

THE TOBACCO INSTITUTE

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SAMUEL D. CHILCOTE, JR.
President

August 17, 1994

Ms. Mary D. Nichols
Assistant Administrator for
Air and Radiation
Office of Air and Radiation
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20013-7133

Re: The Costs and Benefits of Smoking
Restrictions -- An Assessment of the
Smoke-Free Environment Act of 1993

Dear Ms. Nichols:

During the past several days, a number of independent economists and other indoor air quality experts have submitted to your office, as requested in the Federal Register notice dated May 13, 1994 (59 Fed. Reg. 25051-52), comments on the above-captioned document ("EPA Cost/Benefit Report" or "Report"). The purpose of my writing at this time is to forward a number of documents that are pertinent to conclusions reached in the EPA Cost/Benefit Report, including several documents that have become available within the past few days.

We believe that the documents that are enclosed demonstrate that the EPA Cost/Benefit Report greatly overstates the possible benefits of smoking restriction legislation like H.R. 3434 while greatly understating the costs that such legislation would impose upon both individuals and businesses.

Among the points that we would urge you and your staff to consider in connection with the EPA Cost/Benefit Report are the following:

1. Some General Observations Concerning Methodology

In the past, cost/benefit analyses undertaken by agencies of the federal government -- whether pursuant to legislation or as part of ongoing efforts to establish agency priorities -- typically have begun with a detailed description of the methodology being utilized. One critical aspect of an

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President

LG - jz
Walter

As per your
request, file
copies (3).

August 17, 1994

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Benefits of Smoking
-- An Assessment of the
Smoking and Environment Act of 1993

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appropriate cost/benefit methodology is, of course, a detailed description of how individual conclusions were reached, including what data sources were relied upon and how the pertinent calculations actually were performed. In addition, most federal agencies have resisted the temptation to make pronouncements concerning either costs or benefits when the available data were either too limited or conflicting to provide reasonable confidence in the results.

The EPA Cost/Benefit Report violates, in our opinion, all of the methodological requirements just described. Repeatedly, the Report arrives at conclusions without providing any indication whatsoever concerning the source or sources of data upon which the conclusions were based. Further, when source data are disclosed, the data often are of a type or are so limited in scope that even a casual reader would dismiss any consequent conclusions as being meaningless.

It is difficult, for example, to take seriously a projected series of building "operational and maintenance" savings, said to be achievable in the event of a national smoking ban, based upon a report that one firm experienced a "15% reduction in housekeeping costs when a non-smoking policy was introduced." As several economists have pointed out in written comments, if such savings are truly available to U.S. businesses, they would not need the federal government to tell them so.

Even more troubling, however, is EPA's willingness to attach significance to the reported experience of a single company, which is not even identified in the Report. There is no way that the experience of a single company (whether named or unnamed) can be applied to U.S. businesses generally. To build a nationwide projection on so limited a database is more than problematic.

In the same area, the Report hypothesizes a series of savings associated with reduced cleaning, replacement and/or repair of computer keyboards, carpets and office furniture. As Mr. Gray Robertson of Healthy Buildings International noted in comments submitted to your office last week, most of the "savings" that have been projected in those areas were not projected when Administrator Browner appeared before the Waxman Subcommittee on February 7, 1994. Indeed, they appear to have been manufactured to replace "savings" lost when the drafters of the Report were forced to concede that they could not sustain the "savings" they previously had projected for reduced painting expenses.

There is no way that a reader of the Report can assess either the reality of the "savings" claimed in the current draft Report in connection with items such as computer keyboards, carpets, office furniture. The same has to be said of many of the other "savings" described in the Report. Repeatedly, savings are simply declared to be available, without analysis (much less detailed or extended analysis) and without any indication of the data upon which the claims are based.

We could quite easily claim, of course, that smokers are much more careful with computer keyboards, carpets and office furniture than their coffee drinking colleagues. We could argue, in addition, that the removal of all ashtrays from the office environment would lead to a greater rather than a lesser number of burns and other accidents than is the case currently. We would expect, were we to make such claims, to be called upon to provide supporting data. The Environmental Protection Agency should not be held to any less exacting standard.

2. Health-Related Savings

We have attached to these comments a series of submissions that were made during the past few days to the Occupational Safety and Health Administration ("OSHA"). There also is attached a copy of the comments submitted to OSHA by The Tobacco Institute. Finally, we are forwarding to you with this letter a copy of testimony and a report prepared by Drs. Jane Gravelle and Dennis Zimmerman of the Congressional Research Service commenting upon the health effect claims that have been made concerning ETS.

Read together, we believe that the documents that are attached demonstrate overwhelmingly that ETS has not been shown to pose a health risk to nonsmokers. As a consequence, we submit that the health-related "savings" projected in the EPA Cost/Benefit Report should be deleted.

Curiously, we note that the great bulk of the health-related "savings" claimed in the EPA Cost/Benefit Report are simply assumed. Most of the projected savings do not relate to lung cancer, one of the topics that was at least covered in the controversial 1993 EPA report entitled "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders" (EPA/600/6-90/006F). Instead, approximately 90 percent of the purported health effect savings stem from a claimed reduction in coronary heart disease ("CHD") among nonsmokers.

