United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

DIRECTOR'S ORDER #50D: SMOKING POLICY

Approved: _____
Acting Director

Effective date: JUN 2 9 2009

Sunset date: This order will remain in effect until amended or rescinded

This Order supersedes the December 1, 2003 edition, and any other conflicting guidance that may have been previously issued.

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1. PURPOSE AND BACKGROUND

The health and well being of its employees and visitors is of utmost importance to the National Park Service, as is the protection of its cultural and natural resources. Tobacco smoking has long been recognized as a major cause of death and disease, responsible for an estimated 434,000 deaths per year in the United States. The health risks affect not only those who smoke, but also those who are exposed to environmental tobacco smoke (ETS), commonly known as "second-hand" smoke. ETS has been designated a Class A carcinogen by the Environmental Protection Agency. Even when insufficient to cause cancer, ETS exposure can pose other health hazards for non-smokers, such as allergic reactions. It can also be a source of discomfort and annoyance. The purpose of this Director's Order is to establish a National Park Service policy for tobacco smoking that will protect employees and park visitors from the health hazards and annoyances associated with ETS exposure.

This Order brings NPS policy into compliance with Executive Order 13058: "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace" (issued August 9, 1997), and Part 310, chapter 11 of the Department of the Interior Manual (310 DM 11). The basic policy articulated by the Executive order reads:

> 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.

The Departmental Manual (310 DM 11) contains similar language, adopted in response to the Executive order. It also says that bureau heads are responsible for, "[w]here circumstances allow, designating outdoor smoking areas that are convenient, do not negatively impact worker productivity, and do not infringe on the health of those who do not smoke."

This Order is responsive to the 2006 Surgeon General's report, "The Health Consequences of Involuntary Exposure to Tobacco Smoke," and the 1992 EPA report on "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders" (EPA /600/6/6-90/006F).

2. AUTHORITY TO ISSUE THIS DIRECTOR'S ORDER

The authority to issue this Director's Order is contained in the National Park Service Organic Act (16 USC 1 through 4), and the delegations of authority contained in Parts 245 and 310 of the Department of the Interior Manual.

3. EXISTING SERVICE-WIDE POLICY

Service-wide policy has been articulated in (1) the Code of Federal Regulations at 36 CFR 2.21 (which pertains to smoking in parks), and (2) NPS Management Policies sections 5.3.1.2 (which pertains to the protection and preservation of cultural resources) and 10.2.4.13 (which pertains to smoking in concessions facilities). This Director's Order supplements existing NPS policy and supersedes any other conflicting policy or procedure relating to or regulating exposure to tobacco smoke in the national park system. The relevant wording from Management Policies and the CFR is quoted below:

36 CFR 2.21 Smoking.

(a) The superintendent may designate a portion of a park area, or all or a portion of a building, structure or facility as closed to smoking when necessary to protect park resources, reduce the risk of fire, or prevent conflicts among visitor use activities. Smoking in an area or location so designated is prohibited.

(b) Smoking is prohibited within all caves and caverns.

Management Policies

5.3.1.2 Fire Detection, Suppression, and Post-fire Rehabilitation and Protection. Smoking will not be permitted in spaces housing museum or library collections or in historic structures (except those used as residences in which smoking is permitted by the park superintendent).

10.2.4.13 Smoking.
Generally, all NPS concession facilities will be smoke free. The only exceptions—which the Service does not encourage—will be specifically designated smoking areas and rooms if allowed by state and local law. The sale of tobacco products through vending machines is prohibited.

4. POLICY, REQUIREMENTS, AND RESPONSIBILITIES

For the purposes of this Director's Order, "smoking" is the use or carrying of a lighted cigar, cigarette, pipe, or other tobacco product. A "non-smoking area" is defined as one where smoking is prohibited, as are all by-products created by burning tobacco.

4.1 POLICY

4.1.1 Generally. It is the policy of the National Park Service to provide a smoke-free environment for its employees and members of the visiting public. To accomplish this, smoking is prohibited:

- In the interior space of all NPS-owned, -leased, or -administered buildings, including shared government quarters (such as dormitories, bunkhouses, apartments, mobile homes and other residential structures that are shared by unrelated individuals).

- Within 25 feet of any entrance or exit primarily accessed by the visiting public.

- Within 25 feet of any entrance or exit not generally accessed by the public, where smoking would result in smoke traveling through doorways, windows, air ducts or other openings.

