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# **Unions and Workplace Smoking Policy**

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# Contents

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Acknowledgements .....	iii
Executive Summary .....	iv
Introduction .....	1
Environmental Tobacco Smoke .....	2
Health Consequences of Exposure to ETS .....	3
Declining Tobacco Consumption and Workplace Smoking Policies .....	3
Attitudes Toward Smoking in the Workplace .....	4
The Economics of Workplace Smoking .....	6
Canadian Legislation Restricting Smoking in the Workplace .....	8
Municipal Legislation .....	8
Ontario Bill 194 .....	8
Federal Law — The Non-smokers' Health Act .....	9
Union Responses to the Ontario and the Federal Legislation .....	11
Employer Restrictions on Workplace Smoking .....	13
Union Policies on Workplace Smoking .....	15
The Canadian Labour Congress .....	15
Provincial Labour Federations .....	15
Public Sector Unions .....	16
Industrial and Craft Unions .....	17
ETS and Sick Building Syndrome .....	19
The Role of Unions in Developing Workplace Smoking Policies .....	21
Non-Smokers' Rights and the Grievance Process .....	21
Banning Smoking on Canada's Airlines .....	23
Treasury Board's Smoking Ban in the Federal Public Service .....	24
Bell Canada .....	26

Algoma Steel Corporation and Denison Mines Limited .....	27
Chrysler Corporation .....	28
Canada Post Corporation .....	28
Coast Guard Ships .....	29
Conclusions .....	31
Impact of Policies .....	31
Ingredients of An Effective Smoking Policy .....	31
References .....	34

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## Executive Summary

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Over the past decade, environmental tobacco smoke (ETS) has been identified as a major public health hazard. This directly impacts on the workplace and on union-management relations.

This study draws on three major sources of information:

- published literature on workplace ETS and smoking policies;
- unpublished literature from unions, health promotion organizations, employers, etc.;
- interviews with over 30 union representatives and officials of health promotion organizations.

The issue of workplace ETS and union involvement in policy-making is addressed from the perspective of union-management and union-government relations. The following areas are covered:

- variations in workplace smoking behaviour and attitudes towards workplace smoking;
- the costs of workplace smoking;
- legislation regulating workplace smoking and specific union responses to legislation;
- employers' restrictions as a result of legislation or in anticipation of legislation;
- policies from labour organizations, including the CLC, OFL, CUPE, PSAC, CCU, CAIMAW, USWA, CAW and others;
- three grievance cases that set important legal precedents and precipitated policy and legislation;
- seven case studies of union action that resulted in company workplace smoking policies;
- recommendations on an effective smoking policy.

Because this research is exploratory, no attempt was made to draw a representative sample of all unions in Canada. Rather, the focus was on major public and private sector unions with full-time occupational health officials. This approach rested on the assumption that these unions would reflect major developments and trends regarding the ETS issue within the labour movement as a whole.

## Introduction

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Over the past decade, environmental tobacco smoke (ETS) has been identified as Environmental tobacco smoke (ETS) was identified in the 1980s as a leading occupational health hazard. Health professionals are convinced by mounting medical evidence that many deaths from cancer and heart disease can be prevented if non-smokers are not exposed to ETS. Authoritative organizations such as the Ontario Council of Health's Task Force on Smoking, and the Canadian Medical Association have reviewed the scientific evidence and concluded that ETS poses a major public health hazard and therefore should be controlled. Consequently, policy makers are instituting smoking restrictions and bans — a trend which will likely accelerate in the 1990s. Canada is at the forefront of the public health campaign against ETS. By 1990, the federal and Ontario governments had introduced legislation restricting smoking in worksites and, across the country, many employers had introduced smoking control policies.

Many different interest groups have a stake in the process of developing and implementing workplace smoking restrictions. Employers, individual employees who are smokers and non-smokers, all three levels of government, the tobacco industry, health professionals, anti-smoking organizations, bodies such as the Cancer Society and the Lung Association all are key players. So too are unions. Representing over 36 percent of the Canadian non-agricultural labour force — some 3.9 million workers — unions also have a central role to play. Historically unions have championed employees' rights to a healthy and safe work environment. Potentially, unions can positively influence the move toward a smoke-free workplace.

Viewed from an industrial relations perspective, changing the status quo in a workplace is an inherently political process. The outcome is contingent upon the relationships among the various actors, their relative power and resulting compromises. Workplace smoking policy thus is similar to other industrial relations issues. Yet little is known about how ETS has been dealt with in the context of union-management and union-government relations. This report examines the role of unions in developing workplace smoking policies in Canada.

*Achieving Health For All* (Health and Welfare Canada, 1986), sets out a national strategy for health promotion comprised of prevention efforts, creating healthy environments and fostering public participation. As organizations representing a diversity of employees, unions can directly contribute to all three of these areas. At first glance, workplace smoking policies appear to be employer or government initiatives. As documented below, however, unions also have participated in the process. Their roles range from active to passive and proactive to reactive. By analyzing these different union approaches to ETS, we can identify the factors which have been most and least conducive for unions to contribute to health promotion.

## **Environmental Tobacco Smoke**

The negative effects of smoking on health have been known for several decades. After the 1964 Report of the United States Surgeon General's Advisory Committee on Smoking and Health established a direct link between smoking tobacco and lung cancer, smoking began losing its social acceptability (Rigotti, 1989:19). Cigarette smoking has since been related to cancer of the larynx, mouth, esophagus, bladder, pancreas, and kidney. The 1982 US Surgeon General's Report attributed 30 percent of all cancer deaths to smoking (US Department of Health and Human Services, 1982). In 1986, the US Surgeon General critically reviewed existing studies and concluded that second-hand tobacco smoke induces lung cancer and a variety of other conditions in non-smokers (US Department of Health and Human Services, 1986).

In light of these developments in medical and epidemiological research, the Canadian Medical Association has issued the following policy statement:

Cigarette smoking is the leading cause of preventable death and disease in Canada, accounting for some 35,000 deaths annually. There is now conclusive evidence that nicotine is addictive and the promotion, manufacture, distribution, sale and use of tobacco products should be stopped. (Canadian Medical Association Journal, 1991: 232A)

About 4,000 components have been identified in tobacco smoke, including 43 known animal and/or human carcinogens. While there is some knowledge of the health effects of many of these individual chemicals, much less is known about their interactive effects (Collishaw et al., 1984:1199).

Non-smokers involuntarily inhale what is referred to as environmental tobacco smoke, which comprises exhaled mainstream smoke and sidestream smoke. Mainstream smoke is drawn from the cigarette, cigar, or pipe into the smoker's lungs and then discharged into the air. Inhaled smoke, however, loses some of its toxicity before it is emitted. As the smoke is inhaled, the tobacco burns at a higher temperature, thus burning off some of its toxic components. The smoke also is filtered twice, through the unburned tobacco and then through the cigarette filter (Woolley, 1986).

While the average cigarette burns for 12 minutes, the smoker spends about 24 seconds puffing on it (Repace and Lowrey, 1983:2). Smokers consume about 45 percent of the smoke produced by each cigarette (Collishaw, 1987:4). The remainder, emitted into the nearby air by a smouldering cigarette, is called sidestream smoke. Most of the smoke in a room is sidestream smoke and it contains more contaminants than filtered mainstream smoke (Tinker, 1973; House, 1985).

## Health Consequences of Exposure to ETS

- throat/eye irritation
- allergies
- cardiovascular diseases
- respiratory diseases
- morale/ psychological problems

ETS can cause non-smokers throat and eye (especially for contact lens wearers) irritation and leave an unpleasant odor on their clothes. Workplace ETS also can adversely affect employee morale and psychological well-being. For example, 42 percent of non-smoking employees in Health and Welfare Canada, surveyed in 1986, indicated that frustration and tension were part of the discomfort caused by ETS. Forty-six percent of this sample expressed concern about the long-term effects of ETS on their health (Millar, 1986). This concern is well-founded: one study estimates that a non-smoker working in a typical office inhales the equivalent of three low-tar cigarettes during an eight-hour day (Repace and Lowrey, 1983).

Smoking can trigger allergic reactions, asthmatic attacks and angina pectoris in nonsmoking co-workers. Tobacco smoke exacerbates the symptoms of about one-fifth of individuals who suffer from medical conditions such as heart disease, asthma, hayfever, cystic fibrosis, emphysema, bronchitis, and obstructive lung disease (University of Toronto Faculty of Medicine, 1986:3). ETS also compounds the health risks on job sites where other toxic agents such as asbestos, nickel, silica dust and radium may be present.

Furthermore, there is emerging evidence which links ETS to increased risk of heart disease and other cardiovascular health problems (Beaglehole, 1990; Glantz and Parmley, 1991). Glantz and Parmley (1991:10) conclude their review of this evidence with the following observation:

This increase in risk translates into about 10 times as many deaths from ETS induced heart disease as lung cancer; these deaths contribute greatly to the estimated 53,000 deaths annually [US] from passive smoking. This toll makes passive smoking the third leading preventable cause of death in the United States today, behind active smoking and alcohol.

There is no reason to believe that the same general conclusion would not apply to Canada.

## Declining Tobacco Consumption and Workplace Smoking Policies

The workplace is where non-smokers in the population receive the greatest exposure to ETS. Workplace smoking policies and legislation in the last half of the 1980s have contributed to the decline in tobacco consumption in Canada.

Compared with other OECD nations, based on 1988 sales data, Canada falls in the middle ranks in terms of per capita manufactured cigarette consumption (Kaiserman and Allen, 1990b). Canada's per capita manufactured cigarette consumption is lower than Japan or the US but considerably higher than the United Kingdom, Sweden, or Norway.

In 1989, 32 percent of Canadians 15 years of age and over (about 6.5 million individuals) were smokers. The highest incidence of regular (daily) smoking is

found among young and middle-aged adults. In contrast, smoking prevalence is lower than the national average among individuals age 15 to 19 and those 65 years and older. Nationally, a slightly higher proportion of men (33 percent) than women (31 percent) are regular smokers (Stephens, 1991).

