

**UNITED STATES DEPARTMENT OF AGRICULTURE**

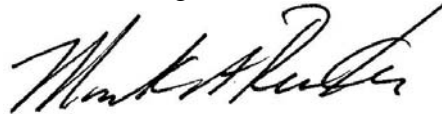
Farm Service Agency  
Washington, DC 20250

**Notice AS-2289**

**For:** FSA Employees and Contractors

**FSA Tobacco Policy**

**Approved by:** Deputy Administrator for Management



**1 Smoking Tobacco-Free FSA**

**A Background**

Executive Order (EO) 13058, Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace; GSA Bulletin Federal Management Regulation (FMR) 2009-B1, Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace; and Departmental Regulation (DR) 4400-006, USDA Smoking Policy; authorize FSA to expand the current no-smoking policy to prohibit smoking on all FSA properties, unless more restrictive policies are not allowed by the terms of the lease.

**Note:** The U.S. Court of Appeals has ruled that as a nicotine-containing product (electronic cigarettes (e-cigarettes) vaporize liquid nicotine), e-cigarettes must be regulated as a tobacco product. Therefore, EO 13058 applies to smoking e-cigarettes in any interior space that is owned, rented, or leased by the federal government.

Public Health Service Act, Section 1701(a)(7)(A) authorizes all federal agencies to prohibit the use of all smoking tobacco products on all FSA properties. This is part of a model program to promote healthy behaviors and discourage participation in unhealthy behaviors.

The Comprehensive Smoking Education Act (15 U.S.C. 1341) and the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401) provide further legal authority for smoking tobacco-free FSA.

**B Purpose**

This notice sets forth the tobacco policy that includes e-cigarettes and all tobacco products for FSA.

**C Tobacco Policy**

Environmental tobacco smoke, also termed second-hand smoke, is classified as a known human carcinogen by EPA. E-cigarettes usage in the act of vaping or to vape is the act of inhaling and exhaling the vapor produced by an electronic cigarette or similar device.

Disposal Date	Distribution
January 1, 2016	All FSA employees and contractors; State Offices relay to County Offices

## 1 Smoking Tobacco-Free FSA (Continued)

### C Tobacco Policy (Continued)

Smokeless tobacco, also known as chewing tobacco or snuff, must be treated as nuisance by local management. The act of chewing tobacco inside all FSA offices is highly discouraged. The policy is designed to protect FSA employees, contractors, and visitors from the health hazards of environmental tobacco use.

This notice prohibits:

- smoking tobacco use inside all FSA facilities, and
- both smoking and chewing tobacco in government-owned motor vehicles.

Using tobacco products (including cigarettes, e-cigarettes, cigars, pipes, or other tobacco products) at FSA facilities is prohibited unless permissible in areas that meet the conditions stipulated in DR 4400-006, subparagraph 5 b, and have been specifically designated as smoking areas by authorization of the head of the facility's lead agency. Chewing tobacco, although not banned, shall be treated as a nuisance if the act of chewing interferes or disrupts other office employees from performing their duties, because the act of chewing can be offensive to other employees working in the same area.

Management must address chewing tobacco in the office as a nuisance and take the necessary action to curtail chewing tobacco, if it creates a disruption amongst employees. In addition, all chewing tobacco-laced saliva must be contained in a sealed container to avoid spillage of saliva. The act of chewing tobacco and the tobacco-laced saliva has potential health risks.

This notice is in compliance with 41 CFR Part 102-74 and GSA Bulletin FMR Bulletin 2009-B1. Any exceptions must be published, in writing, approved by the head of the facility's lead agency, and provide for the protection of nonsmokers from exposure to environmental tobacco smoke. Changes in conditions of employment for bargaining unit employees **must** be implemented pursuant to 5 U.S.C. 71.

### D Scope

Using tobacco products is prohibited at all times in government vehicles and all interior space owned, rented, or leased by FSA.

FSA facilities where labor agreements with relevant unions have **not** yet been renegotiated to incorporate the provisions of the new policy and construction sites on FSA property are temporarily deferred from implementing the tobacco facility policy.

## 1 Smoking Tobacco-Free FSA (Continued)

### D Scope (Continued)

Outdoor environments in leased facilities not under full control of FSA and temporarily deferred locations will remain subject to the pre-existing policy that states that the smoking of tobacco products is prohibited:

- in government vehicles,
- in all interior spaces owned, rented, or leased by FSA,
- within 15 feet of building entrances and exits, and
- within designated smoke-free zones.

### E Authority

This notice is issued in accordance with 5 U.S.C. 301, 5 U.S.C. 7901, 29 U.S.C. 668, EO 13058, 41 CFR 102-74.315, and GSA Bulletin FMR B-3.

### F Definitions

The following are definitions of terms used in this notice:

- smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe
- tobacco products mean any type of tobacco or tobacco-like product including, but not limited to, cigarettes, e-cigarettes, cigars, cigarillos, pipes, bidis, hookas, smokeless, chewing tobacco, or snuff
- leased space means space in privately owned buildings that are leased for use by USDA
- labor/management agreement means union and bargaining unit representation for USDA employees

**Note:** Where there is an exclusive representative for the employees, USDA must meet its obligations under 5 U.S.C. 71.

- motor vehicles mean all types of motorized government-owned or leased vehicles assigned to USDA including, but **not** limited to, automobiles, ships, and aircraft.

## 1 Smoking Tobacco-Free FSA (Continued)

### G Enforcement

The success of the FSA smoking policy depends on the thoughtfulness, consideration, and cooperation of both smokers and nonsmokers, as follows.

- **Supervisors** have the responsibility to enforce this policy for employees under their supervision and follow established administrative procedures including, but not limited to, cautions, counseling, and disciplinary actions, as appropriate. Supervisors will take direct action when personally observing violations, and will follow-up, as necessary, on reports by others. The agency's employee relations unit will provide assistance to employees and supervisors upon request.
- **Employees** observing violations of this policy should report the situation to the individual's supervisor when practical to do so. When the supervisor is not readily identifiable, violations should be reported to the security office, to any security officer or facility manager. Employees reporting violations of this directive must not be subject to retribution or to reprisal.
- **Security officers or facility managers** may enforce the smoking policy where it is impractical for a supervisor to exercise authority, such as in common areas.

Refusal to comply with a security officer's order may result in removal from the premises and/or notification of the individual's supervisor for appropriate administrative action.

### H Signs

Signs bearing the message, smoke-free facility, will be posted at each vehicular and pedestrian FSA facility entrance and each building owned or leased will display a decal that states, smoke free facility. Smoke-free zones apply on the grounds around FSA-owned facilities and around facilities fully leased or rented by FSA, whether or **not** signs are posted. No ashtrays or smoking shelters will be provided on smoke-free facility grounds.

### I Contact

For questions regarding this notice contact Ezekiel "Zeke" Dennison, Jr., Director, MSD, at either of the following:

- e-mail to [ezekiel.dennison@wdc.usda.gov](mailto:ezekiel.dennison@wdc.usda.gov), or
- telephone at 202-690-2501.