
COMMENTARY

The Second-Hand Smoke Charade

By Dominick T. Armentano

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Smoking tobacco products over a long period of time may entail significant health risks. Acknowledging those risks, millions of Americans have quit smoking because they estimate that the possible costs exceed any possible benefits. That's their right. Alternatively, millions of other Americans have voluntarily assumed the risks of smoking and they continue to puff away. And that's their right, too.

Or is it? One of the important arguments for restricting smoking is that it can endanger innocent nonsmokers who inhale environmental tobacco smoke (ETS). Indeed, many states (led by California and Florida) have decided over the last few years to severely restrict smoking in commercial establishments on the basis of a 1993 Environmental Protection Agency report that classified ETS as a "Group A Carcinogen," that is, as a significant risk to health.

It now turns out that the influential 1993 EPA report "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders" was as phony as a three-dollar bill. State officials and private businesses that believed that ETS was a public health danger (and not just a nuisance) were completely misled by the EPA. And, of course, so was main street American public opinion.

Are those the views of a vast right-wing conspiracy? Hardly. They are the sober conclusions of a gutsy federal district court judge in North Carolina named William Osteen, whose recent ruling invalidated the very foundation of the EPA report. Judge Osteen's views coincide with a Congressional Research Service analysis released in late 1995 that had serious reservations about the EPA report.

You don't have to be a fan of smoking to agree that the EPA is a regulatory renegade spinning wildly out of control on this issue. Even several veteran career employees of the agency have gone public recently to protest its "junk science" and its irrational environmental zealotry.

Judge Osteen determined that the EPA had "cherry picked" its data and had grossly manipulated "scientific procedure and scientific norms" in order to rationalize the agency's own preconceived conclusion that passive smoking caused 3,000 lung cancer deaths a year. In addition, Osteen ruled that the EPA had violated the Radon Act, which was the agency's authority for disseminating its "de facto regulatory scheme" that intended to prohibit passive smoking. The agency responded, embarrassingly, with an ad hominem attack on the judge, not on the cold logic of his arguments.

As a result of the EPA report, many bans on smoking in public places have been introduced. One would think that any such ban would be based solidly on scientific studies of ETS exposure in public places. In fact, the EPA did not even evaluate the studies on smoking in public places. Instead, the EPA's analysis was based on 11 U.S. studies that examined the risks of contracting lung cancer to nonsmoking spouses married to smokers, a different matter altogether. Yet none of the studies in the original sample reported a strong relative cancer risk associated with ETS.

Still, the EPA was determined to prove that ETS was a serious carcinogen that justified stringent regulation. To do that, it simply set aside 19 of the original constellation of 30 ETS studies and then, defying all scientific standards, simply changed the “confidence levels” in the statistical analysis from 95 percent to 90 percent. When the highly manipulated smaller sample finally “confessed” that passive smoking was a health risk, the EPA proudly announced it had “proven” its preconceived conclusions.

And the sordid tale gets worse. The EPA chose to omit entirely from its analysis two recent U.S. ETS studies that had determined that passive smoking was NOT a statistically significant health risk. Worse for the EPA, including those studies with the “cherry-picked” 11 produces a result that shows no statistically significant health risks associated with passive smoking, even at reduced confidence levels. In short, even employing the EPA’s own corrupt methodology, ETS was simply not a “Group A Carcinogen,” as the agency had boldly asserted.

You don’t have to be a fan of smoking to agree that the EPA is a regulatory renegade spinning wildly out of control on this issue. Even several veteran career employees of the agency have gone public recently to protest its “junk science” and its irrational environmental zealotry. Congress should pull the plug on any EPA regulation that cannot be justified by evidence that is demonstrable, compelling, unequivocal and significant. None yet exists with respect to passive smoking.

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