There are substantial provincial variations in smoking. Newfoundland residents had the highest rate of smoking (36 percent) in 1989, while British Columbians had the lowest rate (28 percent). The incidence of smoking is also above the national average in Quebec and in Prince Edward Island (Stephens, 1991; also see Millar, 1988a: 4-5).

#### **Most Likely to Smoke**

- young and middle-aged adults
- Newfoundlanders, Prince Edward Islanders, Quebecers
- transportation workers
- miners

#### **Least Likely to Smoke**

- 15-19 year olds and seniors
- British Columbians
- professionals
- managerial employees
- university graduates

In terms of occupational differences in smoking behaviour, professional and managerial employees have the lowest percentages of regular cigarette smokers (18 percent and 25 percent, respectively). In contrast, the two occupations with the highest proportions of smokers are transportation (42 percent) and mining (40 percent) (Millar, 1988b:28).

Education is directly associated with the incidence of smoking (Millar and Hunter, 1990; Millar, 1988b). Individuals with secondary education or less are almost twice as likely (31 percent) to be smokers than Canadians with university degrees (15 percent). Because smoking is declining more rapidly among the better educated, smoking rates may become even more polarized along socio-economic lines (Millar and Hunter, 1990).

The likelihood of on-the-job smoking depends upon a combination of factors, including the employee's control over her or his behaviour while at work, the socio-demographic composition of the occupational group, and constraints imposed by factors such as the type of work, its location, the nature of the clientele and safety considerations. Managerial and professional employees, in comparison with all other occupations, were most likely to have some form of smoking policy in their workplace. Workers in primary and construction occupations were least likely to have smoking policies.

Canada has been experiencing a dramatic overall decline in cigarette consumption. Overall tobacco consumption and daily number of cigarettes smoked has declined steadily since 1982. Between 1979 and 1989, the percentage of males 15 years of age and older who smoked cigarettes dropped from 45 percent to 33 percent. The decline among women, from 37 percent to 31 percent, was less pronounced. The decline in smoking has been less pronounced among lower socio-economic groups, possibly because public intervention programs are more effective among the better educated (Millar and Wigle, 1986: 131). Despite the drop in smoking prevalence, until recently, smokers were consuming more cigarettes daily. However, there also has been a shift toward low-tar-yield cigarettes among smokers (Brancker, 1990:80).

### **Attitudes Toward Smoking in the Workplace**

Looking beyond the medical evidence, we find that surveys have documented support among smokers and non-smokers alike for restrictions on workplace

smoking. Indeed, employee surveys are a useful tool in developing workplace smoking policies as well as for evaluating their effectiveness.

Health and Welfare Canada's 1986 Labour Force Smoking Survey documents that 28 percent of workers wanted smoking prohibited and 54 percent favoured smoking only in restricted areas. Only 14 percent stated that smoking should be permitted. Within occupational groups, support for an outright ban varied inversely with the prevalence of smoking. For example, about 31 percent of professionals favoured a ban, compared with 17 percent of miners and 18 percent of transportation workers. Approximately 11 percent of smokers favoured a ban, suggesting that some smokers desire environmental constraints on their smoking, perhaps to help them to kick the habit (Millar, 1988b:10).

A 1986 survey of 1,383 Ontario residents found support for some degree of smoking restrictions in the following settings: city buses, day cares, doctors' offices, schools, stores, hospitals, movie theatres, banks, airplanes, large public gatherings, government offices, restaurants, and workplaces (Pederson et al., 1986). A majority of the respondents were in favour of an outright ban on city buses, in day care facilities, doctors' offices, schools, stores, and hospitals. Almost all respondents favoured restrictions in schools, hospitals, and day care centres. Fourteen percent of the respondents wanted a complete ban in workplaces, with the majority in favour of limiting smoking to designated areas. The most recent evidence on attitudes towards smoking in the workplace comes from a 1990 province-wide random sample survey of 1,245 adults in Alberta (Krahn and van Roosmalen, 1990). Over three-quarters of those surveyed believed that ETS can be harmful to the health of non-smokers. Fully 79 percent of employed respondents who had a smoking restriction in their workplace supported this policy, including a majority of smokers. Consistent with previous research, there was less support for workplace smoking policies among individuals with lower levels of education. While earlier studies tended to show that both smokers and non-smokers favoured smoking restrictions over a total ban, this survey documents a shift among non-smokers in favour of smoking bans.

There are virtually no published studies of workers' attitudes towards workplace smoking which focus exclusively on union members or on workers in industrial, as opposed to office, settings. One notable exception is Brown et al.'s (1988) study of members of a medium-size US union representing workers in high-risk industries. Eighty-two percent of the respondents favoured smoking restrictions on the job. However, less than half believed that employers and unions should be concerned about smoking off the job. Among both smokers and non-smokers, the belief that cancer has specific causes and can be prevented was a strong predictor of support for workplace smoking restrictions. Exposure to occupational health training also increased support for such policies. The authors conclude that educating workers about cancer will garner support for smoking restrictions and, further, that such policies are more acceptable in the context of a strong company health and safety program.

It is helpful to locate attitudes toward smoking within a broader social context. According to sociologist Peter Berger (1988), people's beliefs and behaviours are

shaped by their immediate socio-economic environment. Because the public health campaign against smoking aims to make smoking socially unacceptable, Berger argues that it makes smokers feel guilty and embarrassed about their habit. But antagonisms go deeper, asserts Berger, because of class differences in smoking behaviour. The working class smokes more than the middle class. Anti-smoking attitudes are more prevalent among the middle and upper-middle classes and these groups have the resources to influence smoking policy.

This perspective on the class dimensions of the ETS issue illuminates the dilemmas which unions face over workplace smoking. Industrial unions, representing mainly male blue-collar workers, are bulwarks of working-class culture. This culture condones smoking, in part because the many hazards industrial workers face daily on the job are believed to pose a far greater immediate danger. In contrast, the public sector unions typically represent the concerns of better educated white-collar workers who are often female. This group of workers face fewer industrial hazards or acute accident risks and have a lower incidence of smoking. ETS makes a much greater contribution to their work environment hazards.

Nonetheless, unions have a legal obligation to represent the interests of all their members. This principle of fair representation, reinforced by the ideology of individual rights, has led some unions to steer clear of the ETS problem.

### **The Economics of Workplace Smoking**

Smoking exacts significant economic costs largely because of its impact on health. Smokers' increased risk of morbidity can result in higher absenteeism, wasted time at work, greater likelihood of workplace accidents, and more physician visits and hospital days. For employers, smoking brings higher insurance, cleaning, and maintenance costs. And the higher probability of a smoker dying during his or her prime working years has an economic cost in terms of lost productivity potential.

If asked why they implemented a no-smoking policy, most employers would respond 'to provide a healthy environment' (Williams, 1985:22). Employers are realizing that a clean working environment and good health go hand in hand. At the same time, more employers are looking at the direct economic costs to the organization of employee smoking. Unions object to employers' economic motives being cloaked in the benevolent language of protecting employees' health.

Studies document higher rates of absenteeism among smokers. Dow Chemical's three-and-a-half year study of a group of employees in a Texas facility found that smokers reported 17.4 disability days per year compared to 9.7 days for non-smokers. These absences cost Dow over \$650,000 annually, excluding extra health care costs (Dewey, 1985). Smoking also increases the likelihood of an employee taking disability leave (ICristein, 1983).

**Workplace Smoking Costs**

- absenteeism
- work time
- accidents
- physician visits
- hospital days insurance
- cleaning/maintenance

**Case Study — Dow Chemical**

Disability days per year

Smokers	17.4
Non-smokers	9.7

Smokers' sickness

300% more pneumonia

100% more circulatory diseases

76% more respiratory diseases

41% more bronchitis

Smokers are absent more than non-smokers because of worse health. The Dow Chemical study just noted found that, compared with non-smokers, smokers had double the circulatory disease ailments, three times more pneumonia, 41 percent more bronchitis and emphysema, 76 percent more respiratory diseases, as well as higher mortality rates during the course of the study (Dewey, 1985). In a related vein, smokers have proportionally more on-the-job accidents than do non-smokers (Amicone, nd.:4).

Lost working time for smoke breaks is also a consideration for employers contemplating a smoking policy. A director of the Boeing Corporation plant in Winnipeg explained the reason for his firm's smoking ban in these terms:

We hope to boost productivity by saving 20 or 30 minutes a day which the smoker spends lighting up, looking for ashtrays and buying cigarettes (*UE News*, 16 November 1989).

To some workers and their unions, smoke breaks are a necessary reprieve from what may be monotonous, tiring, unrewarding jobs.

Perhaps the most thorough documentation of the costs of workplace smoking is Labour Canada's Regulatory Impact Analysis Statement prepared for the federal Non-smokers' Health Act (Bill C-27). An estimated \$32.2 million (1989) could be saved 'due to reduced smoke and related property damage, depreciation, maintenance and cleaning costs and in reduced ill-effects of involuntary smoking' (Canada Gazette, 1989:4540). Setting up ventilated smoking rooms was estimated to cost \$19.77 million during 1990, the first year of the Act. Thus between 1990-1999, the net benefit to non-smoking employees and employers is calculated to be at least \$12 million annually. Savings due to reduced absenteeism or a decline in the overall incidence of smoking would no doubt add considerably to these figures.

Some employers have actually tried to induce smokers to quit. Several states in the US have, for example, used economic incentives. The State of Kansas added ten dollars per month to smokers' contributions to employee health care insurance (Penner, 1989). The State of Kansas employees' union has protested against the policy. The employer referred to the ten-dollar differential as a 'non-smoker discount,' but the union calls it a surcharge on smokers. More generally, unions are concerned that employers might extend such penalties to other forms of risk behaviour (Penner, 1989). It is also clear that, from the employer's perspective, the benefits of hiring only non-smokers could be substantial (Weis, 1981). While few firms have implemented such a policy, there can be little doubt that unions would be strongly opposed to any form of discrimination on the basis of an employee's lifestyle.

