The EPA report: why the tobacco control world will never be the same

This issue of *Tobacco Control* (pp. 71-79) contains the executive summary of a report by the US Environmental Protection Agency (EPA) entitled *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders*. The report, four years in preparation due to a determined onslaught by the tobacco industry, concludes that environmental tobacco smoke (ETS) is a Group A (proven human) carcinogen and causes a variety of respiratory problems in children including exacerbation of asthma.

The report is a comprehensive and exhaustively documented risk assessment which reaches conclusions about the causal relationships between ETS exposure and lung cancer and childhood respiratory disease, and which derives quantitative estimates for the number of individuals in the US who are affected each year. The EPA and its staff are to be congratulated for the production of a truly outstanding scientific document and for having the political courage to persist in the effort to complete its review in the face of a determined effort by the tobacco companies to alter its conclusions and prevent its release (see *Tobacco Control* 1992; 1: 166-7).

It would be easy to underestimate the importance of this report, even for those who have worked to protect non-smokers from ETS exposure. It is more than just another comprehensive scientific review of ETS, and more than an act of political courage by a US governmental agency. It is even more than a scientific review within the framework required to regulate environmental exposures. It is the beginning of a new era in tobacco control. The release of this report completes the process of developing a scientific consensus on the question of whether ETS causes disease in otherwise healthy non-smokers. For purposes of formulating public policy, the science is now clear, and the policy questions remaining relate to how we protect non-smokers from exposure to ETS, not whether we need to protect them. The current scientific consensus is:

- * ETS exposure causes lung cancer.
- * Levels of ETS exposure that commonly occur in the work environment and other public places result in a risk of lung cancer several hundred times greater than the risk from any other carcinogen currently allowed in the occupational environment.
- * The only practical approach for reduction of ETS exposure to levels that generate risks comparable to other regulated environmental carcinogens is to eliminate smoking completely from indoor environments.

Perhaps even more importantly, the EPA report irreversibly places ETS in the political and legal context of other environmental and occupational carcinogens. For years the tobacco industry has attempted to have ETS exposure viewed in the context of individual behaviour and personal freedom. The EPA report fixes ETS in its rightful context as a toxic and carcinogenic air pollutant, with acceptable levels of risk being set by comparisons with other occupational and environmental carcinogens rather than by comparison with the enormous risks that result from actively smoking cigarettes.

The importance of the group A carcinogen designation goes far beyond its formal certification of causality. ETS

now joins a small group of agents (including asbestos, radon, and benzene) that are judged to be major hazards in occupational and other environments, and by implication ETS becomes subject to the same legal precedents and regulatory standards that have been applied to these other agents. As we close the books on the struggle to establish a scientific consensus on the existence of a disease risk and expand the effort to use that scientific consensus to formulate public policy, we do not need to begin at ground level. We can draw upon several decades of legal precedent, regulatory action, environmental law, and workplace rules that have been developed in order to reduce the risks of exposure to other group A carcinogens.

There are substantial opportunities for tobacco control contained within this shift from ETS as an issue between smokers and non-smokers to ETS as an environmental agent causing disease in the workplace. And the tools available to produce change in public and private policies regulating ETS are also dramatically enhanced. For example:

- * In the struggle for local ordinances, the issue of whether a health risk exists is seldom any longer in dispute, and the issue is rather how to reduce the risks from ETS exposure to levels comparable to those of other agents already regulated in the work environment. With this formulation, those who oppose workplace smoking bans are obliged to define an alternate approach that would offer equivalent protection for non-smokers. The framework for allowable exposure to occupational carcinogens is so narrow and rigid that, once ETS is considered within this framework, it is next to impossible to present a workable solution other than a complete ban. The advocacy community can shift the responsibility for defining workable solutions to those responsible for the work environment and can simply insist that the protection offered is consistent with those existing for other group A carcinogens.
- * The financial incentives for businesses to implement policies eliminating smoking from the work environment have also increased substantially. It is clear that, for purposes of the US workers compensation system, any non-smoker who develops cardiovascular or respiratory disease or a cancer that has been linked to active smoking, and who has worked in an indoor environment where smoking was allowed, now has a claim for ETS exposure as a contributing or exacerbating factor in the development of their injury. Even smokers and former smokers can claim that ETS contributed to or exacerbated their illness. Since almost two-thirds of the deaths in the US are from these causes, the size of the potential liability for employers is enormous. It is very likely that the size of the unfunded liability will be recognised by those insurance companies that sell workers compensation insurance, with a resultant increase in the costs of this insurance for companies that continue to allow smoking in the work environment. This increase in rates is likely to occur even before the body of law establishing this liability is fully developed. The potential legal liability for employers who continue to

allow smoking in the work environment may also include civil liability. It is now impossible for employers to claim that they are unaware of the hazards of exposing workers to ETS, and therefore, they are in the position of knowingly exposing their workers to a carcinogen that could easily have been eliminated from the work environment. It would not be surprising for the courts to find that this constituted negligent behaviour on the part of the employers and that the employee was entitled to compensation if injured by that negligence.

- * A number of environments that have been difficult to protect adequately when viewed as public places, including restaurants and bars, can now be regulated based on their role as workplaces. The consequences of transient exposures to ETS experienced by diners in a restaurant may not be perceived as hazardous enough to merit elimination of smoking in all restaurants, but when the same exposures are con-

sidered from the perspective of the employees in restaurants and bars, a compelling case for health concerns can be made.

The release of the EPA report is truly a landmark for the tobacco control community, and that community owes a substantial debt to the dedicated and courageous staff at the EPA who made this report possible. It is the responsibility of the tobacco control community to take maximum advantage of the opportunities generated by the release of this document. The elimination of smoking from all public environments is a giant step closer, and this elimination will not only protect non-smokers from a major environmental toxin but will also make it easier for those smokers who are trying to stop smoking to do so successfully.

DAVID M BURNS

*University of California, San Diego Medical Center
San Diego, California 92103, USA*