

May 23, 1987

MEMORANDUM

To: Peter Sparber  
From: Susan Stuntz *sm*  
Re: Public Smoking Program

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From the beginning of the formal public smoking program several years ago, our goal has been "To discourage legislators and organizations from unfairly discriminating against employees and others who smoke."

The National Academy of Sciences and Surgeon General's reports on environmental tobacco smoke in late 1986 have made our goal tougher this year, as they have provided the ammunition for an avalanche of smoking restriction bills at the federal, state and local levels. They also pose a challenge for us to maintain our 80 to 90 percent success rate in defeating restriction legislation in the states.

In 1986, 35 states considered smoking restriction legislation -- private workplace restrictions were considered in 23 of the 35 states. Of the six states that passed laws, three addressed the private sector workplace.

On the local level, where victory has always been tougher, 1986 saw 225 cities and towns consider smoking restrictions; legislation was approved in 132, defeated in 50 and carried over to 1987 in 59.

To date in 1987, smoking restriction legislation has been introduced in 43 states; 26 include workplace restrictions. Of the 13 bills that have passed, three include the private workplace.

Locally to date, 178 smoking restriction bills have been introduced; 53 have been approved and 15 defeated. As state legislatures adjourn for the year, however, we can expect to see increased activity at the local level.

The scientific reports of 1986 have meant more than a higher degree of legislative interest in the ETS issue; they also have increased public -- and media -- attention. As a result, Institute and expert consultant response to public, media and legislative inquiries

during the first quarter of 1987 have been stepped up as well.

### Scientific Witnesses

ETS experts have been kept busy responding to the claims raised in the NAS and Surgeon General's reports. In the first four months of 1987, the Indoor Air Pollution Advisory Group (IAPAG) appeared at 28 legislative hearings, from Vermont to Arizona, Montana to Arkansas. Those appearances -- in only four months -- almost equal the total number of hearings in which IAPAG witnesses participated in all of 1986.

In addition to appearing at hearings, we've also relied upon IAPAG representatives to present their assessment of the science in briefings for legislators and allies. They've done nine of these so far this year, including one for Congressional staff members.

Our first priority has been to meet all legislative needs. As more scientists are identified and available for testimony, however, we are moving a couple of them over to the media side. Several have made media appearances already. However, in July we will begin an intensive monthly media tours with Jack Peterson, an industrial hygienist, and David Weeks, a physician. These "truth squads" will raise serious questions about anti-smoker scientists in meetings with editorial boards and radio, television and newspaper reporters.

### Broadening the Issue

As the ETS scientists critique the scientific literature, and urge that the issue be considered in the broader indoor air quality context, Gray Robertson and his three colleagues at ACVA paint a vivid picture of the ventilation problems workers in many white collar work environments encounter. Whenever a scientific witness appears at a hearing, an ACVA witness usually accompanies him.

In Boise, Idaho, in March, a Robertson appearance before a city council was credited with changing three votes and turning a loss on a workplace bill into a victory. In Rancho Mirage, Cal., Robertson discussions with the mayor led to requirements that building owners provide improved ventilation/filtration devices as part of a weakened smoking restriction ordinance.

Robertson is approaching the end of the first year of a media tour, placing ETS in the proper context for reporters and talk show hosts throughout the country. In the first ten months of the tour, he has visited 55

cities in 20 states, and spoken with representatives from more than 330 media organizations. In Austin, Texas, recently, reporter Kathy Cronkite (Walter's daughter), left him virtually speechless as she took most of his lines. In Washington State, newspaper headlines read, "Smoking ban won't clear indoor air, expert says," and "Filthy air ducts, not smoking, make buildings 'sick'."

We have, of course, renewed these tours for another year...with New York City and Washington, D.C., high on our list of priorities.

Robertson also is a much-requested speaker for labor unions, who are focusing their attention increasingly on indoor air quality issues. The Service Employees in Maine and New Hampshire recently launched an indoor air quality awareness campaign with a conference on the issue. Panelists included Robertson and John Spengler of Harvard, a contributor to the NAS and Surgeon General's report, and the individual responsible for another NAS committee's recommendation to ban smoking on airlines. When the conference was over, the unions asked Robertson for his continued help on their campaign; we will meet with them June 4 to follow up on that request.