## Canadian Legislation Restricting Smoking in the Workplace

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### Municipal Legislation

Over four dozen municipalities in Canada have introduced by-laws restricting smoking in workplaces and public areas. In 1976 Ottawa became the first major Canadian city to adopt a by-law to either ban or restrict smoking in some public places. Vancouver took the lead in 1987 with a by-law restricting smoking in public as well as private places. It prohibited employees from smoking in their workplace except in separate areas designated for smoking.

In March 1988, the City of Toronto passed a by-law requiring every workplace in the city to develop a formal smoking policy within one year (Hamel-Smith, 1989; *Health & Safety Law*, April 1988). When a complaint is lodged under the Toronto by-law, the employer must attempt to accommodate the needs of smoking and non-smoking employees by using partitions, separations, and ventilation systems. But if the non-smoker remains dissatisfied with the employer's attempted solution, smoking must be banned in the workplace. The law, however, does not require the employer to incur the costs of making structural alterations. This provision of the by-law is considered a weakness by the Toronto Non-smokers' Rights Association (Hamel-Smith, 1989). The law has survived one court challenge (*Toronto Star*, 31 August 1989:A9).

### Ontario Bill 194

Ontario was the first province to enact legislation to restrict passive exposure to cigarette smoke in the workplace. Bill 194, the Smoking in the Workplaces Act, came into effect on January 1, 1990. Smoking is prohibited in an 'enclosed workplace,' defined as an enclosed building or structure such as a shaft, tunnel, or caisson. Buses or the cabs of trucks are not deemed workplaces. Public areas in a worksite are also exempt from the Act.

Smoking is permissible in areas designated by the employer. Designated smoking areas cannot exceed 25 percent of the total floor area of the enclosed workplace, exclusive of public areas. Prior to establishing smoking areas, the employer must consult with one of the following: the joint health and safety committee, a similar committee with employee members, or the workers' health and safety representative. If there is no committee or representative, consultation with employees is not required. Employers also must post signs identifying designated smoking areas. Employers are obligated to make reasonable efforts to accommodate the requests of non-smoking employees who wish to work in a location separate from designated smoking areas. Employers also must ensure worker compliance. Employers convicted of an offence under the Act can be fined up to \$25,000, while employees are subject to a maximum fine of \$500 (*Health & Safety Law*, Jan. 1991).

Critics argue that the Act is flawed by vague language and loopholes. For example, the term 'designated smoking area' is not defined in the Act. Thus employers can comply with the law simply by placing smokers and non-smokers in different Parts of a room. There is nothing to prevent a desk and the area surrounding it to be designated a 'smoking area' (Campaign for Action on Tobacco, nd.).

Employers are not required to install separate ventilation systems for smoking and smoke-free areas. Consequently all employees are exposed to recirculated air contaminated with ETS. Under present ventilation and building occupancy practices, the respirable suspended particles (RSP) generated by smokers overwhelm the effects of ventilation and inflict significant air pollution on the building inhabitants. Attempts to reduce RSP levels from smoking by increasing the rate of mechanical ventilation or the efficiency of filtration yield exponentially diminishing returns for linear increases in ventilation costs (Sebben et al., 1977). In short, Bill 194's minimum standards do not guarantee non-smokers protection against the health hazards of ETS.

Bill 194 is not the only Ontario legislation to address the concerns of non-smokers about exposure to ETS. Employees in ETS-polluted workplaces can exercise their right to refuse to work in such conditions under Ontario's Occupational Health and Safety Act (OHSA). The Act does not make direct reference to ETS. The onus is on employees to complain and, if deemed necessary, a Ministry of Labour inspector will test the air in the workplace. However, Ministry of Labour tests have been criticized for ignoring key components of ETS, thereby misleading employees to believe that the environment is safe (Campaign for Action on Tobacco, nd.).

Perhaps more crucial, complaints have not resulted in suitable remedies. In July 1984 Janine Bruce, an office worker at the Ontario Workers' Compensation Board in Toronto, filed a complaint about poor air quality and second-hand smoke in her work environment. However, a Ministry of Labour inspector refused to issue an order to the employer to take reasonable precautions to protect her, because the employer had already moved the complainant to another desk. Bruce's union, the Canadian Union of Public Employees (CUPE), local 1750, appealed the decision. In fact, CUPE actively pursued cases such as these, recognizing the importance of the ETS issue for its members (The Public Employee, Summer 1985:4).

### **Federal Law — The Non-smokers' Health Act**

New Democrat MP Lynn McDonald's private bill 'The Non-smokers' Health Act' (NSHA) achieved royal assent in June 1988. However, the law was not proclaimed because the departments of Labour, Transport, and Consumer and Corporate Affairs agreed that the Act as it stood was too difficult to regulate and therefore required amendments (*Ottawa Citizen*, 15 August 1989). Labour Canada established a committee comprised of employer and employee representatives to review amendments and develop regulations. Labour Canada is responsible for the implementation and administration of the NSHA in workplaces under federal jurisdiction and Transport Canada has similar

responsibilities for common carriers. On June 16, 1989 the Minister of Labour tabled amendments to the NSHA in Parliament, as Bill C-27. The amendments provided a clearer definition of the employer, reinforced the employer's obligation to ensure that persons refrain from smoking in the worksite, and set out enforcement mechanisms. The NSHA came into force on December 30, 1989 and applies to all workplaces under federal jurisdiction. This includes railways, highway transport, telephone and telegraph systems, pipelines, canals, ferries, tunnels and bridges, shipping and shipping services, radio, television and cable systems, air transport and airports, banks, grain elevators, the federal public service, the Senate, House of Commons and Library of Parliament, and forty crown corporations. The military and the RCMP are, however, exempt.

The NSHA prohibits smoking except in designated smoking rooms and areas. This affects approximately 26,700 workplaces and 650,000 employees under federal jurisdiction. The Act also covers about 240,000 employees of the federal public service who do not come under a prior Treasury Board ban on smoking. The Non-smokers' Health Act is stronger legislation than Ontario's Bill 194. Specifically, 'work space' is defined to include any indoor or other enclosed space where employees work, including adjacent common use and public areas such as elevators, washrooms, cafeterias, and stairwells. Employers must ensure that there is no smoking in their worksites but may designate certain areas for smoking, other than spaces normally occupied by non-smokers.

A strength of the NSHA is the requirement that employee health and safety committees or representatives (as provided for under the Canada Labour Code) be consulted by the employer prior to establishing a designated smoking area. However, employers are able to require employees to work in designated smoking areas depending on the nature of their duties. Mandatory compliance with the Act is ensured by inspectors who may enter work premises at any time. Employers and individual smokers who contravene the Act are subject to fines.

In a parallel initiative, the federal government has banned tobacco advertising and required health warnings to appear on cigarette packages (Cunningham, 1990). The Tobacco Products Control Act (TPCA) phases out all tobacco advertising by January 1, 1991. In addition, health messages about the detrimental effects of smoking must appear on all tobacco product packaging. Despite the fact that \$4.5 billion dollars were collected from taxes levied on tobacco products in 1988 (Report on Business Magazine, October 1989:136), the federal government apparently considers this an unacceptable trade-off for the health of Canadians. However, tobacco companies have challenged the legality of the TPCA in court and, in July 1991, a Quebec Superior Court struck down the ban on tobacco advertising (Globe and Mail, 1 August 1991: B4). The federal government is appealing this ruling.

## Union Responses to the Ontario and Federal Legislation

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Individual unions, as well as central labour bodies such as the Ontario Federation of Labour (OFL) and the Canadian Labour Congress (CLC), have been involved to varying degrees in the Ontario and federal legislation just described.

One union health and safety representative noted that it simply would not have been credible for union officials to oppose the Ontario legislation outright. However, the OFL's response to Bill 194 clearly articulates the labour movement's basic concerns about toxic substances in the workplace. Generally, unions disagree with any suggestion that involuntary smoking is a greater hazard than other workplace toxins (Labonte, 1985).

The OFL sees a major contradiction in Bill 194: restricting tobacco smoke to 25 percent of a workplace is equivalent to occupational health regulations permitting known carcinogens, such as asbestos and vinyl chloride, in a similar area. The OFL's position is that there is no safe level of exposure to any carcinogen. The Canadian Cancer Society, it should be noted, disagrees with the OFL on this issue, preferring instead a single-issue campaign against cigarette smoking.

OFL-affiliated unions have a range of opinions about the Ontario law. The United Steelworkers of America (USWA), for example, is not satisfied with the law. The USWA favours isolated smoking areas with outside ventilation. However, the union supports the OFL's criticism that the government is not developing a comprehensive approach for dealing with all hazardous pollutants in the work environment.

Other unions, such as the Canadian Auto Workers (CAW), wanted to have more input on the Ontario legislation. This reflects the fact that such consultation was not built into the legislative process. The CAW was ready for the bill, however, and sent an information leaflet on the new law to local presidents and health and safety officials. For the law to be effective, the union believes that employers must work with joint health and safety committees. Even though this is a legal requirement, some employers ignore it. Union representatives on these committees have had only limited success negotiating separately ventilated smoking rooms. The CAW also feels that governments should be doing more about regulating other hazardous emissions. For example, the CAW has been waiting almost a decade for regulations on lead; yet smoking legislation was put in place much faster.

The Ontario Public Service Employees' Union (OPSEU), representing Ontario government employees, voiced no complaints about Bill 194. In part this is because most ministries, anticipating the legislation, had already phased out smoking and were offering cessation programs and counselling to help smokers quit. The union was not consulted about the legislation. Essentially OPSEU tacitly agreed to Bill 194, as well as to prior restrictions on smoking in government workplaces. These employer-initiated policies offered a solution

to the dilemma of, on one hand, wanting to reduce the health risks posed by ETS, yet on the other hand not wanting to antagonize members who smoke.

