DEPARTMENT OF THE ARMY
US ARMY COMMUNITY AND FAMILY SUPPORT CENTER
4700 KING STREET
ALEXANDRIA VA 22302-44

REPLY TO
ATTENTION OF

CFSC-HR

20 AUG 2002

MEMORANDUM FOR SEE DISTRUBUTION

SUBJECT: Personnel Implementing Guidance--Employee Exposure to Environmental Tobacco Smoke (ETS)

1. References:

a. Executive Order 13058, 9 August 1997, Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in The Federal Workplace (Encl 1).

b. DoD Instruction 1010.15, 2 January 2001, Smoke-Free DoD (Encl 2).

2. This memorandum provides implementing guidance for references 1.a. and 1.b. regarding employment practices to be used for employees of Army Morale, Welfare and Recreation activities who are subject to Environmental Tobacco Smoke (ETS).

3. The following guidance must be implemented no later than 7 December 2002.

a. Current employees whose duties would ordinarily include entering designated smoking areas as prescribed by reference 1.a. should be informed of their right to choose not to enter the designated smoking area during normal business hours when ETS is present. Employees who elect not to enter designated smoking areas may be reassigned without loss of grade or pay so that entry into designated smoking areas is no longer a job requirement.

b. Employees may be required to enter designated smoking areas at any time that smoking is not ongoing and ETS is not present.

c. Future job announcements for new hires in positions that may involve entry into designated smoking areas during business hours may not require working in these areas as a condition of employment. Employees may, however, agree to work in these areas voluntarily. These employees may also withdraw their agreement at any time without repercussion.

d. The national employee unions have been consulted on this policy. Activities are to complete their statutory and contractual labor relations obligations prior to implementing this guidance.

Printed on Recycled Paper

CFSC-HR
SUBJECT: Personnel Implementing Guidance—Employee Exposure to Environmental Tobacco Smoke (ETS)

e. This memorandum has been coordinated with the office of the Asst G-1 Civilian Personnel Policy.

5. The CFSC Point of Contact is Susan Conklin, DSN 761-7257.

Encls
as

ANTONIO M. TAGUBA
Brigadier General, USA
Commanding

Distribution:
COMMANDER
EIGHTH U.S. ARMY, ATTN: MR. KONIECZNY
U.S. ARMY EUROPE AND SEVENTH ARMY, ATTN: MS. WOOD
U.S. ARMY FORCES COMMAND, ATTN: MS. WIGGINS
U.S. ARMY TRAINING AND DOCTRINE COMMAND, ATTN: MR. COMPTON
U.S. ARMY MATERIEL COMMAND, ATTN: MR. GENO
U.S. ARMY PACIFIC, ATTN: MR. COLE
U.S. ARMY MILITARY DISTRICT OF WASHINGTON, ATTN: MR. NOVAK
U.S. ARMY SOUTH, ATTN: MR. HILL
U.S. ARMY MEDICAL COMMAND, ATTN: MR. NEMMERS
U.S. ARMY INTELLIGENCE AND SECURITY COMMAND, ATTN: MS. TROUP
ARMY TEST AND EVALUATION COMMAND, ATTN: MS. CHANDLER
SUPERINTENDENT, U.S. MILITARY ACADEMY, ATTN: MR. BROWN

DIRECTOR, DEFENSE LOGISTICS AGENCY, ATTN: MR. PRESLEY

CF:
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY (FINANCIAL MANAGEMENT), ATTN: MS. WEINHOLD
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND RESERVE AFFAIRS), ATTN: MS. SIMS
OFFICE OF THE DEPUTY CHIEF OF STAFF G-1, ATTN: DAPE-CP
U.S. ARMY COMMUNITY AND FAMILY SUPPORT CENTER, ATTN:CFSC-SP ,and BP
ARMY AND AIR FORCE EXCHANGE SERVICE, ATTN: MS. FORSYTH

EXECUTIVE ORDER
Effective Date
August 9, 1997

EO 13058

Responsible Office: F\ Office of Human Resources & Education

Subject: Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace

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.

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
/s/

THE WHITE HOUSE,
August 9, 1997.

Department of Defense

INSTRUCTION

NUMBER 1010.15

January 2, 2001

USD (AT&L)

SUBJECT: Smoke-Free DoD Facilities

References: (a) DoD Instruction 1010.15 "Smoke-Free DoD Workplace," March 7, 1994 is (hereby canceled)

(b) Executive Order 13058, "Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace," August 9, 1997

(c) Secretary of Defense Memorandum "Phase-in Period for Compliance with Executive Order 13058 at DoD Morale, Welfare, and Recreation (MWR) Facilities," December 7, 1990

(d) DoD Instruction 6055.1, "DoD Safety and Occupational Health (SOH) Program," August 19, 1998

(e) through (g), see enclosure 1

1. REISSUANCE AND PURPOSE

This Instruction:

1.1 Reissues reference (a) to update responsibilities and procedures for smoke-free facilities for the Department of Defense under references (b) and (d).

1.2. Reduces workplace hazards, improves working conditions, reduces costs, and furthers the occupational health goals of reference (d).