- Within any type of government-owned or -leased vehicle, including heavy equipment, watercraft, or aircraft. AND

- In any area or facility designated by the site manager as closed to smoking. A site manager may, at any time, close an area or facility to smoking when necessary to (a) protect park resources, (b) reduce the risk of fire, (c) protect employees and the public from ETS exposure, or (d) prevent conflicts among employees or visitors.

4.1.2 Exceptions. Smoking is permitted in the following locations:

- Any non-shared residential accommodation for persons or families residing in a building owned, leased or rented by the Federal Government. If such accommodation is located in an historic structure, however, smoking is prohibited unless permitted by the site manager in accordance with section 5.3.1.2 of Management Policies.

- Outdoor parking lots or sidewalks (other than those covered by the provisions of §4.1.1 above).

- Space assigned in its entirety to other agencies, where such other agencies permit smoking.

- Such places as may be designated in writing by the regional director or center manager, upon a finding that the exception thus created does not (a) threaten park resources, (b) increase the risk of fire, (c) make it more likely that employees and/or the public will be exposed to ETS, or (d) create conflict among employees or the public.

4.2 REQUIREMENTS

4.2.1 Generally. The Service will ensure compliance with Executive Order 13058 and 310 DM 11 by implementing the provisions of this Director's Order, and the applicable provisions of NPS Management Policies.

4.2.2 Labor Relations. The provisions of this order will be implemented consistently with all applicable laws, including the Federal Service Labor-Management Relations Act (5 USC 7101-7135) and the National Labor Relations Act (29 USC 151-169). In an effort to honor the provisions of existing collective bargaining agreements, site/office managers will consult with employee labor representatives about the implementation of this Order.

4.3 RESPONSIBILITIES

4.3.1 Associate Director. The Associate Director for Visitor and Resource Protection will take all appropriate steps to ensure implementation of this order. Authority is hereby delegated to the Associate Director to promulgate a reference manual or handbook to guide implementation of this Director's Order.

4.3.2 Regional Directors. Regional directors will appoint a senior manager with line authority to oversee the implementation of this Director's Order.

4.3.3 Site managers (superintendent/center, unit, or office manager) will:

- Ensure that this Director's Order and associated local procedures are implemented and enforced. The superintendent's "compendium" authority in 36 CFR 1.5, and the superintendent's authority under 36 CFR 2.21 to "designate a portion of a park area, or all or a portion of a building, structure or facility as closed to smoking when necessary to protect park resources, reduce the risk of fire, or prevent conflicts among visitor use activities" should be used for this purpose.

- Honor the provisions of existing collective bargaining agreements by consulting with employee labor representatives about the implementation of this order.

- Advise employees of this Director's Order and how it is being implemented locally.

- Assess public use to determine if and where smoking should be prohibited to achieve the intent of this policy.

- Ensure that (1) proper signage is installed where appropriate to regulate smoking, and (2) the rationale for designating areas where smoking is permitted or prohibited is added to the park/office compendium.

- Designate and properly sign areas containing flammable and/or highly combustible materials or atmospheres as non-smoking in compliance with National Fire Protection Association standards.

- Provide appropriate receptacles for disposal of discarded tobacco materials.

- Ensure that each concessioner is in compliance with their contract provisions relating to smoking. Generally, all NPS concession facilities will be smoke free except for specifically designated smoking areas and rooms. Where these are provided, they must be properly signed and ventilated to ensure that smoke does not migrate into non-smoking areas. The sale of tobacco products through vending machines is prohibited, and no tobacco products will be sold to minors. AND

- Identify resources and opportunities to assist employees to stop smoking, such as smoking cessation programs.

4.3.4 Supervisors will:

- Assist the site manager in ensuring that this Director's Order is implemented and enforced.

- Inform employees, volunteers, and all persons performing work for the National Park Service of this Order as it relates to activities within the scope of the supervisor's responsibility.

- Exercise sound and reasonable judgment in enforcing the smoking policies. Disputes should be resolved through informal discussions at the lowest possible level. Initial violations of smoking restrictions will be handled by oral counseling unless other acts of misconduct are involved. Recurring violations may subject employees to progressive discipline, including (where appropriate) a citation for violation of 36 CFR 2.21.

4.3.5 Employees will:

- Adhere to established local policies for smoking.

- Report any violation of the smoking policies to their supervisor. Employees must not attempt to personally enforce the policies by confronting others. Employees who believe that smoking policies are being violated should report such violations to their immediate supervisor or, if he/she is not available, the nearest available supervisor or their union representative.

----------*End of Director's Order*----------