The Bakery, Confectionery and Tobacco Workers International Union (BCTWIU) represents 3,000 tobacco industry workers. The BCTWIU favours 'no restrictions on smoking' and is the only union to have actively opposed both the Ontario and the federal legislation. The BCTWIU was one of the few unions to make a submission to the Legislative Committee on Bill 194; it also met with the Minister of Labour prior to the bill's enactment (BCTWIU, 1989a).

In contrast with the Ontario situation, the federal NSHA required consultation with unions and management in drafting the regulations. Since Labour Canada is responsible for the implementation and administration of the NSHA, it established a committee of employer and employee representatives and acted as a facilitator, according to the Canada Labour Code's workplace health and safety provisions. This consultation committee helped to transform draft legislation into workable regulations. In terms of the legislative process, this is the crucial difference between the federal and the Ontario legislation. Consequently, implementation of the federal law may be smoother, its monitoring easier and its overall effectiveness enhanced.

The committee advised Labour Canada how to make the vague language of the legislation enforceable. The committee developed regulations in only a couple of meetings. By comparison, consultations tend to be more controversial and protracted on similar Labour Canada joint union-management committees dealing with issues such as hazardous materials or noise. According to several union and management committee members interviewed for this study, a surprising degree of consensus emerged.

Overall, unions did not play a major role in shaping federal anti-smoking legislation. Former New Democrat Party MP Lynn McDonald, who first introduced the NSHA as a private member's bill, suggested that one of the reasons for this is the internal politics of the labour movement. Specifically, the BCTWIU thwarted the possibility of a unified position on ETS within the CLC. The BCTWIU's representative on the CLC's National Occupational Health and Safety Committee influenced the CLC's position on the NSHA (BCTWIU, 1989b). Job protection has always been a central issue for unions and this creates a difficult trade-off when it comes to occupational health. According to McDonald, the BCTWIU was responsible for the CLC dropping its support for her private member's bill (BCTWIU, 1987).

Despite her direct approaches, McDonald received little union backing for her legislation. Exceptions included the Canadian Union of Public Employees, the Alliance of Canadian Cinema, Television and Radio Artists, the Public Service Alliance of Canada, and the CAW, suggesting divisions within labour over ETS policy. Very few unions, however, agreed with a total ban on workplace smoking.

## Employer Restrictions on Workplace Smoking

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Recent (1990) data from Alberta suggest that workplace smoking restrictions are becoming more common: almost two-thirds of employed Albertans have a smoking policy in their workplace, including one-quarter whose employer has imposed a total ban (Krahn and van Roosmalen, 1990).

Workplace smoking policy is mainly the result of employers meeting the requirements of, or anticipating legislation (Hamel-Smith 1989:15). Certainly there are some prominent examples, as seen below, of unions pursuing a proactive strategy, but typically their approach has been reactive.

Employer smoking policies can be organized into the following categories, which are not mutually exclusive. Specific policies must, of course, reflect relevant legislation.

- Preferential or exclusive hiring of nonsmokers. This extreme form of smoking policy is found in less than 5 percent of US companies and perhaps proportionally fewer in Canada.
- No smoking on the employer's premises. A total ban has minimal financial costs for the employer, gives non-smokers an ETS-free environment, but is the most disruptive for smokers.
- Smoking in designated areas. Permitting smoking in a separately vented room will ensure that non-smokers are protected from ETS but the cost of such facilities can be expensive. Merely segregating smokers from non-smokers does little to prevent exposure to ETS.
- Smoking only at designated times.
- No smoking in the presence of clients, the public, or in meetings with co-workers.
- Environmental alterations. Installation of partitions, air filters, or better ventilation systems can be costly and does not substantially reduce the health risks of exposure to ETS.
- Employer-sponsored or subsidized smoking cessation courses for those employees who wish to quit smoking. This constitutes positive encouragement and support, unlike other 'incentives' to quit. The latter would include monthly tobacco user surcharges for health insurance.
- 'Common courtesy.' This approach, advocated by the tobacco industry, assumes that smokers will ask if non-smokers mind if they smoke and, conversely, that nonsmokers politely voice their objections. Research evidence shows, however, that this approach alone does nothing to reduce exposure to ETS (Penner, 1989; Rigotti, 1989:24; Davis et al., 1990).

Smoking bans are sometimes part of multi-pronged 'employee wellness' programs which are designed to present a positive corporate image and to give the appearance that the company has a genuine concern for the employees. They tend to be popular with employees and are a relatively low-cost benefit.

Some employers have attempted to regulate employee smoking by hiring only nonsmokers. From the employer's perspective, this is justified under management's right to make hiring decisions. However, such hiring policies may violate human rights legislation or the Canadian Charter of Rights and Freedoms. To avoid charges of discrimination, based on the grounds that smoking is a disability, an employer would have to demonstrate that not smoking was essential for good job performance (Hamel-Smith, 1989:50-2). It could also be argued legally that such a policy infringes on an employee's privacy by attempting to regulate non-work activity. While these policies are not widespread, Canadian employers such as University Hospital in London and Boeing Corporation in Winnipeg have given non-smokers preference in hiring (Canadian Labour Congress, nd.).

The Canadian labour movement does not have a unified position on employers' smoking policies. However, if the CLC were to adopt a policy, it might well resemble that of its US counterpart, the AFL-CIO. The AFL-CIO opposes employer discrimination against smokers in hiring, removing smokers from certain jobs, or mandatory participation in smoking cessation programs (AFL-CIO, 1986b).

For a union or a central labour body like the CLC to formally adopt a policy on any issue, it must be brought forward as a resolution at a convention where it is debated and voted on by delegates representing locals or affiliate unions. This is union democracy in action. However, conventions can create pressures to avoid divisive issues and to seek compromises. Legally unions are obligated to comply with the duty of fair representation, which means they must represent the interests of all members regardless of whether or not they smoke. For some unions, the easiest way of respecting the interests of both smokers and non-smokers is to avoid the ETS issue and wait for a solution in legislation or employer policies. For other unions, however, the apparent dilemma posed by the duty of fair representation dissolves when ETS is presented as a health issue. As such, the health protection of non-smokers overrides the individual rights of smokers.

# Union Policies on Workplace Smoking

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## CLC Views on ETS

- designed areas
- separate ventilation
- smoking breaks
- non-discriminatory hiring
- phasing in
- worksite tailoring
- smoking cessation programs

## The Canadian Labour Congress

The Canadian Labour Congress, in the absence of a formal policy on ETS, has informally evolved a position through discussion and consensus. The CLC rejects complete smoking bans because they penalize workers addicted to smoking. Total bans also tend to divide the smoking union members from non-smoking members. Thus, in the interest of harmonious workplace relations, smoking policies should take into consideration the needs of both groups and accommodate them accordingly (CLC, nd.). The Congress recommends that smoking be banned in the workplace, except in designated areas. Separate ventilation systems which exhaust the smoke directly outside must be installed for such areas.

The CLC also sees a link between smoking behaviour and workplace stress. For some clerical and blue-collar workers, a smoke break relieves boredom and monotony. Strategies to eliminate exposure to ETS therefore must address how to improve working conditions and reduce stress. Recognizing this, and to avoid creating discipline problems, managers should give smokers a sufficient number of breaks. The CLC also wants to prohibit hiring practices which discriminate against smokers.

Echoing a prominent concern of many affiliates, the CLC advocates that both labour and management develop workplace smoking policies, preferably through joint labour-management occupational safety and health committees (CLC, nd.). Smoking regulations usually fall outside of the collective bargaining framework and thus are rarely included in collective agreements. In the CLC's view, smoking policies should be tailored to the particular worksite. A prerequisite for a successful policy is that it be phased-in. The CLC also proposes that employers provide education and support programs during work hours for smokers who want to quit.

## Provincial Labour Federations

The Ontario Federation of Labour is skeptical of smoking bans presented by employers as an employee health protection measure. Unions see this as inconsistent with industry's lack of concern about other often lethal toxic substances in the workplace. From the OFL's perspective, employers often jump on the anti-smoking bandwagon because it is self-serving rather than out of concern for their employees. Economic self-interest can lie behind an apparent concern for workers' health (OFL, 1989:9).

OFL policy also highlights the fact that smoking is more common among lower ranking white-collar workers and blue-collar workers than among managers and professionals. The tobacco industry promotes cigarettes to these individuals as a way of escaping their monotonous working lives. The OFL policy discusses the stressful, alienating, and dissatisfying nature of many of these jobs (OFL, 1986:5). Expecting workers to control this behaviour therefore is unfair, it argues.

### **OFL Policy**

‘Labour must develop a policy that deals with this non-production hazard in a consistent manner which protects the rights of nonsmokers and smokers alike, and does not allow employers to pit non-smokers against smokers in a divide and conquer approach, which once again shifts the focus away from the employer to provide a workplace that is safe for all workers’ (OFL, 1986:3).

Against this background, the OFL recommends that ETS be dealt with like any other toxic substance on the job site. While agreeing that there should be no smoking in the workplace, the OFL believes that successful policies cannot be created solely by employers. The OFL's position also accommodates the needs of smokers:

In developing a smoking policy for the workplace we must recognize smoking's addictive property and ensure that smokers are not further victimized in their habit. Therefore, in consultation with the joint health and safety committee or the health and safety representative, a designated room must be set aside, adequate ventilation must be ensured to reduce the exposure to second-hand smoke for the smokers, while ensuring that no non-smoker is exposed in the workplace. And all workers must be given sufficient breaks that enable relaxation and recovery, leading in turn to increased productivity. A phase-in period will also ensure compliance. (OFL, 1989:14-15)

Most other provincial labour federations have not taken official stands on ETS. The Alberta Federation of Labour (AFL), for example, has not addressed ETS as a membership issue. However, like many unions, for several years there has been a smoking ban at meetings and conventions. As well, the AFL bans smoking in its own offices in compliance with a municipal by-law. The relatively high prevalence of smokers in Quebec may partly explain why the Quebec Federation of Labour (QFL) does not have a policy on ETS, allows smoking in its offices and meetings, and generally avoids the issue. As the QFL Director of Occupational Health and Safety noted, the Federation's president and three of the five occupational health staff are smokers, and therefore are not about to push for restrictions. Nor has there been any pressure from affiliates to do so. Developing prevention programs in high-risk resource and manufacturing industries is the QFL's current health and safety priority.

### **Public Sector Unions**

Two public sector unions have exercised leadership on workplace smoking: the Canadian Union of Public Employees (CUPE) and the Public Service Alliance of Canada (PSAC). In terms of membership, CUPE and PSAC are the country's largest unions, so their stand on an issue carries considerable weight. The members of these unions are mainly white-collar employees working in offices. Hence ETS is the major source of environmental pollution.

CUPE and PSAC each contributed to significant breakthroughs in the evolution of workplace smoking policies in Canada. CUPE's Airline Division spearheaded the campaign to ban smoking on Canadian airlines. PSAC filed a grievance against the federal government on behalf of a non-smoker, successfully arguing that second-hand smoke is a dangerous substance (Public Service Staff Relations Board, 1985; Health & Safety Law, Feb. 1986). This ruling was a catalyst in the Treasury Board's ban on smoking in the federal public service. These two union initiatives are examined in more detail below.

CUPE adopted a general policy on smoking at the 1985 national convention. The policy then went to the annual health and safety conference for development and refinement, where it was deemed high priority. The 1987 national convention passed a resolution on ETS. From CUPE's perspective, smoking should be treated like any other workplace contaminant. Thus rather than advocating a smoking ban, the union has adopted the more general stance that workers should not be exposed to any toxic substance. This position is designed to gain the support of all members.

CUPE thus argues that tobacco smoke should be regulated and controlled like other carcinogenic substances. Just as with asbestos, there is no safe level of exposure to tobacco smoke. CUPE points out that Swedish unions have the right to refuse work where there is exposure to second-hand smoke, and to receive 100 percent compensation for lung cancers found in non-smokers who have been exposed to second-hand tobacco smoke (The Facts, Nov./Dec. 1985:11-12).

PSAC first sought a smoking policy with the federal government during negotiations for a new collective agreement in 1980-1981. The union's strategy was to define ETS as a hazardous substance, which the Wilson case established in law. This opened the way for defining workplace smoking as a health issue, not a rights issue. PSAC resolved the dilemma of representing the interests of smokers and non-smokers by advocating well-ventilated designated smoking rooms.

## **Industrial and Craft Unions**

On several crucial points, unions representing mainly office workers — essentially the public sector unions — differ from unions representing blue-collar craft or industrial workers. Employees in mines, factories, foundries and refineries are daily exposed to a host of very hazardous conditions and substances. Offices are far from safe, but they do not present the range of serious health and safety risks found in typical industrial settings. Consequently, industrial and craft unions representing blue-collar workers have been less vigorous in pursuing the specific goal of a smoke-free work environment.

Recall that blue-collar occupations also have higher rates of smoking. A craft union official explained that 'our position was to duck the [smoking] issue,' after pointing out that half of his members are smokers. This is not to suggest for a moment that craft or industrial unions are not concerned about occupational health — far from it. Rather, under these circumstances, a number of them preferred to have government or an employer make the first move on ETS.

Some unions, such as the Canadian Brotherhood of Railway, Transport and General Workers and the United Electrical Workers have no national policy, instead expecting locals to negotiate their own policies with specific employers. Local initiatives on ETS, we should note, are also encouraged by CUPE and other unions which have adopted national ETS policies.

A west-coast union, affiliated with the Confederation of Canadian Unions (CCU), took this approach but with an interesting twist. The Canadian Association of Industrial, Mechanical and Allied Workers (CAIMAW) believes that it must 'clean up its own house' before tackling smoking at employers' worksites. After a heated two hour debate, the union delegates passed a resolution banning smoking at conventions. Similar by-laws have been adopted by the British Columbia Council of the CCU and individual locals.

CAIMAW also works directly with employers to develop worksite policies, following the BC Lung Association's approach based on discussion, consultation, and a gradual phase-in. The union assumes that if workers participate in decisions regarding a smoking policy, they will be more likely to respect it. Negotiating separately ventilated smoking rooms with employers has proven more difficult.

#### **USWA Policy**

Every worker has the right to a clean-air environment and therefore any kind of smoke is hazardous.

The positions taken by several major industrial unions also underlines labour's broad-based concerns about occupational health. The USWA, a large and diverse industrial union, has an official policy on ETS similar to the AFL: every worker has the right to a clean-air environment and therefore any kind of smoke is hazardous. The USWA tries to safeguard the rights of non-smokers through smoking bans. At the same time it tries to negotiate properly ventilated smoking areas so that smokers' rights are also protected.

The USWA's experience with mining and steel firms has influenced its approach to ETS, to the extent that the union's overriding objective is to force employers to clean up their entire workplace, not just rid it of cigarette smoke. This position is echoed by occupational health and safety representatives in other industrial unions. A representative for the United Electrical Workers (UE), to take one example, views Ontario's Bill 194 as part of a long-term strategy of banning all carcinogens from worksites. Other than endorsing the AFL's position on Bill 194, the UE has no ETS policy.

The CAW finds itself in a similar position. The union's occupational health and safety representative described how Boeing, in Toronto, wanted to ban smoking when the union's primary concern was the health risks of aluminium exposure throughout the aircraft industry. In the auto industry, workers building 1,200 cars a shift must endure tiring, monotonous, and stressful conditions. The CAW recognizes that, for such workers, smoking is a means of coping. Thus the union's focus is not on the behaviour of the worker but the unhealthy conditions of his or her job.

The main reason that the Communication Workers of Canada (CWC) developed an ETS policy was to be consistent in negotiating workplace smoking policies with individual employees. The CWC represents workers in telecommunications and electrical industries. Half of its members are employed by Bell Canada. The union's rationale for developing an ETS policy is as follows: 'The absence of a policy does not allow us to either act or react in a coordinated way across the union. We risk a situation where not only will events overtake us but we will find ourselves with many different positions with different employers and in some situations, different positions with the same employer.' (CWC, nd.:2)

Thus, for the CWC, the potential costs of having no policy were too great. The union maintains that attempts must first be made to accommodate both smokers and nonsmokers. Failing this, the rights of the non-smoker shall take precedence, but the employer should provide smokers with separately vented smoking areas and smoking cessation programs.

However, the occupational cultures of some industries make restrictions on smoking difficult. The CAW represents workers in the fisheries in Atlantic Canada, where the dominant concern is not environmental pollutants but jobs and depletion of fish stocks. More generally, Maritime shipping presents unique problems. The Seafarers International Union opposed the federal NSHA, arguing that most sailors are smokers and that this behaviour is part of their occupational culture. A combination of class background, cheap tax-free cigarettes, and free time with little to do on board ship all contribute to a high incidence of smoking. In construction, where much of the work is outdoors, ETS is not seen as a problem. An official of the Canadian Federation of Labour, comprised mainly of construction unions, noted that its affiliates do not have occupational health specialists and that smoking restrictions on construction sites were rare (this was prior to the Ontario legislation).

### **ETS and Sick Building Syndrome**

The most strenuous opposition to smoking restrictions from within the labour movement has come from the BCTWIU. This union and its members have a vested interest in the continuing sale of tobacco products. Concerned about members' jobs, the union has aligned itself with the tobacco industry's lobbying campaign against any restrictions on smoking. Smoking bans imposed unilaterally by employers are 'insidious' and 'dangerous,' according to Rene Rondou, Secretary-Treasurer of the BCTWIU (Rondou, 1988:54). The BCTWIU views such bans as setting a dangerous precedent, opening the way for management to take similar actions to regulate other types of employee behaviour. The president of the Canadian branch of the union claims that smoking bans erode the fundamental rights of individuals under the guise of health. The BCTWIU advocates 'common sense and courtesy' because this approach allows individuals to work out their own solutions.

From the BCTWIU's perspective, the real problem workers face is poor indoor air quality and the resulting sick building syndrome. This view was developed with the help of tobacco industry scientific advisors, after the union became concerned that the public health campaign against smoking was threatening members' jobs. The union claims that ETS is not the cause of sick building syndrome because when smoking is banned illness persists (BCTWIU, 1989a:2). The BCTWIU's solution is to improve the design and maintenance of ventilation systems, not to ban smoking (BCTWIU, 1989b). It also promotes legislation which will deal with indoor air quality through better ventilation and air filtration.

Paradoxically, the BCTWIU's apparent concern about sick building syndrome is shared by unions which have championed smoking bans, such as CUPE and PSAC. In fact, indoor air quality is a much larger issue than ETS for unions representing office workers. Indicative of this trend, the CLC recently identified indoor air quality as a major occupational health concern. And PSAC (PSAC, 1989) has published a manual on office air quality for members and devised a health survey members can use to document sick building syndrome. Any attempt to address ETS in the future will also have to take into account other sources of indoor air pollution. Indeed, the World Health Organization is attempting to establish recommendations for action on the indoor air quality problem (Globe and Mail, 28 July 1989:A6; see also Walkinshaw, 1991; Overman, 1990; Grant 1990).

We have documented labour's fear that a narrow focus on smoking in the workplace diverts attention from other toxins which might be present in air. As smoking bans spread, occupational health protection and promotion efforts will likely shift to the sick building syndrome.