2. APPLICABILITY AND SCOPE

This Instruction applies to:

2.1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Uniformed Services University of the Health Sciences, the Defense Agencies, the DoD Field Activities and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

2.2. DoD military and appropriated and nonappropriated funded civilian personnel.

2.3. Visitors, contractors and personnel of other Agencies and businesses that operate in or visit DoD facilities.

2.4. Under Section 2(a) of E.O. 13058 (reference (b)), does not apply to indoor designated smoking areas in DoD facilities that are enclosed and exhausted directly to the outside, located away from air intakes, and maintained under negative pressure sufficient to contain tobacco smoke in the designated area. Agency officials shall not require workers to enter such areas during normal business hours while environmental tobacco smoke (ETS) is present.

2.5. Under Section 2(b) of reference (b), does not apply to any residential accommodations for persons voluntarily or involuntarily residing on a temporary or long-term basis in a building owned, leased, or rented by the Department of Defense.

2.6. Under Section 2(c) of E.O. 13058 reference (b), does not apply to those portions of DoD-owned buildings that are leased, rented, or otherwise provided in their entirety to non-Federal parties.

2.7. Under Section 2(d) of reference (b), does not apply to places of employment in the private sector or other non-Federal Government units where DoD employees or units are permanently or intermittently stationed.

2.8. Under Section 2(e) of reference (b), requests for further limited and narrow exceptions that are necessary to accomplish Agency missions shall be forwarded through applicable channels to the Secretary of Defense for final action.

3. DEFINITIONS

3.1 DoD Facility. Any interior space owned, rented, or leased by the Department of Defense.

3.2. Environmental Tobacco Smoke (ETS). Also referred to as "secondhand" or "passive" smoke. Exhaled and/or sidestream smoke emitted from smokers and the burning of cigarettes, cigars, and pipe tobacco. A major source of harmful indoor air pollution, designated a "Class A carcinogen" by the Environmental Protection Agency (EPA), and known to cause respiratory illness and heart disease (refer to NIOSH CIB54 and the EPA Report, references (e) and (f)).

4. POLICY

It is DoD policy, under references (b) through (d), that smoke-free DoD facilities be established to protect all DoD civilian and military personnel and members of the public visiting or using DoD facilities from the health hazards caused by exposure to tobacco smoke.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense For Acquisition and Technology shall oversee and review the implementation of this Instruction.

5.2. The Heads of the DoD Components shall establish smoke-free facility policies and programs, in accordance with this Instruction.

6. PROCEDURES

DoD Components shall:

6.1. Control worker exposure to ETS by eliminating smoking in DoD facilities.

6.2. Designate "outdoor smoking areas," when possible, which are reasonably accessible to employees and provide a measure of protection from the elements. Since ETS is classified as a "potential Class A carcinogen," exposure to ETS shall be reduced to the lowest possible concentration. Smoke-break areas only should be outdoors and

away from common points of ingress and/or egress into and/or out of the DoD facility and not in front of building air intake ducts.

6.3. Prohibit indoor designated smoking areas unless exempted under Sections 2(a) through 2(d), or 2(e) of E.O. 13058 (reference (b)).

6.4. Provide effective smoking cessation at all levels of commands and continue to expand the programs, as needed, as part of implementing restrictions. Due to the highly addictive nature of tobacco, program emphasis shall be on primary prevention practices that motivates DoD personnel not to start smoking, as well as motivate users to quit smoking. Anti-smoking education messages shall be provided to all personnel. All smokers and high-risk personnel, such as those with chronic respiratory and cardiac conditions and those who are part of special occupational groups, such as asbestos workers, shall receive medical counseling about the risks of smoking. Lectures, films, pamphlets, and other forms of health promotion shall incorporate the latest available medical research information on smoking, health, and treatment.

6.5. Provide information on health risks posed by involuntary inhalation of ETS in health promotion education programs. Before implementation of smoke-free DoD facilities, in accordance with this Instruction, implement the requirements in Chapter 71 of 5 U.S.C. (reference (g)).

7. EFFECTIVE DATE AND IMPLEMENTATION

7.1. This Instruction is effective immediately with the exception of morale, welfare, and recreation (MWR) facilities. The Secretary of Defense Memorandum established the beginning of a 3-year phase-in period to provide MWR facilities, other than those that sponsor children's programs, time to implement renovations and procure equipment necessary to meet the requirements in subparagraph 2.4., above. Cognizant installation commanders using the phase-in program for MWR facilities shall maintain separate smoking and non-smoking areas. At the end of that 3-year period, any facility that has not completed the facility changes necessary to establish the required special exhaust and smoke containment features in the designated smoking area shall be smoke free.

7.2. Implementation shall be consistent with the "Federal Service Labor-Management Relations Act," Chapter 71 of 5 U.S.C. (reference (g)), status of forces agreements, and host-nation labor agreements affecting direct and indirect hire of foreign nationals working in DoD facilities outside the United States and its territories. The provisions of existing collective bargaining agreements shall be honored and the DoD Components shall consult with employee labor representatives about implementation of this Instruction.

Principal Under Secretary of Defense
Acquistion, Technology, and Logistics