Our 1987 plan stated a goal of 100 indoor air quality briefings with officials from labor, industry, trade, environmental groups and the media. We've met that goal already this year.

We're not as far along with our goal to conduct 75 building studies; employers are reluctant to agree to such studies. But federal employee unions are pushing hard for the General Services Administration to live up to its promise to conduct comprehensive indoor air quality studies as a part of its new smoking restrictions; New England employees want ACVA building studies. And a project we've agreed to fund jointly with the National Energy Management Institute (NEMI) will provide us with additional expertise to conduct those studies.

NEMI, a cooperative effort of the ventilation industry and the sheet metal workers union, trains ventilation contractors in building codes and standards, and building inspection techniques. The Tobacco Industry Labor Management Committee will work with NEMI to train those contractors -- currently some 200 across the country -- to address the ETS issue in their building studies. NEMI will promote their program in a public relations campaign to be launched later this year.

reasonable one that respects the wishes of each.

#### EPA's Indoor Air Quality Program

James Repace has been a thorn in the industry's side for years. He has always managed to find a way to take time from his job at the Environmental Protection Agency to present his "research" linking environmental tobacco smoke to 500-5,000 lung cancer deaths a year in nonsmokers in testimony, in anti-smoking articles, and as an expert witness in lawsuits on behalf of workers. Late last year, however, EPA assigned him to its indoor air quality program team -- an assignment that appears to be a direct conflict with his outside activities, for which he has accepted payment.

We quietly provided the documentation on Repace's activities to Rep. Don Sundquist of Tennessee. He wrote EPA Administrator Lee Thomas for an explanation, including that documentation in his letter. That request has triggered an investigation of Repace's activities by the Inspector General, and a call from Repace for scientists to send letters to the EPA in his defense.

#### Corporate Relations Program

We continue our program of offering advice and assistance to companies seeking help on workplace smoking issues. Unsolicited requests for help for the first four months of 1987 equal the total for 1986. And we already have exceeded our year's goal of 200 detailed briefings; for the four months ending April 30, we've provided detailed briefings to 250 companies. In all instances, we offer tailored materials, on-site visits, and the services of specialized consultants in our efforts to discourage companies from adopting smoking policies, or to persuade them to implement less restrictive ones.

Recently we received word from one of our companies that the American Management Association's Washington office was implementing a smoking ban; we contacted the director of the office, who admitted he was reluctant to ban, but had no idea of how to proceed with a less restrictive approach. We are working with him now to guide him in that direction.

Many of our phone calls recently have been from New York State employers seeking help complying with proposed Public Health Council regulations. Our efforts in that instance were to assure employers that they retained some latitude in allowing smoking in certain areas.

## Outreach to Labor

Labor unions, too, have an increasing interest in maintaining their collective bargaining rights. When the General Services Administration announced its new smoking regulations, we launched a program to remind federal employee unions of agencies' duty to bargain. Some agencies -- most notably, Health and Human Services -- have announced smoking bans. The unions already have filed unfair labor practice charges against them.

In Wisconsin, service employees representing nurses at Group Health Association called us for help in grieving a smoking ban. We provided scientific and legal advice; the judge ruled against GHA. In Illinois, state employees asked us to debate local cancer society doctors on state legislation that would have restricted smoking in the workplace. Following our presentation, the employees voted to oppose the legislation as an infringement on their collective bargaining rights.

## Travel and Hospitality Program

Some of the calls we take come from smokers who are increasingly resentful of their treatment as "second-class" citizens. Airlines, hotels and motels, restaurants, rental car companies...at one time or another, organizations in each of these groups has offered discounts to nonsmokers, or targeted them in promotional material as desirable customers. We've recently begun work on a travel and hospitality outreach program, that will enable us to approach these industries with information about smokers' views of their treatment, and to identify companies that value smokers as customers.

## Resources

All of these efforts require tremendous amounts of materials, many of them targeted for different audiences. We're completing production work on three videos -- a standard workplace video that outlines all of the health, ventilation, economic and legal issues; and ventilation videos for corporate and labor audiences.

For several years we've had a workplace "kit" of materials for our corporate relations program. We're completing work now on a similar kit for labor...to be signed by presidents of major unions including the Machinists, the Carpenters & Joiners, the Firemen & Oilers, the Bakery, Confectionery & Tobacco Workers, and the Sheet Metal Workers.

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