Numerous airtight buildings were constructed during the energy crisis in the 1970s. These buildings cut heating and cooling costs by reducing their intake of fresh air and recycling trapped air throughout the building. Hence a major contributor to sick building syndrome is this lack of fresh air. There is mounting evidence that poor indoor air quality has a deleterious effect on employees' health and job performance, although little is known about its long-term consequences (Financial Post, 10 October 1988:54; 2 August 1989:16).

In 1987 OPSEU sponsored a study of the causes of an outbreak of illness among Ontario government employees in a Sudbury office (OPSEU, 1987; Penney, 1988). Ninety percent of the employees were women, prompting the OPSEU local's president to assert: 'It's implied that we're having a hysterical reaction. We were told by the Ministry of Labour inspector that the complaints are due to menopause or pre-menstrual symptoms' (Penney, 1988:7). A union survey of air quality complaints found that about half of respondents reported fatigue, sore throats, and eye irritation; one-third had headaches; and 30 percent suffered from nosebleeds.

Labour's emerging position on the relationship between ETS and the broader issue of indoor air quality is captured in the AFL-CIO's critiques of the US Surgeon General's 1986 report on the health hazards of ETS (AFL-CIO, 1986a:2). The AFL-CIO is apprehensive that by down-playing engineering controls regarding ETS, the report could undermine the effectiveness of heating, cooling, and ventilation systems in removing other toxins from the work environment. By equating unhealthy work environments with smoking, the Surgeon General's report deflects attention from numerous other sources of indoor environmental hazards and implies that responsibility for a clean workplace falls on employees.

## The Role of Unions in Developing Workplace Smoking Policies

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This section of the report examines the role of unions in developing workplace smoking policies. First, three influential grievance arbitrations are outlined. Second, a series of case studies are presented in order to document the involvement of unions in developing smoking policies with specific employers.

### **Non-Smokers' Rights and the Grievance Process**

**The Patenaude Case:** In February, 1982 a Quebec City air traffic controller, Jean-Luc Patenaude, filed a grievance requesting that 'employees and visitors alike be prohibited from smoking in the operations room. That this directive be issued and applied. That a smoking area be made available to smokers' (Public Service Staff Relations Board, 1985). The employer responded by introducing special filters in the operations room.

The grievance went to adjudication, where it was dismissed for lack of evidence. The adjudicator ruled that Patenaude's evidence was inadmissible because the opposing party was not able to cross-examine the authors of the documents submitted by him. However, the upshot was that in September 1983, the staff side of the National Joint Council recommended that smoking in federal workplaces be restricted to designated areas which have local exhaust systems (National Joint Council, 1983).

**The Peter Wilson Case:** Peter Wilson, a management information clerk, was employed by the Department of National Health and Welfare in Toronto. Mr Wilson commenced his employment in August 1981. Seventeen persons were employed in Mr Wilson's work area, of whom 6 to 8 were smokers. On January 24, 1984, Mr Wilson filed a grievance stating that by allowing tobacco smoke in the workplace, management was violating the Dangerous Substances Safety Standard. He asked the employer to 'restrict tobacco smoke to an adequately ventilated area separate from the workplace.' In November 1984, Wilson was relocated to another building.

As background to Wilson's grievance, we should note that the Treasury Board and the Public Service Alliance (through the National Joint Council) had agreed to incorporate the provisions of the Dangerous Substances Safety Standard into the Collective Agreement on April 1, 1983. The Standard specifies that each department should ensure that the concentration of air-borne 'dangerous substances' (i.e., substances which pose a danger to the safety or health of workers) does not exceed the threshold limit recommended by the American Conference of Governmental Industrial Hygienists (ACGIH). The ACGIH states that 'no exposure or contact by any route — respiratory, skin or oral, as detected by the most sensitive methods — shall be permitted' (ACGIH, 1980:38). Tobacco smoke was not identified by the ACGIH as a dangerous substance.

At the hearings during early 1985, expert witnesses presented evidence on behalf of the grievor and the Treasury Board, Wilson's employer. The hearings sought to determine whether or not tobacco smoke was a 'dangerous substance.' In December 1985, Walter L. Nisbet, Deputy Chairman of the

Public Service Staff Relations Board, ruled that passive tobacco smoke is a 'dangerous substance' within the meaning of the Standard (Public Service Staff Relations Board, 1985). Nisbet's conclusion was based on evidence showing a statistically significant correlation between exposure to passive smoke and an increased incidence of lung cancer. It is more than coincidental that the week of Nisbet's ruling, the Ottawa Citizen reported that the federal government was considering a smoking ban in all of its offices (Ottawa Citizen, 26 December 1985:A1).

Normally an adjudicator's decision on a federal public service employee's grievance is final. However, Section 28 of the Federal Court Act gives the Federal Court of Appeal jurisdiction to review the decision of a quasi-judicial tribunal if specific legal circumstances prevail. One justification for such an appeal is if the tribunal is deemed to have erred in law (Christian, 1983).

Treasury Board appealed Walter Nisbet's decision on the grounds that he 'erred in law' in deciding tobacco smoke was a dangerous substance. Jean-Pierre Kingsley, Deputy Secretary of the Treasury Board, claimed that the health and safety standards for federal employees pertained only to the work performed and were never meant to apply to tobacco. He noted: 'we do not require that they smoke as part of the working exercise' (Ottawa Citizen, 4 January 1986:A12). A likely reason for the appeal was economic considerations, given the costs of abiding by the adjudicator's decision.

The appeal judgement, handed down in October 1986, was split. Justices Stone and Pratte set aside Nisbet's 1984 adjudication decision. The matter was referred back to Nisbet on the specific grounds that passive cigarette smoke is not a dangerous substance to which the Dangerous Substances Safety Standard applies. However, Nisbet's general conclusion that passive cigarette smoke in the workplace endangers the health of employees was not challenged. But the adjudicator erred in law because the danger of secondary tobacco smoke does not derive from any sources listed in the standard, but from the personal habits of fellow employees. In a dissenting opinion, Justice Mahoney argued that the purpose of the standard is to reduce the hazards faced by employees in the workplace. Justice Mahoney was critical of a narrow interpretation and application of the standard. The standard, he asserted, should apply to any dangerous airborne substance regardless of its source (Federal Court of Appeal, 1986a; 1986b).

The Alberto Timpauer Case: Another case, while not utilizing the grievance procedure, also set an important precedent. On January 28, 1985, Alberto Timpauer, a unionized Air Canada employee at Pearson International Airport in Toronto, refused to work because he believed that his coworkers' tobacco smoke posed an 'imminent danger' to his health. The Canada Labour Relations Board ruled in April 1985 that Timpauer's exposure to tobacco smoke did not constitute an imminent danger which would justify a refusal to work pursuant to section 82.1 of the Canada Labour Code (Health and Safety Law, April 1985).

Subsequently the word 'imminent' was dropped from the right to refuse provision of the Canada Labour Code. The word danger means a 'condition that could be reasonably expected to cause injury or illness to a person exposed thereto before the hazard or condition can be corrected' (Brown, 1988:12). Mr. Timpauer's battle continued. Finally, in October 1986, Labour Canada sent an inspector to test the air in the trailer where Timpauer worked. On the basis of the trailer's poor air quality — rather than the presence of carcinogens from ETS, which were not tested — Labour Canada upheld Timpauer's right to refuse work over second-hand tobacco smoke (Globe and Mail, 9 October 1986:A1-A2). Throughout the entire ordeal, the employee received little support from his union, the International Association of Machinists and Aerospace Workers (Our Times, May 1985:49).

In summary, these three cases show how employees, sometimes with the assistance of their unions, succeeded in setting important legal precedents. The Patenaude case highlighted the need for specific policies to ensure the right of non-smokers to a smoke-free work environment. The Wilson case forced the issue of classifying tobacco smoke as a dangerous substance. The Timpauer case defined exposure to tobacco smoke as justifiable grounds for an employee refusing to work under the Canada Labour Code. As such, these cases were catalysts for the Treasury Board's smoking ban in federal government worksites and, eventually, the Non-smokers' Health Act.

### **Banning Smoking on Canada's Airlines**

CUPE's Airline Division, representing about 7,000 flight attendants, pushed for a total smoking ban on Canadian airlines — and won. In 1987, Canadian Airlines International became the first carrier to bow to public demand and voluntarily ban smoking on all North American flights (Globe and Mail, 19 December 1989:A10), with Air Canada following in 1988. On October 1st, 1990, Air Canada became the first international airline to introduce a total ban on all flights between North America and Europe. Thus 99.8 percent of the airline's flights will provide a smoke-free environment (Aeroplan Bulletin, Sept./Oct. 1990). Smoking is still permitted on London-Bombay-Singapore flights, which the airline claims have a high proportion of smoking customers.

More than anything, the union's demand for a smoking ban was a response to the nature of the environment in which flight attendants work. Airline cabins are one of the most crowded human environments. Flight crew and non-smoking passengers on smoking flights are exposed to involuntary smoke for extended periods. Passengers and crew are routinely exposed to carbon monoxide, dioxide, fuel exhaust, vapours from interior materials, germs, recirculated smoke, ozone and on high altitude flights, extremely low humidity levels (Unity, June 1985:10). Unlike buildings, it is not possible to leave the site for some fresh air.

Smoking on flights also poses a major safety problem. For example, the Department of National Defence issued a warning to forces personnel that any violation of the smoking ban on military flights would result in possible dismissal or two years imprisonment.

The warning was issued after an increase in the number of violations, resulting in at least one cigarette-related fire in a waste bin on board a military Boeing 707 (*Globe and Mail*, 22 May 1989:A1).

The US National Academy of Sciences concluded in its 1986 report on air quality and airline cabin environments that it is technologically impossible to adequately filter tobacco smoke out of cabin air (National Academy of Sciences, 1986). Aircrafts' high-tech ventilation systems may malfunction due to inadequate maintenance or outside air intake may be reduced to conserve fuel (Unity, September 1986:12). The result could be an increase in acute health problems in passengers and crew members (irritation, inflammation, and infections), as well as chronic disorders (neoplasms, abnormal tissue growths, reproductive disorders, decrease in pulmonary functions). The Academy thus recommended a smoking ban on all US domestic commercial flights in order to lessen discomfort, reduce potential health hazards, eliminate fire hazard, and bring cabin air quality up to the standards set for other closed environments.

