv) An agency head may designate corridors, lobbies, or restrooms as smoking areas when it is not possible to designate a sufficient number of other smoking areas.

(d) Agencies are responsible for providing adequate ash-trays or receptacles in the designated smoking areas.

- (e) Suitable uniform signs reading "No Smoking Except in Designated Areas" shall be placed on or near entrance doors of buildings subject to these regulations. These signs shall be furnished and installed by the GSA Buildings Manager in buildings managed by GSA. It should not be necessary to display a sign in every room of each building.
- (f) An agency is not required by this regulation to make any expenditures for structural or non-structural changes to accommodate the preferences of non-smoking employees.
- (g) Prior to implementation of this regulation, where there is an exclusive representative for the employees, the agency shall meet its obligations under 5 U.S.C. 7117. In all other cases, agencies should consult directly with employees.
- (h) In accordance with the Federal Acquisition Regulation, Part 8, the mandatory source of supply for the purchase of the aforementioned signs is UNICOR, Federal Prison Industries, Inc. (FPI). Prior approval from FPI is required before using any other source of supply. Purchase Orders should be submitted to: UNICOR, Federal Prison Industries, Inc., 320 First Street, N.W., Washington, D.C. 20534, (202) 724-8239.

Dated: