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**Tobacco-Tobacco Settlement:
Government Building Executive
Order**

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	SSN, DOB (Partial) (2 pages)	07/21/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Elena Kagan
OA/Box Number: 14367

FOLDER TITLE:

Tobacco - Tobacco Settlement: Government Building Executive Order

2009-1006-F

ke676

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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Tobacco - rent bldg ED

Elizabeth -
I've bracketed all the stuff about
outdoors. See my other questions
and comments too. Thanks. Erica

**President Clinton Issues Executive Order to Protect Federal Employees
from Environmental Tobacco Smoke**
August 5, 1997

? Today, President Clinton signed an executive order that will ban smoking in and around all federal Executive Branch facilities. Today's action is an important step to protect the health of federal employees, and the members of the public who visit or use federal facilities, from the health risks of environmental tobacco smoke (ETS).

Making Federal Facilities Smoke-Free

Federal agencies' smoking policies vary and many must be strengthened to fully protect federal workers and visitors. Over 15 federal agencies ban smoking indoors. But many agencies still allow smoking in areas where non-smokers and visitors may be exposed to ETS. The President's Executive Order:

- o Prohibits smoking in interior space owned, rented, or leased by the Executive Branch of the federal government, such as office space, National Park Service buildings, and U.S. General Stores.
 - ? [o Prohibits smoking at building entrances or air intake ducts, and within courtyards.]
 - o Allows agencies to have indoor designated smoking areas that are enclosed and exhausted directly to the outside. Agency heads ~~must~~ ^{may} not require workers to enter such areas during business hours while smoking is occurring.
 - o Requires heads of Executive Branch agencies to implement the order within one year, and encourages agencies to offer smoking cessation assistance to their workforce.
- cabinos?
It really doesn't prohibit what the 1st bullet says, given the exception

Implementing Strong, Science-Based Measures

Strong scientific evidence documents that exposure to ETS is a serious health risk:

- o ETS is a known cause of lung cancer in healthy smokers and is associated with increases in death rates from cardiovascular disease in non-smokers.
 - o In 1986 the Surgeon General found that simple separation of smokers and nonsmokers within the same airspace may reduce but does not eliminate ETS exposure to nonsmokers.
 - o The Environmental Protection Agency (EPA) estimates that ETS is responsible for about 3,000 lung cancer deaths each year in nonsmoking adults.
 - o Environmental tobacco smoke also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses.
- say what? do you mean nonsmokers?

Building on the President's Record

Today's executive order builds on President Clinton's efforts to protect the public from the health dangers of tobacco:

- o In March, 1994 President Clinton signed the "Goals 2000: Educate America Act," which prohibits smoking in federally-funded children's services facilities, including most elementary and secondary schools.
- o In August, 1996 President Clinton launched the nation's first-ever comprehensive program to protect children from the dangers of tobacco and a lifetime of nicotine addiction.

EXECUTIVE ORDER

Q: What will the executive order do?

A: The executive order announced today will prohibit smoking in federal executive branch facilities, with limited exceptions. Agencies may allow smoking in designated areas only if they are ventilated directly to the outside and maintained under negative pressure to keep smoke from entering other indoor areas.

Q: What are the exceptions to the executive order?

A: The executive order announced today contains the following limited exceptions:

The order does not extend to outdoor areas under Executive Branch control except at building entrances, in courtyards, and at air intake ducts. The order does not extend to any enclosed residential accommodations such as military housing or prisons.] ?

The head of any agency may establish limited and narrow exceptions in [undercover, certain military, or diplomatic situations] that are essential to accomplish agency missions.

↳ Is this all? Should be broader, no?

Q: Why are prisons excepted from the EO?

A: ^{HHS Public Affairs} Elena, the ~~Press~~ Office thinks we should add this question. I will consult Elizabeth about a good answer.]

Q: What facilities will this executive order cover?

A: All federal executive branch workplaces under federal control, including leased space, courtyards and outdoor space at building entrances and air intakes. This includes office buildings, visitors' centers and restaurants in Federal Parks, and the growing number of One Stop Shops or U.S General Stores which are centers where federal agencies gather together to provide services to the public.

Q: Does the executive order cover the Congress and courts as well?

A: No. Executive Orders only apply to agencies and employees of the Executive branch. The Congress and Judiciary are independent and separate branches of government. The Administration encourages Congress and the Judiciary to adopt measures that protect their employees and members of the public from the adverse health effects of environmental tobacco smoke.

Q: Will the executive order cover embassies and consulates abroad?

A: Yes.

Q: Does this executive order cover the military?

A: Yes. The military has been subject to a 1994 policy prohibiting smoking in all Department of Defense workplaces. The executive order announced today goes even further than the DOD policy, however, by not exempting restaurants and bars.

except if Secy finds necessary??

Q: What changes will DOD make to their current policy which allows smoking in residences, prisons, clubs, restaurants, bowling alleys, and other recreational facilities?

A: DOD understands the grave health risks posed by ETS. The agency improved its smoking policy in March 1994 to make all DOD workplaces smoke-free. The exceptions for smoking in residential and prison accommodations will continue to be appropriate under the EO. DOD is concerned about the exposure of nonsmoking personnel to ETS in their recreational facilities and will use part of the year-long implementation period to consult with personnel in charge of these facilities about ways of reducing their patrons' exposure to ETS. Options include the construction of separately ventilated smoking areas or outdoor smoking shelters.

1. DOD OK on this?

Q: How will the EO be enforced?

A: Facility managers in GSA regional offices will administer the EO, and OSHA will enforce it.

Q: Why did it take you so long to issue this order?

A: We have made a lot of progress without the executive order. Over 15 agencies have smoking bans, including the White House and the Department of Health and Human Services. But the evidence that ETS is harmful continues to grow, and not all agencies have comprehensive policies. That is why the President is acting today.

Q: Why is it necessary to ban smoking in federal work areas? Aren't separate smoking areas sufficient?

A: The simple separation of smokers and nonsmokers within the same airspace reduces but

does not eliminate exposure to environmental tobacco smoke. Separate smoking areas are only acceptable if they 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.

Q: What is the cost to the government of the EO?

A: GSA expects that the cost of complying with the EO will be minimal. Agencies may incur costs associated with improving ventilation. But smoking in workplaces lowers employers' expenditures on health and life insurance, workers' compensation, property damage and maintenance, and employee absenteeism.

Q: How many federal agencies already have no smoking policies?

A: Nearly every federal agency has a policy in place that is designed to minimize exposure to second-hand smoke in the workplace. In 1995, GSA issued the most recent regulations requiring agencies to minimize environmental tobacco smoke exposures in GSA-owned and -leased properties which amount to about 40% of federal office space. But many agencies will have to upgrade their protections of nonsmokers in order to comply with the EO requirements, such as separate ventilation systems for any smoking areas. Agencies will have to prohibit smoking in courtyards or next to building entrances and air intakes. ?

Q: How is this executive order different from the existing GSA regulation?

A: The GSA rule requires the designation of smoking areas within workplaces, but is not as protective as the EO. For example, it does not ensure that smoking areas will be separately ventilated to the outside. It also does not prohibit smoking near entrances and air intake ducts, or in courtyards. Finally, the EO applies to all facilities under Executive Branch control, whereas the GSA regulation applies only to GSA buildings. ?

Q: What is the benefit of this executive order if most federal buildings are already smoke-free?

A: Although over 15 agency workplaces are smoke-free, including the White House and the Department of Health and Human Services, several hundred thousand employees work in buildings that do not have protective policies. Some agencies such as the Department of Transportation limit smoking to smoking lounges that may not meet the strict ventilation requirements of the EO. Other agencies such as the Departments of Energy and Housing and Urban Development currently allow smoking areas in restrooms, offices, or other spaces used concurrently by smokers and nonsmokers. They will have to make these

agency workplaces or agencies? The latter, yes?

areas smoke-free.

Q: Does the EO require agencies to aid smoking employees in the transition to more smoke-free workplaces by offering them cessation programs?

A: The EO encourages Agency Heads to offer smoking cessation programs. In the past, upon implementing more protective smoking policies, the majority of federal agencies have offered some type of cessation program at agency cost or for a nominal fee.

Q: Is there a government-wide policy on smoking cessation programs in Federal agencies?

A: While there is no requirement that agencies establish such programs, the Office of Personnel Management (OPM) supports and encourages agency-authorized programs aimed at health promotion and disease prevention, including smoking cessation programs. OPM assists agencies in establishing or locating programs designed to help employees stop smoking.

Q: Do federal employees' health insurance plans cover smoking cessation assistance?

A: The government provides health services to 10 million federal employees, retirees, and their families through 375 health benefit plans. Individual plan coverage to aid members in smoking cessation varies. Federal employees should refer to their plan brochure for specific coverage information.

Generally, fee-for-service plans cover up to \$100 towards the cost of enrollment in one smoking cessation program per member per lifetime after the calendar year deductible has been met. Many fee-for-service plans also cover the cost of smoking cessation drugs that require a prescription; some cover the cost of non-prescription drugs as a part of the \$100 lifetime benefit to aid in smoking cessation.

Benefits in Health Maintenance Organizations (HMO's) vary greatly; the Prescription Drugs Benefits section of each plan's brochure specifies whether drugs to aid in smoking cessation are covered or excluded. Generally, members must contact their HMO to find out whether classes are offered for smoking cessation and whether they require any payment by the member.

Q: What other steps have you taken to reduce American's exposure to environmental tobacco smoke?

A: In 1993, the Administration supported legislation (H.R. 3434) to extend ETS workplace

protection to most workers. And, in 1994, President Clinton signed into law the "Goals 2000: Educate America Act," legislation that prohibited smoking in Federally-funded children's services facilities, including most elementary and secondary schools.

The Administration has also vigorously pursued a research agenda that has exposed environmental tobacco smoke as a cause of lung cancer, a risk factor for coronary heart disease in adult nonsmokers, and a cause of respiratory disease in hundreds of thousands of children.

Q: Would the proposed settlement with the tobacco industry have any impact on workplace smoking?

A: There are provisions in the proposed settlement that deal with workplace smoking. The specifics of these provisions will be carefully evaluated during the Administration's formal review of the proposed settlement led by Secretary Shalala and Domestic Policy Advisor Bruce Reed.

Rewrite to make more positive - describe + say then advance the same goals as the ETS

Q: Workers from a number of federal agencies recently staged a rally to bring attention to the issue of Sick Building Syndrome, Multiple Chemical Sensitivity, and other indoor air pollution issues. Is the Federal government going to respond to these concerns as well as ETS?

A: We are going to respond to the best of our ability. EPA has published guidance for offices, school, and homes. Several federal agencies, including EPA, OSHA, and the Public Health Service, are working with the private sector to better understand the health risks of indoor air pollutants.

Q: Isn't OSHA planning to issue a regulation on ETS?

A: OSHA has been working on a rule that addresses environmental tobacco smoke and other indoor air pollutants. With respect to ETS, OSHA's rule would require federal and private employers to prohibit smoking in workplaces, except in separately ventilated areas.

Q: When will OSHA publish its rule? Why has OSHA spent so long working on this proposal?

A: OSHA's April 4, 1994 proposal on indoor air quality evoked the largest public response in the agency's history, with more than 115,000 comments received when the comment period closed in August 1995. Public hearings began September 20, 1994 and ran until March 13, 1995, with more than 400 witnesses testifying.

The post-hearing comment period ended January 16, 1996. OSHA is continuing to review the comments and testimony from concerned Americans before proceeding. This process

was slowed significantly throughout Fiscal Years 1995 and 1996, due to the uncertainty surrounding OSHA's budget; this period included hiring freezes, staff cutbacks, and the government shutdown. OSHA is working hard to complete the rule, but has not set a release date.

ENVIRONMENTAL TOBACCO SMOKE

Q: What are the health effects of environmental tobacco smoke (ETS)?

A: ETS causes disease in healthy nonsmokers and is a major source of harmful indoor air pollution.

The Environmental Protection Agency (EPA) has concluded that ETS is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults. ETS also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses. Similar findings were made previously by the National Academy of Sciences, the Surgeon General, and the National Institute for Occupational Safety and Health (NIOSH).

A recent, well-received study by Harvard researchers (Kawachi et al., 1997) found that regular exposure among healthy, nonsmoking women to environmental tobacco smoke at home or at work increased their risk of coronary heart disease 91%. Even occasional exposure increased their risk by as much as 58%. The increased risk for heart disease is generally estimated at 30%. Further studies on the relationship between involuntary smoking and cardiovascular disease are needed in order to conclusively determine the causal relationship between involuntary smoking and cardiovascular disease.

Q: Haven't the EPA's numbers been largely discredited?

A: Absolutely not. The EPA's report was the subject of an extensive open review both by the public and by EPA's Science Advisory Board (SAB), a panel of independent scientific experts. The panel concurred in the methodology and unanimously endorsed the conclusions of the final report. The report has also been endorsed by the U.S. Department of Health and Human Services and many major health organizations.

Q: Do you have estimates of the total costs to society related to exposure to environmental tobacco smoke?

A: Such estimates are not available for environmental tobacco smoke exposure -- only for active smoking. Direct medical costs associated with smoking are estimated at \$50 billion per year. In 1990, the estimated indirect losses associated with premature morbidity and

premature mortality from direct smoking were \$6.9 billion and \$40.3 billion, respectively.

Q: How many people are exposed to environmental tobacco smoke in the workplace?

A: In 1996, the Centers for Disease Control and Prevention (CDC) concluded that the workplace, in addition to the home environment, significantly contributes to ETS exposure in the U.S. Of working adults who were non-tobacco users, 47.7% reported exposure to ETS at home or at work. Among adult non-tobacco users, the prevalence of reported exposure to ETS at work was greater than reported exposure to ETS at home. These findings support previous studies that have indicated the workplace is a major source of ETS exposure, particularly among nonsmokers who are not exposed at home.

Tobacco - just EO

Date: 08/05/97 Time: 16:40

SNo more huddled masses of smokers outside federal agencies

WASHINGTON (AP) The federal government is telling its workers who smoke to take a hike. They are being shooed away from building entrances under rules taking the tobacco fight outside.

That's a relief for people like Annie McGarrah, an intern with asthma who looks forward to eating lunch outdoors, free of the fumes of clustered smokers.

It's a stultifying development for some of the liberty-loving people at the Voice of America, where memories are fresh of repressive homelands and the way officials there tried to control behavior.

"We are very suspicious of these little things," says Czech native Jarmila Cech, smoking outside the building where VOA radio broadcasters speak of American freedom to the world. "Then it will be something else. Junk food? Fast cars?"

President Clinton is expected to sign the order this week banning smoking in and outside most federal buildings around the country. Most agencies already limit indoor smoking but few have tried to do the same outdoors.

Just how far smokers will need to go for a puff remains uncertain. An early draft of the rules would have banned smoking within 50 feet of buildings, putting some smokers literally on the street.

Now each agency is expected to be ordered to set up its own no-smoking policy for its entrances.

The rules apply only to the executive branch. In Congress, smoking is restricted in the House but widely allowed in Senate hallways and offices. "a smoker's paradise," anti-tobacco Sen. Frank Lautenberg, D-N.J., calls them.

Outside the Health and Human Services Department, where the many smokers stand in contrast to the agency's health mission, management analyst LeVern Dickson took a drag and asked, "What happened to my freedom?"

"I guess we'll all be sitting on the Mall instead of working," he said, calculating it will take him 10 extra minutes per smoke break if the new rules force him to cross the street and find a bench on the grassy Mall.

Some smokers were surprised the government would try to control their behavior outdoors, away from the confines that generate the most concern about secondhand smoke.

But there was also a sense that anti-smoking rules are becoming inexorable, and applied without much courtesy. Ashtrays outside federal buildings state in bold letters: Butt Out Here. There is no please, no thank you.

"It's a form of harassment, really," said Lillian Logan, a clerical staffer puffing at the entrance to the Education Department. She usually skips lunch time so she can take more smoke breaks through the day.

But some non-smokers resent having to run a gamut to and from work, and welcome the ban.

"It's an excellent idea," said Ms. McGarrah, who faces a cloud of smoke outside HHS' health care policy branch in Rockville, Md., where she normally works, and again outside the Washington headquarters when she visits.

"It bugs me that I can't sit outside for lunch," she said of the smoking. "Plus, I have asthma and I think it's gross."

"In the wintertime, I've seen the huddled masses lighting up,"

Lautenberg said. ``It's unpleasant to have to walk through it.''

Indoors, the ban would apply to all areas except the few that are separately ventilated outside. A survey of federal agencies by Lautenberg showed most have already cracked down on smoking.

But the survey found smoking was still allowed by the Commerce Department in private offices and cafeteria areas, by Veteran's Affairs for psychiatric and chronic care patients and by the Federal Trade Commission in designated areas, among other agencies.

APNP-08-05-97 1639EDT

Date: 08/05/97 Time: 10:46

SClinton ready to sign smoking ban at many federal buildings

WASHINGTON (AP) President Clinton is preparing to sign a long-awaited executive order banning smoking in most federal buildings and outside their entrances.

Clinton is expected to sign the order this week, outlawing smoking inside most government buildings unless they have a separately ventilated smoking area and extending the ban to the building entrances, officials said today.

Many federal buildings, such as the Department of Health and Human Services, already have independently banned smoking, and employees gather just outside the doors to smoke.

Complaints from employees with asthma that walking into their buildings during lunchtime, when large groups of smokers congregate near the doors, prompted Clinton to add the outdoor ban, a government official, speaking on condition of anonymity, said today.

An earlier draft of the order would have banned within 50 feet of buildings, but some buildings were so close to the street that the latest draft leaves up to each agency how far to extend the no-smoking zone.

Clinton's order would not affect offices outside the executive branch federal court buildings and congressional offices.

Once the new ban goes into effect, "the single most unhealthy environment in terms of the federal government will be Senate office buildings," said the official, adding that Clinton's ban is expected to pressure Congress to take its own steps against secondhand smoke.

"The president clearly has a very strong policy to protect Americans from the health consequences of tobacco use and that extends to federal employees," White House press secretary Mike McCurry said today.

McCurry declined to give details of the proposed order, saying it was still under review by various federal agencies.

A ceremony for Clinton to sign an executive order written in 1991 but never signed originally was set for today, but officials were told Monday that a scheduling conflict had temporarily postponed the event.

About 80 percent of U.S. employers have some workplace smoking policy, ranging from bans to designated smoking areas, and smoking already is banned in many federal office buildings.

The Defense Department in 1994 began phasing out smoking in its buildings, but many others, most notably on Capitol Hill, do allow smoking.

The Occupational Safety and Health Administration is considering rules banning smoking in most public workplaces.

APNP-08-05-97 1045EDT

Tobacco -
govt building EO

Date: 08/05/97 Time: 14:55

bAmerican Cancer Society Praises Federal Ban on Smoking

To: National Desk, Health Writer

Contact: Shelley Buckingham of the American Cancer Society,
202-546-4011, ext. 115

WASHINGTON, Aug. 5 /U.S. Newswire/ -- Following is a statement by American Cancer Society National Vice President of Federal and State Government Relations Linda Hay Crawford:

The American Cancer Society applauds President Clinton on his intention to sign an executive order to ban smoking on federal property.

Banning smoking in the workplace will have a significant impact on the health of federal employees. The exposure of nonsmokers to environmental tobacco smoke (ETS), poses definite health risks and is well documented. Workers exposed to secondhand smoke on the job are 34 percent more likely to get lung cancer.

ETS causes an estimated 3,000 lung cancer deaths and 12,000 non-lung cancer deaths a year in nonsmokers. It causes coughing, chest discomfort and reduced lung function in nonsmoking adults, and 70 percent of the lung cancer deaths attributable to ETS exposures are due to exposures outside the home.

The American Cancer Society commends Sens. Harkin, Lautenberg, Durbin and Waxman for their diligence in bringing to the president's attention the government's responsibility to protect all employees from the dangers caused by secondhand smoke, and urges Congress and federal court officials to extend the ban to the remaining branches of government.

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/U.S. Newswire 202-347-2770/

APNP-08-05-97 1454EDT

Tobacco - part EO

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Tobacco settlement - per bldg EO



Center for Partnership and Labor-Management Relations

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT WASHINGTON, D.C. 20415-0001

July 21, 1997

MEMORANDUM FOR ELIZABETH DRYE, Domestic Policy Council

FROM: Michael Cushing [Signature]

SUBJECT: Union Briefing on Executive Order on Smoking

1. Attendees

(a) American Federation of Government Employees, AFL-CIO (AFGE). AFGE is the largest Federal employee union representing approximately 600,000 employees. AFGE President John Sturdivant is currently undergoing treatment for leukemia. He has been a leader and supporter of the Administration's partnership and reinventing government initiatives.

Contact: Terry Rosen [Redacted] [001]

- Terry Rosen: US-[Redacted] P6/(b)(6)

(b) National Treasury Employees Union (NTEU), Independent. NTEU represents approximately 150,000 employees in several non-defense agencies. NTEU's largest number of unit employees is in the Internal Revenue Service.

Contact: Cary Sklar [Redacted] P6/(b)(6)

- Cary Sklar: US-[Redacted] P6/(b)(6)
- Elaine Kaplan: US-[Redacted] P6/(b)(6)

(c) National Federation of Federal Employees (NFFE), Independent. The National Federation of Federal Employees (NFFE) is the third largest union of Federal employees, representing approximately 140,000 employees mostly in the Department of Defense and the Forest Service.

Contact: Sean Safford: [Redacted] P6/(b)(6)

- James C. Cunningham (President): US-[Redacted] P6/(b)(6)
- Sean Safford: US-[Redacted] P6/(b)(6)

Memorandum for Elizabeth Drye
 July 21, 1997
 Page 2

(d) AFL-CIO Public Employee Department (PED).

The (PED) of the AFL-CIO is an umbrella organization which represents 37 other Federal labor unions. The PED represents about 129,000 Federal employees from a variety of agencies, including the metal trades unions of approximately 25,000 Federal employees and the machinists with 20,000 employees.

Contact: Paula Lucak [P6/(b)(6)]

Paula Lucak: US- [P6/(b)(6)]

(c) Michael Cushing, OPM Center for Partnership and Labor Relations [P6/(b)(6)]
 US- [P6/(b)(6)]

2. Issues

- (a) Federal workplace smoking policy is currently subject to bargaining with recognized federal unions. Smoking in the workplace is considered a working condition subject to collective bargaining.
- (b) The prospective Executive Order would make smoking policy non-negotiable. In the Federal sector, the Federal Service Labor-Management Relations Statute (5 U.S.C. Chapter 71) dictates that the duty to bargain between agency management and employee representatives exists to the extent not inconsistent with Federal law or Governmentwide rule or regulation. An Executive Order creates a Governmentwide rule, therefore making the subject non-negotiable. However, existing agreements covering the subject of the Executive Order remain in effect until they expire. At that time, the parties would be required to bring their agreement into compliance with the Executive Order.
- (c) As matter of principle, federal generally do not support removing issues from collective bargaining. Irrespective of the merits of any particular issue, federal unions generally oppose unilateral action, such as an Executive Order, that have the effect of making a matter that was formerly subject to collective bargaining non-negotiable. Smoking in the workplace has been a contentious issue for unions. Many bargaining unit employees support no smoking policies, while a not insignificant number oppose them, placing union representatives in a quandary about whose interests they should represent. In the past, negotiations over smoking policies have been especially acrimonious with unions representing employees of military bases, depots, and other installations.

Copy: Leigh Shein, Deputy Chief of Staff

Tobacco - building EO



Elizabeth Drye


07/17/97 12:22:54 PM



Record Type: Record

To: Christa Robinson/OPD/EOP

cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Cathy R. Mays/OPD/EOP, Laura Emmett/WHO/EOP

Subject: Re: Shalala 

As you know, this EO applies to all Federal agencies. I urgently need to put it in interagency review if we're doing this Tuesday. I've greased the skids with OMB, OPM, and DOD (the agency likely to have the most problems), but I'm not sure I can get this cleared by Tuesday. Unless we overrule Shalala very shortly and get the draft EO, we'll run out of time.

SMOKING IN THE FEDERAL WORKPLACE

Employees of the Federal Government and members of the public visiting or using federal facilities should be protected from exposure to environmental tobacco smoke. The health risks of smoking and exposure to smoke are clearly documented by reports of the Department of Health and Human Services and of the Environmental Protection Agency (EPA). In 1986, the U.S. Surgeon General concluded that exposure to environmental tobacco smoke (ETS) was a cause of lung cancer in otherwise healthy nonsmokers. In 1993, the U.S. Environmental Protection Agency confirmed this finding and categorized ETS as a Group A carcinogen, meaning that it was a known cancer-causing agent in humans. Since these reports, numerous studies have linked ETS exposure to various illnesses including asthma and heart disease. In fact, two recent studies found that exposure to secondhand smoke increases the risk of death from heart disease. The number of nonsmokers who die from exposure to ETS has been estimated to be as high as 56,000 each year. The evidence indicates that smoking is a preventable cause of diseases; exposure to environmental tobacco smoke is a cause of diseases, including lung cancer, in exposed persons, including healthy nonsmokers; and the simple separation of smokers and nonsmokers within the same air space does not eliminate the exposure of nonsmokers to environmental tobacco smoke.

Accordingly, by the authority vested in me as President by the Constitution and laws of the United States of America, 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, except as otherwise provided in this order.

Section 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 which 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. Employers shall not require workers to enter such areas during business hours while smoking is ongoing.
- (b) The order does not extend to outdoor areas under Executive Branch control except within 50 feet of the entrance of federal buildings, within 50 feet of air intake ducts or within courtyards.
- (c) The order does not extend to any enclosed 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.

- (d) The order does not extend to federally-owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- (e) 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.
- (f) The head of any agency may establish limited and narrow exceptions which are essential 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 environmental tobacco smoke. Authority to approve such exceptions may not be delegated.

Section 3. Responsibility for Implementation of Order. The heads of agencies of the Executive Branch 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 any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial Branches.

Section 4. Phase-In of Implementation of Order. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in 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 and the health risks of exposure to environmental tobacco smoke, and to undertake related activities as necessary. All heads of agencies should consult with employee representatives about the implementation of this order.

Section 5. Consistency with Other Law. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 *et seq.*, the National Labor Relations Act 29 U.S.C. 151 *et seq.* 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 Executive Order. Agencies are required to review their current policy to confirm that agency policy comports with this Executive Order. Agency policies found not in compliance shall be revised to comply with the terms of this Executive Order.

Section 6. Cause of Action. Nothing in this order shall be construed to create a new cause of action against the United States, or to affect in any way the liability of the Executive Branch under the Federal Tort Claims Act.

Section 7. Construction. Nothing in this order shall limit an agency head from establishing more protective policies for employees and members of the public visiting or using federal facilities.

to tobacco - per 6/11/97 EO

**PRESIDENT WILLIAM J. CLINTON
AND VICE PRESIDENT AL GORE
EXECUTIVE ORDER
BANNING TOBACCO IN FEDERAL BUILDINGS
Saturday, August 9, 1997**

Good morning. Vice President Gore has joined me today to talk to you about what we are doing to reduce smoking, especially by young people, and to protect all Americans from the potential threat of second-hand tobacco smoke.

Cigarette smoking is the most significant public health problem facing our people today. Every year, more Americans die from smoking-related diseases than from AIDS, car accidents, murders, suicides and fires combined. And the human cost doesn't begin to calculate the economic burden tobacco-related diseases put on our health care system, and on businesses across America.

Last year, my administration took bold action to shield our children from tobacco. We told tobacco companies: market and sell your products to adults if you wish, but draw the line at children. And we launched a comprehensive plan that prohibits retailers from selling tobacco to minors, and requires clerks to check I.D.s before selling cigarettes to young people. These regulations are critical to our goal of keeping tobacco out of our children's lives -- but they must be enforced. I requested \$34 million dollars for enforcement in my 1998 budget, but Congress cut that funding before they left for vacation. I urge the Congress to do the right thing, and restore the full \$34 million when they return in September. We need to do more to cut off our children's access to tobacco -- and this is no time to cut corners.

This week, I signed historic legislation that balances the budget in way that protects our values and invests in our people. Our balanced budget includes a 15-cents-a-pack cigarette tax that will help states provide health care for up to 15 million uninsured children, and help prevent many young people from taking up smoking in the first place.

But we must do more to protect all Americans from the dangers of smoking. One of the most important things we can do, is to protect those who don't use tobacco from the threat of second-hand smoke. And I'd like to ask Vice President Gore to say a few words about what that threat means to our families and children.

VP: Thank you, Mr. President. Second-hand smoke isn't just unpleasant -- it's a risk to the public health. Our Environmental Protection Agency puts it in the same category as asbestos, radon, and benzene -- some of the most dangerous of all carcinogens. A Surgeon General's report found that second-hand smoke is a cause of disease among non-smokers, including lung cancer. According to other studies, second-hand smoke increases children's risk of respiratory infections, and aggravates the symptoms of asthma.

The answer is simple: we've got to do more to protect people from second-hand smoke in our public places -- to clean up the air we all have to share. An important place to start is in the

American workplace. Lots of employers are starting to realize that smoking hurts not only those who smoke -- it may well harm other workers, and it harms America's businesses through higher disease rates, higher health care costs, greater absenteeism, and lower productivity on the job. That's why President Clinton has worked so hard to make federal government workplaces smoke-free. One of the first things he did when he took office in 1993 was to ban smoking here in the White House. Since then, many of our federal agencies have taken steps to protect their employees from second-hand smoke. But that's just the beginning. Mr. President . . .

[POTUS] Thank you, Mr. Vice President.

Today, I am signing an Executive Order that takes the next step, and bans smoking in all Federal facilities under the control of my administration. One year from today, every federal agency and office building, every visitor center at every national park, every facility owned or leased by the executive branch, must be smoke-free. This order does allow agencies to designate smoking areas for their employees who smoke, as long as these areas are ventilated to the outside, and non-smoking employees do not have to enter them. But make no mistake: our federal workers and the thousands of people who visit federal facilities will be protected from the risk of second-hand smoke.

This Fall, I hope we will begin an important national debate on additional measures we can enact to reduce smoking, especially by children. I applaud the state attorneys general and public health advocates for providing us an extraordinary opportunity to engage in this debate, and build on the progress we have already made. I am particularly pleased that their plan includes a proposal -- based on a bill by Representative Henry Waxman -- to protect all Americans from second hand smoke, and I look forward to working together in the months ahead to meet this challenge.

Americans who have made the choice not to use tobacco products should not be put at risk by those who choose to smoke. And with the step we are taking today, millions of Americans will be able to breathe a little easier.

Thanks for listening.

Rush to ELIZABETH

Tobacco - part 61 of EO

Eliz - I assume we need language here + in the EO as well limiting this to areas under control of the federal

President Clinton Issues Executive Order to Protect Federal Employees from Environmental Tobacco Smoke

August 5, 1997

government (For example in the new section 3 of the EO).

Today, President Clinton signed an executive order that will ban smoking in all federal Executive Branch facilities. Today's action is an important step to protect the health of federal employees, and the members of the public who visit or use federal facilities, from the health risks of environmental tobacco smoke (ETS).

except in limited circumstances.

Making Federal Facilities Smoke-Free

Federal agencies' smoking policies vary and many must be strengthened to fully protect federal workers and visitors from ETS exposure. Over 15 federal agencies ban smoking indoors. But many agencies still allow smoking in areas where non-smokers and visitors may be exposed to ETS. The President's Executive Order:

Generally

- o Prohibits smoking in interior space owned, rented, or leased by the Executive Branch of the federal government, such as office space and National Park Service visitors' centers.
- o Allows agencies to have indoor designated smoking areas that are enclosed and exhausted directly to the outside. Agency heads may not require workers to enter such areas during business hours while smoking is occurring.
- o Prohibits smoking at air intake ducts outside the buildings.
- o Directs agency heads to evaluate the need to limit smoking at doorways and in courtyards.
- o Requires heads of Executive Branch agencies to implement the order within one year, and encourages agencies to offer smoking cessation assistance to their workforce.

Implementing Strong, Science-Based Measures

Strong scientific evidence documents that exposure to ETS is a serious health risk:

- o ETS is a known cause of lung cancer in healthy non-smokers, and is associated with increases in death rates from cardiovascular disease in non-smokers.
- o In 1986 the Surgeon General found that simple separation of smokers and nonsmokers within the same airspace may reduce but does not eliminate ETS exposure to nonsmokers.
- o The Environmental Protection Agency (EPA) estimates that ETS is responsible for about 3,000 lung cancer deaths each year in nonsmoking adults.
- o Environmental tobacco smoke also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses.

Building on the President's Record

In August, 1996 President Clinton announced the final FDA rule to protect children from tobacco. The rule seeks to reduce children's tobacco use by 50% over seven years by restricting children's their access to tobacco and by reducing its appeal. Two provisions of the rule are already in effect:

- o Retailers are prohibited from selling cigarettes and smokeless tobacco products to anyone under age 18;
- o Retailers must verify age by photo ID for anyone under the age of 27 purchasing these products.

the product's

EXECUTIVE ORDER

Much Too Long
I'm cut some; if you think you can cut more, you should do so.

Q: What will the executive order do?

A: The executive order announced today will prohibit smoking in federal executive branch facilities, with limited exceptions. Agencies may allow smoking in designated areas only if they are ventilated directly to the outside and maintained under negative pressure to keep smoke from entering other indoor areas. In addition agencies may allow smoking in

Q: Does the order prohibit smoking in outdoor areas as well?

A: The order prohibits smoking in front of air intake ducts. It also directs the heads of federal agencies to evaluate the need to limit smoking at doorways and in courtyards.

~~**Q: What are the exceptions to the executive order?**~~

~~**A:** The order does not extend to any residential accommodations, such as military housing or prisons. In addition, the head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions, such as for undercover operations, certain military activities, or diplomatic situations.~~

Q: What facilities will this executive order cover?

A: All federal executive branch workplaces under federal control, including leased space. This includes office buildings, visitors' centers and restaurants in Federal Parks, and the growing number of One Stop Shops or U.S. General Stores which are centers where federal agencies gather together to provide services to the public.

Q: Does the executive order cover the Congress and courts as well?

A: No. Executive Orders only apply to agencies and employees of the Executive branch. The Congress and Judiciary are independent and separate branches of government. The Administration encourages Congress and the Judiciary to adopt measures that protect their employees and members of the public from the adverse health effects of environmental tobacco smoke.

~~**Q: Will the executive order cover embassies and consulates abroad?**~~

Q: Didn't earlier drafts of this E.O. include a much more restrictive ban on outside smoking?

A: ~~Any~~ executive order goes through many drafts and are subject to many changes. After careful review, the Administration decided that

a general ban on smoking at entrances and in courtyards would be inappropriate, given the wide variation among such areas. Instead, agency officials had discretion to restrict smoking in these

... ..

A: Yes.

Q: Does this executive order cover the military?

A: Yes. The military has been subject to a 1994 policy prohibiting smoking in all Department of Defense workplaces. The executive order announced today goes even further than the DOD policy, ^{however} because it covers restaurants and recreational facilities.
current *also*

Q: What changes will DOD make to ^{its} their current policy which allows ^{ing} smoking in residences, prisons, clubs, restaurants, bowling alleys, and other recreational facilities?

A: DOD understands the grave health risks posed by ETS. The agency improved its smoking policy in March 1994 to make all DOD workplaces smoke-free. The exceptions for smoking in residential and prison accommodations will continue to be appropriate under the EO. DOD is concerned about the exposure of nonsmoking personnel to ETS in ~~their~~ recreational facilities and will use part of the year-long implementation period to consult with personnel in charge of these facilities about ways of reducing ~~their~~ patrons' exposure to ETS.
its

Q: How will the EO be enforced?

A: Facility managers in GSA regional offices will administer the EO, and OSHA will enforce it.

Q: Why did it take you so long to issue this order?

A: We have made a lot of progress without the executive order. Over 15 agencies have smoking bans, including the White House and the Department of Health and Human Services. But the evidence that ETS is harmful continues to grow, and not all agencies have comprehensive policies. That is why the President is acting today.

Q: Why is it necessary to ban smoking in federal work areas? Aren't separate smoking areas sufficient?

A: The simple separation of smokers and nonsmokers within the same airspace reduces but does not eliminate exposure to environmental tobacco smoke. Separate smoking areas

are only acceptable if they 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.

Q: What is the cost to the government of the EO?

A: GSA expects that the cost of complying with the EO will be minimal. Agencies may incur costs associated with improving ventilation. But prohibiting smoking in workplaces lowers employers' expenditures on health and life insurance, workers' compensation, property damage and maintenance, and employee absenteeism.

Q: How many federal agencies already have no smoking policies?

About 15 agencies are smoke-free; almost all the rest have policies in place
A: ~~Nearly every federal agency has a policy in place that is designed to minimize exposure to second-hand smoke in the workplace. In 1995, GSA issued the most recent regulations requiring agencies to minimize environmental tobacco smoke exposures in GSA-owned and -leased properties, which amount to about 40% of federal office space. But many non-smokefree agencies will have to upgrade their protections of nonsmokers in order to comply with the EO requirements, such as separate ventilation systems for any smoking areas. For example,~~

Q: How is this executive order different from the existing GSA regulation?

~~A: The GSA rule requires the designation of smoking areas within workplaces, but is not as protective as the EO. For example, it does not ensure that smoking areas will be separately ventilated to the outside. And the EO applies to all facilities under Executive Branch control, whereas the GSA regulation applies only to GSA-owned or -leased buildings.~~

Q: What is the benefit of this executive order if most federal buildings are already smoke-free?

~~A: Although over 15 agencies are smoke-free, including the White House and the Department of Health and Human Services, more than half of the 1.9 million Federal Executive Branch employees work in agencies that will have to strengthen their policies. Some agencies such as the Department of Transportation limit smoking to smoking lounges that may not meet the strict ventilation requirements of the EO. Other agencies such as the Departments of Energy and Housing and Urban Development currently allow smoking areas in restrooms, offices, or other spaces used concurrently by smokers and nonsmokers. They will have to make these areas smoke-free. In all, more than half of the 1.9 million Federal Executive Branch employees work in agencies that will have to strengthen their policies.~~ *allows smoking in* *judicial*

Q: Does the EO require agencies to aid smoking employees in the transition to more smoke-free workplaces by offering them cessation programs?

A: The EO encourages ~~Agency Heads~~ to offer smoking cessation programs. In the past, upon implementing more protective smoking policies, the majority of federal agencies have offered some type of cessation program at agency cost or for a nominal fee.

~~Q: Is there a government-wide policy on smoking cessation programs in Federal agencies?~~

~~A: While there is no requirement that agencies establish such programs, the Office of Personnel Management (OPM) supports and encourages agency-authorized programs aimed at health promotion and disease prevention, including smoking cessation and programs. OPM assists agencies in establishing or locating programs designed to help employees stop smoking, making them available to employees.~~ *there*

Q: Do federal employees' health insurance plans cover smoking cessation assistance?

A: The government provides health services to 10 million federal employees, retirees, and their families through 375 health benefit plans. Individual plan coverage to aid members in smoking cessation varies. Federal employees should refer to their plan brochure for specific coverage information.

Generally, fee-for-service plans cover up to \$100 towards the cost of enrollment in one smoking cessation program per member per lifetime after the calendar year deductible has been met. Many fee-for-service plans also cover the cost of smoking cessation drugs that require a prescription; some cover the cost of non-prescription drugs as a part of the \$100 lifetime benefit to aid in smoking cessation.

~~Benefits in Health Maintenance Organizations (HMO's) vary greatly; the Prescription Drugs Benefits section of each plan's brochure specifies whether drugs to aid in smoking cessation are covered or excluded. Generally, members must contact their HMO to find out whether classes are offered for smoking cessation and whether they require any payment by the member.~~

Q: What other steps have you taken to reduce American's exposure to environmental tobacco smoke?

A: In 1993, the Administration supported legislation (H.R. 3434) to extend ETS workplace protection to most workers. And, in 1994, President Clinton signed into law the "Goals

2000: Educate America Act," ^{which} ~~legislation that~~ prohibited smoking in Federally-funded children's services facilities, including most elementary and secondary schools.

The Administration has also vigorously pursued a research agenda that has ~~exposed~~ ^{revealed} environmental tobacco smoke ~~as~~ a cause of lung cancer, a risk factor for coronary heart disease in adult nonsmokers, and a cause of respiratory disease in hundreds of thousands of children.

Q: Would the proposed settlement with the tobacco industry have any impact on workplace smoking?

*Put higher -
at the very
least before
cessation*

A: The proposed settlement includes far-reaching provisions to protect workers and the public from ETS. The settlement would restrict indoor smoking in "public facilities," including most private and public workplaces and fast-food restaurants. Certain facilities, such as bars, clubs, prisons, and casinos, would be exempt. The specifics of the settlement provisions will be carefully evaluated during the Administration's formal review of the proposed settlement led by Secretary Shalala and Domestic Policy Advisor Bruce Reed.

~~**Q: Workers from a number of federal agencies recently staged a rally to bring attention to the issue of Sick Building Syndrome, Multiple Chemical Sensitivity, and other indoor air pollution issues. Is the Federal government going to respond to these concerns as well as ETS?**~~

~~**A:** We are ^{us} going to respond to the best of our ability. EPA has published guidance for offices, school, and homes. Several federal agencies, including EPA, OSHA, and the Public Health Service, are working with the private sector to better understand the health risks of indoor air pollutants.~~

Q: Isn't OSHA planning to issue a regulation on ETS?

A: OSHA has been working on a rule that addresses environmental tobacco smoke and other indoor air pollutants. With respect to ETS, OSHA's rule would require federal and private employers to prohibit smoking in workplaces, except in separately ventilated areas.

Q: When will OSHA publish its rule? Why has OSHA spent so long working on this proposal?

A: OSHA's April 4, 1994 proposal on indoor air quality evoked the largest public response

in the agency's history, with more than 115,000 comments received when the comment period closed in August 1995. Public hearings began September 20, 1994 and ran until March 13, 1995, with more than 400 witnesses testifying. The post-hearing comment period ended January 16, 1996. OSHA is continuing to review the comments and testimony from concerned Americans before proceeding. This process was slowed significantly throughout Fiscal Years 1995 and 1996, due to the uncertainty surrounding OSHA's budget; this period included hiring freezes, staff cutbacks, and the government shutdown. OSHA is working hard to complete the rule, but has not set a release date.

HEALTH EFFECTS OF ENVIRONMENTAL TOBACCO SMOKE

Q: What are the health effects of environmental tobacco smoke (ETS)?

A: ETS causes disease in healthy nonsmokers and is a major source of harmful indoor air pollution.

The Environmental Protection Agency (EPA) has concluded that ETS is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults. ETS also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses. Similar findings were made previously by the National Academy of Sciences, the Surgeon General, and the National Institute for Occupational Safety and Health.

A recent, well-received study by Harvard researchers (Kawachi et al., 1997) found that regular exposure among healthy, nonsmoking women to environmental tobacco smoke at home or at work increased their risk of coronary heart disease 91%. Even occasional exposure increased their risk by as much as 58%. The increased risk for heart disease is generally estimated at 30%. Further studies on the relationship between involuntary smoking and cardiovascular disease are needed in order to conclusively determine the causal relationship between involuntary smoking and cardiovascular disease.

Q: Haven't the EPA's numbers been largely discredited?

A: Absolutely not. The EPA's report was the subject of an extensive open review both by the public and by EPA's Science Advisory Board (SAB), a panel of independent scientific experts. The panel concurred in the methodology and unanimously endorsed the conclusions of the final report. The report has also been endorsed by the U.S. Department of Health and Human Services and many major health organizations.

Q: Do you have estimates of the total costs to society related to exposure to environmental tobacco smoke?

A: Such estimates are not available for environmental tobacco smoke exposure -- only for active smoking. Direct medical costs associated with smoking are estimated at \$50 billion per year. In 1990, the estimated indirect losses associated with premature morbidity and premature mortality from direct smoking were \$6.9 billion and \$40.3 billion, respectively.

Q: How many people are exposed to environmental tobacco smoke in the workplace?

A: In 1996, the Centers for Disease Control and Prevention (CDC) concluded that the workplace, in addition to the home environment, significantly contributes to ETS exposure in the U.S. Of working adults who were non-tobacco users, 47.7% reported exposure to ETS at home or at work. Among adult non-tobacco users, the prevalence of reported exposure to ETS at work was greater than reported exposure to ETS at home. These findings support previous studies that have indicated the workplace is a major source of ETS exposure, particularly among nonsmokers who are not exposed at home.

tobacco - rwt 6/14/97 EU

**President Clinton Issues Executive Order to Protect Federal Employees
from Environmental Tobacco Smoke**
August 9, 1997

President Clinton signed an executive order that will ban smoking in all federal Executive Branch facilities, except in limited circumstances. Today's action is an important step to protect the health of federal employees, and the members of the public who visit or use federal facilities, from the health risks of environmental tobacco smoke (ETS).

Making Federal Facilities Smoke-Free

Federal agencies' smoking policies vary, and many must be strengthened to fully protect federal workers and visitors from ETS exposure. Over 15 federal agencies ban smoking indoors. But many agencies still allow smoking in areas where non-smokers and visitors may be exposed to ETS. The President's Executive Order:

- o Prohibits smoking in interior space owned, rented, or leased by the Executive Branch of the federal government, such as office space and National Park Service visitors' centers, except in limited circumstances.
- o Allows agencies to have indoor designated smoking areas that are enclosed and exhausted directly to the outside. Agency heads may not require workers to enter such areas during business hours while smoking is occurring.
- o Prohibits smoking in front of building air intake ducts in outside areas under the federal government's control.
- o Directs agency heads to evaluate the need to limit smoking at doorways and in courtyards.
- o Requires heads of Executive Branch agencies to implement the order within one year, and encourages agencies to offer smoking cessation assistance to their workforce.

Implementing Strong, Science-Based Measures

Strong scientific evidence documents that exposure to ETS is a serious health risk:

- o ETS is a known cause of lung cancer in healthy non-smokers, and is associated with increases in death rates from cardiovascular disease in non-smokers.
- o The Environmental Protection Agency (EPA) estimates that ETS is responsible for about 3,000 lung cancer deaths each year in nonsmoking adults.
- o Environmental tobacco smoke also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses.
- o In 1986 the Surgeon General found that simple separation of smokers and nonsmokers within the same airspace may reduce but does not eliminate ETS exposure to nonsmokers.

Building on the President's Record

In August, 1996 President Clinton announced a comprehensive Food and Drug Administration rule to protect children from tobacco. The regulation seeks to reduce children's tobacco use by 50% over seven years by restricting children's access to cigarettes and smokeless tobacco and by reducing the products' appeal. Two provisions of the rule are already in effect:

- o Retailers are prohibited from selling cigarettes and smokeless tobacco products to anyone under age 18;
- o Retailers must verify age by photo ID for anyone under the age of 27 purchasing these products.

to loose - part bldg EO

Executive Order to Protect Federal Workers from Environmental Tobacco Smoke

Q&A

August 9, 1997

-- NOT FOR DISTRIBUTION --

Q: What will the executive order do?

A: The executive order announced today will prohibit smoking in federal executive branch facilities, with limited exceptions. Agencies may allow smoking in designated areas if they are ventilated directly to the outside and maintained under negative pressure to keep smoke from entering other indoor areas. In addition, agencies may allow smoking in residential accommodations such as military housing or prisons, or where necessary to accomplish agency missions, such as for undercover operations, certain military activities, or diplomatic situations.

Q. Does the order prohibit smoking in outdoor areas as well?

A. The order prohibits smoking in front of air intake ducts. It also directs the heads of federal agencies to evaluate the need to limit smoking at doorways and in courtyards.

Q. Didn't earlier drafts of the executive order include a much more restrictive ban on outside smoking?

A. All executive orders go through many drafts and are subject to many changes. After careful review, the Administration decided that a general ban on smoking at entranceways and in courtyards would be inappropriate, given the wide variation among such areas. Instead, agency officials have discretionary authority to restrict smoking in these areas, based on their evaluation of the need to do so to protect workers and visitors from exposure to ETS.

Q: What facilities will this executive order cover?

A: All federal executive branch workplaces under federal control, including leased space. This includes office buildings, visitors' centers and restaurants in federal parks, and the growing number of One Stop Shops or U.S. General Stores where federal agencies gather together to provide services to the public.

Q: Does the executive order cover the Congress and courts as well?