Flight attendants began lobbying for smoking regulations on airlines in the early 1980s. The union's ultimate success can be attributed to several factors: building support from an international coalition of airline employee, anti-smoking, and consumer organizations; keeping members well-informed and involving them in a major letter-writing campaign to the Minister in 1989; the active leadership taken on the issue by one of the union's members; support in the federal Cabinet from the Minister of Transport, Benoit Bouchard; and behind-the-scenes assistance from knowledgeable federal bureaucrats. The issue was an emotional one, with a minority of members taking the airlines' position out of fear for their jobs. The Canadian Airline Pilots' Association was not active in this campaign.

Despite the fact that 80 percent of passengers request non-smoking seats, the airlines' opposition to a total ban centered on the loss of revenues. The Minister of Transport based his support of a ban on two arguments: employee and passenger health, and the potential to gain a marketing advantage by offering passengers fresh air. Ironically, now that the ban is all but total, the airlines' marketing of international flights emphasizes this last point.

### **Treasury Board's Smoking Ban in the Federal Public Service**

In October 1985, Jake Epp, the Minister of Health at the time, announced that smoking would be banned in Health and Welfare Canada offices as of January 1, 1986. Smokers who wished to light up at work were limited to smoking in designated areas during breaks. This policy was partly a response to the findings of a survey of the department's employees conducted in August 1985. The survey found that 71 percent were nonsmokers and half said they found tobacco smoke bothersome (*Ottawa Citizen*, 26 December 1985:A1).

On April 22, 1987, Treasury Board President Robert de Cotret announced a phased-in smoking ban in all federal public service workplaces. The first phase of the policy took effect October 1, 1987 when smoking was restricted to designated areas. Federal employees had been informed about the policy five months before the interim measures were instituted. On January 1, 1989 it became illegal to smoke anywhere in a federal workplace, including offices, cafeterias, corridors, and washrooms.

Many smokers saw the initiative as unfair because its application was not uniform. For example, the ban did not extend to areas shared by private tenants in the same building. Treasury Board employees in office buildings with shopping malls located on the lower levels could retreat to these public areas for a smoke. But Statistics Canada employees were forced to smoke outside, braving the elements, because there are no such public areas. In response, approximately 1,200 Statistics Canada employees (including nonsmokers) signed a petition protesting the uneven impact of the smoking policy and requesting a well-ventilated smoking room.

Daryl Bean, the Public Service Alliance's president, urged smokers at Statistics Canada to continue their defiance of the ban. The defiance began January 3, 1986 and about 100 smokers were involved. This spread to other departments such as External Affairs; Energy, Mines and Resources; Public Works; National Defence in Hull; and Health and Welfare in Quebec City. Bean informed smokers that the union did not have the power to prevent suspension and fines resulting from their actions (Ottawa Citizen, 12 January 1989:A4; PSAC Weekly Newsletter, 20 January 1989).

In addition to criticizing the inconsistency of Treasury Board smoking policy, PSAC also objected to the process by which it was implemented. Despite Mr de Cotret's indication that the union had been consulted, PSAC had a very different perception. Since 1983, the union had been working through the National Joint Council (NJC) to develop a smoking policy which would restrict smoking to separately ventilated rooms (NJC, 1983). However, the Treasury Board's 1987 policy was announced unilaterally, circumventing the NJC. If NJC negotiations had led to a policy, then the problems arising from the perceived lack of fairness in the Treasury Board's edict likely would have been avoided.

Any doubts about the legality of the Treasury Board policy were laid to rest in August 1989, when Mr Justice Max Teitelbaum ruled that the federal government has the right to institute a smoking policy in its offices. The Justice rejected the claim of Gilles Jourdain, a civil servant in Montreal and a smoker, that the Treasury Board had no power to impose a smoking ban. The Justice noted that the employer has the right to rule on matters of health and safety, except when they are part of a collective agreement. The Treasury Board argued that smoking in the workplace was not simply a health issue, but involved financial and other considerations. The Justice stated, however, that he had 'grave doubts that the smoking policy is not about health and safety' (CP Wire Service, 24 August 1989). Nonetheless, the Treasury Board still had the power to impose the policy.

As of August 14, 1989 the House of Commons became a smoke-free workplace. The policy, approved by the House of Commons Board of Internal Economy, requires Commons staff and visitors not to smoke in hallways, washrooms, and cafeterias. MPs and their staff were permitted to smoke in their offices until December 29, 1989, when Bill C-27 came into force. MPs and Senators can set aside a portion of their offices as a smoking area, as long as it is separately ventilated.

## **Bell Canada**

In 1983 Barbara Genser, a Bell Canada Sales Representative was fired after requesting a smoke-free work area. Five of her colleagues were smokers and one of them, a chain smoker, sat three inches in front of her. She explained that her exposure to smoke had caused upper respiratory problems. Several years later, a non-smoking Bell Canada employee in Toronto, frustrated by the lack of restrictions on smoking, turned a fire extinguisher on a smoking co-worker's ashtray — and the smoker. The non-smoker was charged with assault, found guilty, and given a discharge. He was not disciplined by Bell Canada.

This was the prelude to Bell Canada's smoking policy. Bell is a federally regulated industry and therefore subject to the NSHA. Prior to the legislation, the company had laid plans for its own smoking regulations. The two notable features of Bell's smoking policy are: 1) the active participation of the Communications Workers of Canada in planning and implementation; and 2) the difference between the firm's Ontario and Quebec regions in responsiveness to the ETS issue.

Bell conducted two surveys of employees' smoking habits and attitudes towards smoking between December 1985 and April 1987. Two-thirds of the employees were found to be non-smokers and the majority supported smoking restriction in the workplace. Employees did not favour a total ban. Bell first restricted smoking in conference rooms and other common areas of the company in June 1986. Individual employees also were given the option of designating their workstation a non-smoking area (Bell News, 9 January 1989). Bell's Ontario region banned smoking as of April 3, 1989, and this was extended to the Quebec region on December 15, 1989. Smoking was no longer allowed in any Bell worksites, with the exception of the designated smoking area or room.

An important feature of Bell's smoking policy was the establishment of a joint union-management 'user's committee' in each building. These committees determined which area would be set aside for smoking. About 80 percent of the smoking rooms were located on the outside wall of a building with separate ventilation systems. Some managers were reluctant to allocate space for smoking rooms because of the cost, but these problems were resolved. The committees were not involved in monitoring compliance with the regulations. Company-sponsored smoking cessation programs also were set up. Smoking is a thorny issue within the union.

From CWC's perspective, then, Bell's willingness to work with it and to take into account employees' wishes resulted in a policy with which everyone could live. Interestingly, this view is also shared by management. However, this positive evaluation applies more to Bell's Ontario region. Both union and company officials anticipated more compliance problems and complaints and less support from management in Quebec.

Two other issues also proved particularly difficult. One concerned who would discipline managers in violation of the smoking policy. The other was the discriminatory impact of a smoking ban. The vast majority of outdoor workers are males, who can get away with smoking in vehicles because supervisors are not present. Women, in contrast, are concentrated in office jobs and subject to direct supervision.

Major telecommunications firms have smoking policies which originated in the early and mid-1980s. Documentation available on policies in two of these firms — BC Telephone and Maritime Telegraph and Telephone — indicate that the process was similar to Bell's (BC Tel News, 1986; BC Telephone Co, 1985; Maritime Telegraph and Telephone Co, nd.). Specifically, while management took the initiative, employees' opinions were surveyed, unions were consulted, the policy was phased-in to allow smokers to adjust, separately ventilated smoking rooms were set up where possible, and cessation programs were made available. While union involvement in both these cases was not as extensive as the CWC with Bell, the end result was policies broadly endorsed by unions and employees.

### **Algoma Steel Corporation and Denison Mines Limited**

The USWA has had both positive and negative experiences dealing with employers on the smoking issue. It considers Algoma Steel Corporation's smoking policy to be a good model to follow. The policy 'attempts to reflect the direction in which our society is moving; it acknowledges non-smoking as the norm and communicates the value the company places on employee health and comfort.' The rights of a non-smoker to protect her or his health prevails over an employee's desire to smoke. The policy also outlines the economic benefits accruing to the employer (Algoma Steel Corporation, 1988).

The policy, developed by a joint union-management health and safety committee, was phased in over a three month period, and provided cessation programs. A ban came into effect April 4, 1988, with smoking only permissible in designated areas. Enforcement of the policy was left to the appropriate supervisory personnel, who must follow procedures agreed upon by the joint health and safety committee and endorsed by the company. Management is expected to counsel 'in a cooperative spirit' anyone in violation of the smoking ban. Only if the problem persists will formal discipline be used. Similar initiatives involving management and local union officials, with the joint health and safety committee taking an active role, are found elsewhere in the steel industry (Steel Shots, September 1986:18).

In marked contrast with the Algoma situation, Denison Mines Limited in Elliot Lake encountered opposition from USWA Local 5762 when it banned smoking anywhere on company premises. The union was represented on the committee which developed the smoking policy. Staff were given advance notice, and the implementation date was delayed for three months out of consideration for smokers. The firm offered free smoking cessation programs through the Lung Association.

Despite this promising beginning, difficulties soon surfaced. On February 3, 1987 the Director of Personnel and Industrial Relations notified the union that effective April 1st 'smoking will be prohibited within the boundaries of the Company's property' (Health and Safety Law, October 1989:1). This move was consistent with the recommendation of the Ontario Royal Commission on the Health and Safety of Workers in Mines, that individuals exposed to ionizing radiation in uranium mines refrain from smoking (Health and Safety Law, October 1989:5). The company wanted to reduce its Workers' Compensation premiums, which had jumped from \$1,800 for each employee in 1982 to about \$3,600 by 1988. This increase partly resulted from awards made by the Workers' Compensation Board for lung cancer claims.

