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DOJ Banning Smoking in Federal Prisons

Only exemptions for 'religious reasons' and staff

By Elizabeth Harrington

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The Justice Department (DOJ) is banning smoking and all tobacco products in federal prisons, according to a final regulation to be published Monday.

All federal prison inmates will be prohibited from smoking, unless they receive a religious exemption. Staff will also still be able to smoke in designated areas. The government said they are moving forward with the regulation, which goes into effect in 30 days, out of concerns of the health of their inmates.

The rule will affect the estimated 80 percent of prison inmates that smoke.

"The revised regulations generally prohibit smoking in and on the grounds of Bureau institutions and offices, except as part of an authorized inmate religious activity; and, for Bureau staff and official visitors, only in smoking areas designated by the Warden," the final rule said. "Possession of smoking apparatus and tobacco in any form is prohibited for inmates under this rule, unless as part of an authorized inmate religious activity."

"We intend this amendment to promote a clean air environment and to protect the health and safety of staff and inmates," the DOJ's Bureau of Prisons (BOP) said.

The government has been working to ban smoking in prisons since 2006, according to the rule.

Several commenters raised concerns about a larger black market due to the ban, and said the rule was unfair since it does not apply to prison guards.

“Banning tobacco products will decrease the safety of staff,” said one commenter. “The price of contraband tobacco will increase, inciting inmate security issues.”

BOP said the rule is not unfair since, “As a practical matter, smoking is a lawful activity for Bureau employees.”

“In the interests of balancing staff morale with institution safety and security, the Director has decided to allow for the possibility of limited opportunities for staff smoking,” they said.

With the new rule, federal prisons join a growing list of where smoking may soon be outlawed. Outgoing Defense Secretary Chuck Hagel suggested banning tobacco sales at all military installations, and the Centers for Disease Control and Prevention (CDC) would like to outlaw tobacco use at every work place in the country, including construction sites, the Capitol building, casinos, airports with smoking rooms, and Major League Baseball.

The religious exemption for prison inmates is likely aimed at Native Americans, who have a history of ceremonial tobacco smoking. One commenter argued that the regulation would create a “substantial burden” on the “religious exercise of Native Americans,” though the government decided to permit smoking as an “authorized inmate religious activity.”

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