A: No. Executive Orders apply only to agencies and employees of the executive branch. The Congress and Judiciary are independent and separate branches of government. The Administration encourages Congress and the Judiciary to adopt measures that protect their employees and members of the public from the adverse health effects of environmental tobacco smoke.

Q: Does this executive order cover the military?

A: Yes. The military has been subject to a 1994 policy prohibiting smoking in all Department of Defense workplaces. The executive order announced today goes further than the current DOD policy, because it also covers restaurants and recreational facilities.

Q: Why is it necessary to ban smoking in federal work areas? Aren't separate smoking areas sufficient?

A: The simple separation of smokers and nonsmokers within the same airspace reduces but does not eliminate exposure to environmental tobacco smoke. Separate smoking areas are acceptable only if they 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.

Q: What is the cost to the government of the EO?

A: GSA expects that the cost of complying with the EO will be minimal. Agencies may incur costs associated with improving ventilation. But prohibiting smoking in workplaces lowers employers' expenditures on health and life insurance, workers' compensation, property damage and maintenance, and employee absenteeism.

Q: How many federal agencies already have no smoking policies?

A: About 15 agencies are smoke-free; almost all the rest have policies in place to minimize exposure to second-hand smoke in the workplace. But many non-smoke-free agencies will have to upgrade their protections of nonsmokers in order to comply with the EO requirements, such as separate ventilation systems for any smoking areas. For example, the Department of Transportation allows smoking in smoking lounges that may not meet the strict ventilation requirements of the EO. Other agencies such as the Departments of Energy and Housing and Urban Development currently allow smoking areas in restrooms, offices, or other spaces used concurrently by smokers and nonsmokers. In all, more than half of the 1.9 million federal executive branch employees work in agencies that will have to

strengthen their policies.

Q: Would the proposed settlement with the tobacco industry have any impact on workplace smoking?

A: The proposed settlement includes far-reaching provisions to protect workers and the public from ETS. The settlement would restrict indoor smoking in "public facilities," including most private and public workplaces and fast-food restaurants. Certain facilities such as bars, clubs, casinos, and prisons would be exempt. The specifics of the settlement provisions will be carefully evaluated during the Administration's formal review of the proposed settlement led by Secretary Shalala and Domestic Policy Advisor Bruce Reed.

Q: Does the EO require agencies to aid smoking employees in the transition to more smoke-free workplaces by offering them cessation programs?

A: The EO encourages agency heads to offer smoking cessation programs. In the past, upon implementing more protective smoking policies, the majority of federal agencies have offered some type of cessation program at agency cost or for a nominal fee. The Office of Personnel Management (OPM) supports and encourages these programs and assists agencies in making them available to employees.

Q: Do federal employees' health insurance plans cover smoking cessation assistance?

A: The government provides health services to 10 million federal employees, retirees, and their families through 375 health benefit plans. Individual plan coverage to aid members in smoking cessation varies. Federal employees should refer to their plan brochure for specific coverage information.

Generally, fee-for-service plans cover up to \$100 towards the cost of enrollment in one smoking cessation program per member per lifetime after the calendar year deductible has been met. Many fee-for-service plans also cover the cost of smoking cessation drugs that require a prescription; some cover the cost of non-prescription drugs as a part of the \$100 lifetime benefit to aid in smoking cessation. Benefits in Health Maintenance Organizations (HMO's) vary.

Q: What other steps have you taken to reduce Americans' exposure to environmental tobacco smoke?

A: In 1993, the Administration supported legislation (H.R. 3434) to extend ETS

workplace protection to most workers. And, in 1994, President Clinton signed into law the "Goals 2000: Educate America Act," which prohibited smoking in federally-funded children's services facilities, including most elementary and secondary schools.

The Administration has also vigorously pursued a research agenda that has revealed environmental tobacco smoke to be a cause of lung cancer, a risk factor for coronary heart disease in adult nonsmokers, and a cause of respiratory disease in hundreds of thousands of children.

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A recent, well-received study by Harvard researchers (Kawachi et al., 1997) found that regular exposure among healthy, nonsmoking women to environmental tobacco smoke at home or at work increased their risk of coronary heart disease 91%. Even occasional exposure increased their risk by as much as 58%. The increased risk for heart disease is generally estimated at 30%. Further studies on the relationship between involuntary smoking and cardiovascular disease are needed in order to conclusively determine the causal relationship between involuntary smoking and cardiovascular disease.

Q: Haven't the EPA's numbers been largely discredited?

A: Absolutely not. The EPA's report was the subject of an extensive open review both by the public and by EPA's Science Advisory Board (SAB), a panel of independent scientific experts. The panel concurred in the methodology and unanimously endorsed the conclusions of the final report. The report has also been endorsed by the U.S. Department of Health and Human Services and many major health organizations.

Q: Do you have estimates of the total costs to society related to exposure to environmental tobacco smoke?

A: Such estimates are not available for environmental tobacco smoke exposure -- only for active smoking. Direct medical costs associated with smoking are estimated at \$50 billion per year. In 1990, the estimated indirect losses associated with premature morbidity and premature mortality from direct smoking were \$6.9 billion and \$40.3 billion, respectively.

Q: How many people are exposed to environmental tobacco smoke in the workplace?

A: In 1996, the Centers for Disease Control and Prevention (CDC) concluded that the workplace, in addition to the home environment, are significant sources of ETS exposure in the U.S. Of working adults who were non-tobacco users, 47.7% reported exposure to ETS at home or at work. Among adult non-tobacco users, the prevalence of reported exposure to ETS at work was greater than reported exposure to ETS at home. These findings support previous studies that have indicated the workplace is a major source of ETS exposure, particularly among nonsmokers who are not exposed at home.

Tobacco - gov't bldg co

, and may restrict smoking in these areas in light of this evaluation

and shall take ~~the~~ ^{the} action, if any,



Elizabeth Drye

08/08/97 04:58:33 PM



Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: Section 3 of EO

Please review one last time. We've reordered the words but haven't changed them beyond that since you and I last spoke. Thanks.

Sec. 3. Other Locations. The heads of agencies shall evaluate the need to restrict smoking at doorways and in courtyards under executive branch control ~~and take any~~ ^{in order} ~~action they deem necessary~~ to protect workers and visitors from environmental tobacco smoke.]

necessary action

and shall take ~~the~~ ^{the} action
any

The head.

and shall, in the exercise of their discretionary authority, take any necessary action.

The heads of agencies shall decide whether there is a ~~need~~ need to restrict smoking at doorways and in courtyards to protect workers and visitors,

The heads of agencies may restrict smoking at doorways and courtyards under executive

and act as they deem appropriate in light of this evaluation

WHITE HOUSE STAFFING MEMORANDUM

DATE: 8/4 ACTION/CONCURRENCE/COMMENT DUE BY: 8/6

SUBJECT: Proposed Executive Order - Smoking in the Federal Workplace

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McCURRY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BOWLES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McGINTY	<input type="checkbox"/>	<input type="checkbox"/>
McLARTY	<input type="checkbox"/>	<input type="checkbox"/>	NASH	<input type="checkbox"/>	<input type="checkbox"/>
PODESTA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RADD	<input type="checkbox"/>	<input type="checkbox"/>
MATHEWS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REED	<input checked="" type="checkbox"/>	<input type="checkbox"/>
RAINES	<input type="checkbox"/>	<input type="checkbox"/>	RUFF	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAER	<input type="checkbox"/>	<input type="checkbox"/>	SMITH	<input type="checkbox"/>	<input type="checkbox"/>
BERGER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SOSNIK	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ECHAVESTE	<input type="checkbox"/>	<input type="checkbox"/>	SPERLING	<input type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	STREETT	<input type="checkbox"/>	<input type="checkbox"/>
GIBBONS	<input type="checkbox"/>	<input type="checkbox"/>	TARULLO	<input type="checkbox"/>	<input type="checkbox"/>
HILLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VERVEER	<input type="checkbox"/>	<input type="checkbox"/>
IBARRA	<input type="checkbox"/>	<input type="checkbox"/>	WALDMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KLAIN	<input type="checkbox"/>	<input type="checkbox"/>	YELLEN	<input type="checkbox"/>	<input type="checkbox"/>
LEWIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Kagan</u> → <input checked="" type="checkbox"/>		
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MARSHALL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
			_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

To be signed in conjunction with radio address -- any comment?