USWA filed a grievance concerning the validity and enforceability of this policy. The union was particularly concerned that the policy would be applied arbitrarily. However, the union lost the grievance because the arbitrator ruled that the hazards of uranium were reasonable justification for the company's total smoking ban (Health and Safety Law, October 1989:2). Had the company backed away from a total ban, perhaps offering designated smoking areas, a consensus might have been reached with the union.

### **Chrysler Corporation**

When asked what his union considered a successful smoking policy, a Canadian Auto Workers' official cited their experience with Chrysler Corporation. The smoking policy was approved in October 1989 and became effective on January 1, 1990. It was formulated in response to Ontario's Bill 194.

The policy prohibits smoking except in designated areas, which include posted open work areas such as garages, laboratories, office space, and production and manufacturing zones which 'are of sufficient size and ventilation exchange capability to allow smoking' (Chrysler Canada, 1989:1). Smoking is permissible in enclosed offices if all of the occupants agree. Designated smoking areas are permitted in cafeterias, vending areas, and restrooms. However, the wishes of non-smokers will prevail over those of smokers. The policy is also applicable to suppliers and visitors. From the union's point of view, prior consultation and accommodating both non-smokers and smokers are what recommend this approach.

### **Canada Post Corporation**

Canada Post Corporation's (CPC) approach to complying with the federal NSHA once again highlights how management's disregard for the process of

implementing a smoking policy raises the ire of unions. Effective December 30, 1989, smoking was prohibited in all CPC owned and leased premises, including private offices and vehicles. No designated smoking areas were provided. The CPC program had four components: nonsmoking signs in all CPC facilities used by the public; communication with employees, major customers, and suppliers; smoking cessation programs; and lifestyle health promotion programs.

The Canadian Union of Postal Workers (CUPW) endorses the protection of non-smoker's health through policies which don't force smokers to quit. CUPW supports the overall objectives of CPC's smoking policy. The union's objections focus instead on the lack of information and prior notice, the nature of the cessation programs, no provision for designated smoking areas, and the problems of evenly applying it across the country. For example, the union was informed of the policy about two months before its implementation, thus giving little time for a constructive dialogue on potential problems.

Moreover, since CPC did not set aside designated smoking areas (permissible under federal legislation), the union argued that the interests of all employees had not been considered. The union circulated the following response to its members: in recognition that nicotine is an addictive substance that can create withdrawal symptoms as debilitating as those related to quitting heroin, the union does not believe the Corporation has adequately considered the effect of the smoking prohibition on employees' (CUPW, 1989:1). The union also notes that employees who smoke will experience the stresses of withdrawal. It criticized CPC for not integrating smoking cessation into the Corporate Employee Assistance Program (CUPW, 1989). The union argued that CPC should subsidize smoking cessation programs. Finally, the union wanted to ensure the consistent application of the policy across the country. This would avoid, for example, having some supervisors withdrawing smoke breaks as a disciplinary measure.

From the union's perspective, most of these problems could have been avoided had management consulted with them well in advance of implementing a policy. Yet considering the troubled history of labour-management relations in the post office, it is indeed noteworthy that more conflict did not erupt around the smoking issue.

## **Coast Guard Ships**

The Union of Canadian Transport Employees represents Transport Canada employees at airports and in the Canadian Coast Guard. The union has developed a cooperative relationship with Transport Canada (TC) on the smoking issue. Again, joint occupational health and safety committees served an important function, mediating between the top level of TC, where policy was initiated, and the rank-and-file employees who had to adapt to the policy.

Smoking is a major issue for ships' crews, so both union and management had to take steps to tailor a workable smoking policy. In particular, an 18-to-24-month grace period was extended before a ban would take effect on Coast Guard ships. The union and TC made sure that crew members were kept well informed of the

policy in order to produce the possibility of grievances by employees feeling that the policy was forced on them. As well, the employer subsidized cessation programs.

The viable policy which has emerged is best described as 'tolerant.' There still is not full compliance, largely because management often permits smoking on board. Crews do, however, seem to respect smoking restrictions in living quarters. However, it is difficult to define which areas of the ship are a 'workplace' for specific crew members at specific times. The union's basic position on the smoking issue, even on ships, is that a policy will be accepted by workers if it is fully explained and slowly introduced. So far, there have been no grievances filed by Coast Guard employees over smoking.

## Conclusions

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### **Impact of Policies**

The majority of recent workplace smoking restrictions reduce non-smokers' exposure to ETS. But do such policies also result in a decline in the overall incidence of smoking among employees? From a public health standpoint, both goals are crucial.

To begin, there has been a sharp decline in the national rate of cigarette consumption at a time when legislated and employer-initiated smoking restrictions were introduced. Of course, it is too early to evaluate the impact of the federal and Ontario legislation. Nonetheless, the findings of a prospective study of Health and Welfare Canada employees in the national capital region indicate that recent legislation will have a positive effect on public health.

In August 1985, five months before new smoking guidelines were introduced, 4,200 Health and Welfare Canada employees in the national capital region were surveyed about their smoking behaviour (Millar, 1988c; Millar, 1988a). These employees were surveyed again in February 1987, thirteen months after the smoking restrictions had been introduced.

The post-restriction survey documented a reduction in the prevalence of smoking and smoking-related problems. The 1985 survey had found that 60 percent of smokers said they would cut down or quit smoking if restrictions were enforced. The 1987 survey showed that 46 percent of those who smoked at the time of the first survey had made attempts to quit in the subsequent year. Labour Force Survey estimates suggest that 37 percent of regular smokers attempt to stop smoking in any given year.

It appears that the introduction of smoking restrictions was a major reason for the decline in smoking rates among employees. The study concludes:

Many smokers welcomed the new restrictions because the work environment placed an additional set of constraints on their smoking behaviour and provided more institutional support for smoking cessation efforts (Millar, 1988a:12).

### **Ingredients of An Effective Smoking Policy**

A management edict with little or no employee consultation is one often fraught with problems, especially in unionized workplaces. Smoking restrictions are bound to be more acceptable, and compliance problems reduced, if employees are involved in their development (Harty et al., 1989). The protest at Statistics Canada, described above, is good evidence of this.

Robert A. Rosner, who helps set up smoking policies through the Seattle-based Smoking Policy Institute (Smoking Policy Institute, 1986), argues that programs are most effective

when employees are given plenty of notice, the company pays for smoking cessation courses, and the policies are applicable everywhere — from the switchboard to the boardroom (Hamilton, 1987:43). For example, allowing supervisory staff to smoke in enclosed spaces while banning smoking in common areas will foster resentment among non-supervisory smokers (Price, 1989:8). It is also useful to provide information on the benefits of quitting, the hazards of ETS, and how to deal with co-workers who experience difficulty with the policy. To the extent possible, joint health and safety committees should monitor the policy's implementation and encourage employee feedback.

The policies likely to have the greatest impact on reducing ETS and encouraging smokers to quit will ban smoking from the worksite, while at the same time providing designated smoking areas and cessation programs for smokers. It is crucial that designated smoking areas be physically self-contained and separately ventilated to prevent smoke being recirculated throughout the building.

The Cancer Society's plan is very general and therefore must be tailored to unionized settings. Its five steps to a successful smoking control policy include many of the above points.

#### **Cancer Society Plan**

- **Management Review:** management selects a program coordinator, a policy development team, and identifies the responsibilities.
- **Situation Analysis:** The policy development team must collect internal information using surveys and/or reviews of: employees, labour relations and contracts, facilities, extant personnel policies, etc.
- **Strategic Planning:** Relevant facts are collected and a policy is drafted. This should make reference to enforcement, cessation assistance, breaks, in-house communication.
- **Implementation:** At this stage the policy is announced, communication with the workforce is maximized, special events are held, cessation programs are put in place, physical changes are made (if necessary) and monitoring of the smoking policy commences.
- **Evaluation:** At this point the impact of the policy can be measured. (Canadian Cancer Society, 1987; Smoking Policy Institute, 1986)

The presence of a union can facilitate a successful smoking policy. One pilot study suggests that achieving a workable smoking policy requires a commitment from senior management (Sacks-Silver et al., 1990:231). However, the above case studies of union involvement in smoking policy indicate that commitment throughout the organization is equally important. More than anything, this depends on the degree of prior consultation with employees. It is here that unions have a major role to play. Indeed, when unions

evaluate their experiences with workplace smoking policies, highest marks go to programs developed through joint employer-employee consultation. Often this involves health and safety committees established by the collective agreement or legislation.

In sum, over the years unions have achieved significant improvements in working conditions through negotiations with management. Conversely, changes in working conditions unilaterally imposed by management frequently have not been in workers' interests. It is through the filter of this cumulative experience, then, that unions view the smoking issue. The cases discussed show that when the principle of consultation operates effectively, union and management can reach a consensus about smoking policy. In these circumstances, ETS is an issue which provides common ground where union and management collaborate to promote health in the workplace. This finding is illuminating, given that there has been little systematic research on the organizational processes shaping the development, implementation, and success of ETS policies (Parker and Warner, 1989:4).

What the Cancer Society and other anti-smoking organizations have not fully considered, however, is what labour sees as the contradiction underlying ETS policy and legislation. Labour argues that the smoking issue must be addressed in the larger occupational health and safety context. ETS is one of the many workplace hazards employees face — albeit the most widespread and preventable. Employers and government espouse a commitment to protecting employees' health by acting on ETS. But so far ETS policy and legislation has not set a precedent for how to deal with other workplace hazards. The union position is that employers have an obligation to ensure that the work environment is safe and healthy for employees. The next logical step is to move beyond ETS to tackle the long list of other toxins.

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