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As you know, EPA has never found that ETS causes or exacerbates CHD. Further, both the Surgeon General as well as the National Academy of Sciences/National Research Council concluded in 1986 that the available ETS/CHD data were inadequate to establish any relationship between ETS and the incidence or exacerbation of CHD among nonsmokers. The EPA Cost/Benefit Report appears to concede as much but goes on, nevertheless, to assume that ETS is responsible for between 12,000 and 24,000 CHD deaths per year.

We simply do not understand how EPA could have concluded approximately one year ago that the ETS/CHD data were insufficient to establish a causal link between ETS and CHD yet be prepared to assume such a link in the current cost/benefit analysis. The American Heart Association estimates referred to in the Report were available to EPA when EPA's ETS health effects report was being prepared. No data have been reported in the literature since that time warranting a change of position by EPA so far as ETS/CHD is concerned.

In fact, as discussed in the attached comments from Drs. Maurice LeVois and Maxwell Layard, data from three studies that have not been (but soon will be) published should put an end to speculation about a possible association between ETS and CHD. The number of cases for which ETS/CHD data were collected in the studies described by Drs. LeVois and Layard exceeds the number of cases in previously published studies by more than 7 fold. The soon to be published data shows no association whatsoever between exposure to ETS and the incidence of CHD among nonsmokers (RR 1.00, 95% CI 0.97-1.04).

In sum, there is no basis for the assumption built into the EPA Cost/Benefit Report concerning the impact of a national smoking ban on the incidence or exacerbation of CHD. Once that assumption is removed, of course, so too are approximately 90% of the health effect "savings" hypothesized in the Report. As demonstrated in various of the analyses that are enclosed, we submit that the "other" health effect "savings" hypothesized in the current Report are as chimerical as those relating to CHD.

3. Other Costs and Savings

A consistent and clearly perceivable pattern characterizes the treatment in the Report of most of the cost/benefit categories that any cost/benefit analysis of a proposed smoking ban would be expected to discuss. Whenever the Report focuses upon costs likely to be incurred as a result of a federally-imposed smoking ban, the Report professes an

inability to quantify the costs with sufficient precision to justify producing an actual figure that would have to be deducted from the "savings" claimed in other sections of the Report. By contrast, no possible benefit is too speculative or uncertain to be added to the "positive" side of the ledger. A few representative examples follow.

One does not have to venture far from the EPA headquarters building in Washington, D.C., at any time of the working day, to see smokers huddled in the doorways of commercial buildings on smoking breaks. Yet, the Report finds such costs to be unquantifiable. At the same time, however, the drafters of the Report seemed to have little difficulty quantifying reductions in absenteeism claimed to be associated with smoking bans.

The impediments to assigning a role to smoking so far as occupational absenteeism is concerned are many. As James Athanasou, an antismoking advocate, stated in an early review article:

Sickness absence is a complex behavioral phenomenon in which a multiplicity of health, social and psychological factors are involved.
* * * Most investigators have implicitly assumed that the only difference between a non-smoking and a smoking group is their tobacco habit and that any other personal factors are equally distributed within these groups.
* * * None of the reported studies has considered the additional effects on sickness absence of job satisfaction, attitudes to work, personality, other psychosocial or socio-economic variables and the urban factor in conjunction with the effects of smoking."

Athanasou, J., "Sickness Absence and Smoking Behavior and Its Consequences," J of Occ Med (1975), vol. 17, pp. 441, 444. The same point has been made repeatedly by others since the Athanasou article appeared, including by the Surgeon General of the United States. Reducing the Health Consequences of Smoking -- 25 Years of Progress: A Report of the Surgeon General (1989), p. 11; see also, e.g., Tollison, R. and Wagner, R., The Economics of Smoking (1992), pp. 64-66, 117; and Chapman, D., "Managing for Health and Productivity," in Work Health and Productivity (G. Green & F. Baker, eds. 1991), p. 232; Kristein, M., "How Much Can Business Expect To Profit From Smoking Cessation?," Prev Med (1983), vol. 12, p. 361. The studies cited in the EPA Cost/Benefit Report do not begin to overcome the objections just described.

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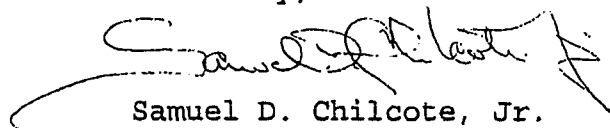
In addition to declining to quantify many of the obvious costs of a national smoking ban, and stretching far beyond the available data to make wildly exaggerated benefit claims, the Report adopts another strategy that is as transparent as it is irresponsible. After having focused on some of the most outrageous and ill-founded claims that have been made concerning smoking, the Report makes concededly arbitrary downward adjustments -- proceeding then to characterize the resulting estimates, or range of estimates, as being "conservative."

With respect, we must say that the procedure just described conjures up nothing so much as the old refrain "garbage in, garbage out." Put another way, one cannot make something out of nothing by dividing the nothing by half (or one-third or two-thirds). One is still left, after the most sophisticated of mathematical perambulations, precisely where one began -- with nothing.

* * * * *

The comments that have been submitted to your office by independent economists and others elaborate upon the points made above and also make a number of other important points that need not be repeated here. We would urge that serious consideration be given to such observations and, if not withdrawn entirely, that the EPA Cost/Benefit Report be revised substantially before being released in final form.

Sincerely,



Samuel D. Chilcote, Jr.

Enclosures

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