RESPONSE:



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'97 JUL 31 PM7:30

THE DIRECTOR

July 31, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:

Franklin D. Raines
Director

SUBJECT:

Proposed Executive Order Entitled "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the Department of Health and Human Services. The proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government.

BACKGROUND: The health risks of smoking and exposure to smoke are documented by reports of the Department of Health and Human Services, the Environmental Protection Agency, and the United States Surgeon General. The evidence indicates that smoking is a preventable cause of diseases and that exposure to tobacco smoke is a cause of diseases. To protect Federal Government employees and members of the public using federal facilities from exposure to tobacco smoke, the proposed Executive order would take certain actions to prohibit smoking in all interior spaces controlled by the Executive branch of the Federal Government.

Specifically, the proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government, subject to several exceptions. The order would not apply to residential accommodations for persons in federally-owned buildings. It would not apply to federally-owned buildings, leased, rented or provided in their entirety to nonfederal parties. It would not apply to places of employment in the private sector or in other nonfederal governmental units that serve as duty stations for federal employees. It would give agency heads the authority to establish limited and narrow exceptions to the order as necessary to accomplish agency missions.

None of the affected agencies objects to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachment

EXECUTIVE ORDER

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 all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

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 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. Smoking cessation programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4. 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. 5. Phase-In of implementation. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one 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. 6. 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 are required to review their current policy to confirm that agency policy comports with this order.

Agency policies found not in compliance shall be revised to comply with the terms of this order.

Sec. 7. 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. 8. 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.

THE WHITE HOUSE,

③ Story in WPost on EO on smoking in gun lobbies

That exec order is still in clearance + under review.

In partic, the scope of the ban on outdoor
smoking has been + still is a matter of some
discussion

We'll get you talking points this morning.

Three sets of Talking points

① NYT article - immigration

? Have not had a chance to review
Welcomes debate on how best to enforce immigration laws

② ~~Medicare~~ Medicare
Fee-for-service option

Tobacco retirement - govt kldg EO



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Health
Office of Public Health and Science
Washington D.C. 20201

MEMORANDUM FOR THE PRESIDENT

I respectfully submit for your consideration a proposed Executive Order to prohibit smoking in federal executive branch facilities.

Strong scientific evidence documents that exposure to environmental tobacco smoke (ETS) is a serious risk to health. ETS is a known cause of diseases, including lung cancer, in healthy nonsmokers and is a major source of harmful indoor air pollution. ETS is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults. ETS also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses.

Major scientific reports of the Department of Health and Human Services (HHS 1986, 1991, 1996, 1997) and the Environmental Protection Agency (EPA 1993) document these findings. HHS, EPA, and most recently the Department of Labor (DOL), recommend that smoking either be prohibited indoors, or be permitted indoors only in separately-ventilated areas. Protecting nonsmokers from the health consequences of ETS exposure is the primary goal of restrictions on smoking in the workplace.

Our Administration has supported and advocated eliminating indoor exposure to ETS. The most far-reaching effort is DOL's proposed occupational standard to eliminate ETS exposure in virtually all workplaces nationwide. During the 103rd Congress the Administration also supported legislation (H.R. 3434) to prohibit ETS exposure in public buildings and on March 31, 1994 you signed P.L. 103-227, the "Goals 2000: Educate America Act" which prohibited smoking in federally-funded children's services facilities, including most elementary and secondary schools.

Existing General Services Administration (GSA) regulations on this subject were published seven years before the EPA report. The GSA regulations apply to approximately 10 percent of federal domestic facilities and do not cover those federal buildings which are under the control of federal departments and agencies with statutory real property authority. The 1986 GSA rules permit smoking in areas designated by agency heads and do not require that such areas be ventilated separately.

Mr. President, the simple separation of smokers and nonsmokers within the same airspace does not eliminate ETS exposure. As a result, many federal agencies are not now smokefree and federal workers and visitors to federal buildings are exposed unnecessarily to ETS. In view of

Page 2 - Executive Order To Prohibit Smoking In Federal Executive Branch Facilities

the solid science base and the Administration's public commitment to reducing ETS exposure, it seems inadvisable to continue to permit smoking in federal indoor workplaces. The Executive Branch has legal authority and strong scientific justification to move ahead to prohibit smoking in federal workplaces. The most expedient mechanism to announce and implement an Executive Branch smoke-free workplace policy would be a Presidential Executive Order. An Executive Order would apply more broadly and could be implemented more quickly than other approaches.

The issuance of an Executive Order would produce substantial savings rather than costs. The federal Government would be promoting the health of its employees while saving money due to reduced sick days, building maintenance, and furniture and carpet replacement. Some studies estimate conservatively that smoking in the workplace costs employers one thousand dollars annually for each employee who smokes. As the nation's largest employer, the issuance of an Executive Order to protect worker health would set an important example to other employers considering adopting smokefree policies.

A proposed Executive Order is attached for your consideration.


Donna E. Shalala

Attachment



Record Type: Record

To:

cc:

Subject: 3:30 Briefing for union leaders re EO on Smoking in Federal Workplace

Below is a list of attendees for 3:30 mtg. and talking points. Michael Cushing at OPM organized the meeting for us.

Background

As you know, the EO would ban smoking in federal workplaces except in enclosed, designated smoking areas vented to the outside, or in residences (e.g. on army bases). GSA regulations already require agencies to minimize ETS and set up separate smoking areas in cafeterias. Most agencies have already implemented more protective restrictions, such as allowing smoking only outside. The unions have challenged these changes in some cases and negotiated accommodating measures (e.g. CDC built tents for smokers outside).

The unions believe smoking policy should remain subject to collective bargaining. They therefore formally oppose addressing the issue through an EO. Their members are divided on smoking issues, however, and the unions are not likely to visibly oppose the EO.

The purpose of our meeting is to listen to their concerns and those of their membership, and to ask for their support and partnership in implementing the EO.

Participants

Michael Cushing, OPM Leigh Stein OPM
Jim O'Hara Ardis Herman HHS
Terry Rosen, American Federation of Government Employees, AFL-CIO (AFGE).

Cary Sklar, National Treasury Employees Union (NTEU).

James Cunningham, President, and Sean Safford, National Federation of Federal Employees (NFFE).

Paula Lucak, AFL-CIO Public Employee Department (PED).

Talking Points

Thank you for coming. As you know, we are preparing an executive order establishing a smoke-free environment in federal workplaces. The goal is to ensure that employees, and members of the public who enter federal buildings are not exposed to ETS. Agency heads would have the flexibility to accommodate smokers given this basic constraint (e.g. through separately ventilated smoking areas).

We are taking this step because evidence indicates that environmental tobacco smoke is a serious health

concern. In 1993, EPA found ETS to be a class A carcinogen. More recent studies have indicated that ETS contributes to other illnesses, such as heart disease and asthma. So we are working on an EO to insure all federal workers are protected from ETS.

Your views are important to us -- you have experience working with your members to reduce or eliminate workplace environmental tobacco smoke. We welcome your insights.

We ~~would~~ want to work with you to implement the order. It will not take effect immediately. There will be an implementation period, so we hope to work with you during that transition.

Re. Collective Bargaining: We recognize the importance of this issue to your members. Given the health concerns, we feel it's necessary to ensure that workers are not involuntarily exposed to ETS. We welcome your views on how to best transition toward a smoke-free work environment.



Elizabeth Drye

07/21/97 04:57:45 PM



Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Unions

Good meeting. OPM was very pleased. On cessation and bargaining, simple language changes -- (1) affirming agency heads discretion to fund cessation programs and (2) clarifying that areas of flexibility can be subject to collective bargaining -- would go a long way to addressing their concerns. We could be more directive (e.g. agency heads **SHOULD CONSIDER** funding smoking cessation programs). Should I draft some specific language with OPM?

Re. indoor air -- that's messy. I refrained from seeking empathy for my 4 years breathing the air at Waterside Mall. Do you want me to check into what we might say, if anything, on the issue? I highly doubt it will make sense to put anything in the EO itself.

tobacco-settlement -
sent bldg EO

Talking Points

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- air quality in fed bldgs.
- OSHA implementation/enforcement
- see E.O.?
- smoke outside?
- smoke cessation programs?
BOD - providing patch etc.
cessation classes.