

PUBLIC SMOKING

I. Background and Assumptions

o Federal, state, local and private employer smoking restriction activity continues. In the time since the first public smoking legislation was passed in 1973, some 46 states and more than 1,000 localities have restricted smoking in public places. Of these, 17 states and the District of Columbia restrict smoking in the private workplace and 35 states and the District of Columbia address smoking in government offices. In addition, more than 360 localities restrict smoking in the private workplace. Anti-smokers continue to pressure legislators to severely restrict or ban smoking in all public places.

o Until recently, smoking restrictions and smoking restriction legislation have been based on annoyance to the nonsmoker. However, the 1986 reports by the Surgeon General and by the National Academy of Sciences fueled legislative activity based on the alleged health effects of environmental tobacco smoke (ETS) on the nonsmoker.

Note: Items footnoted with a "1" indicate items that have been added since last year's plan; items footnoted with a "2" indicate items that have been significantly expanded from last year's plan.

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o The concept of "indoor air quality" (with an emphasis on scientific and technical issues) attracts a wider audience -- including building managers, labor organizations and business executives -- than does the issue of smoking restrictions. Many anti-smokers may support ventilation standards, although not in lieu of existing smoking regulations.

o Separate ventilation for smoking sections as an alternative to smoking bans may appear to some to be a reasonable approach in support of a ventilation solution to IAQ. However, this alternative is not always feasible, because building owners and managers usually are unwilling to spend the money required to install separate ventilation systems to allow smoking sections.

o Publication of a final ETS risk assessment, expected to be issued in late 1992 by the Environmental Protection Agency (EPA), will reinvigorate the proponents of strong smoking restrictions and bans at the state and local levels. It also may increase pressure on the Occupational Safety and Health Administration (OSHA) to address workplace smoking. Following review of responses to a Request For Information on indoor air quality, OSHA is expected to produce a proposed rule governing indoor air quality and smoking in the workplace.

o OSHA's efforts to develop such a rule may continue to provide opportunities for the industry and its allies to

discourage hasty adoption of unwarranted smoking restriction action on the state level pending issuance of a final rule. In 1992 there were several attempts to implement strong workplace smoking restrictions or bans through state occupational safety and health agencies. That is expected to increase in 1993.

o Congress may determine federal agency jurisdiction over the indoor air quality and ETS issues. Legislation proposed in the 102nd Congress would have authorized EPA to research, issue health advisories on and develop product labeling requirements for components of indoor air, and to implement a ventilation standard for the workplace. Other proposals would have directed OSHA to develop and issue a workplace air quality regulation. These proposals are likely to be reintroduced in the 103rd Congress.

o Organized labor supports efforts in OSHA to regulate IAQ at the federal level. In 1992, the AFL-CIO petitioned OSHA to issue a rule on workplace IAQ. At the state level, the AFL-CIO has opposed efforts by state regulatory agencies to regulate IAQ, arguing that the federal effort under way should be allowed to proceed.

o In September 1991, the American Stop Smoking Intervention Study (ASSIST) began a seven-year effort sponsored by the federal government and the American Cancer Society to reduce smoking in

17 states through community-based coalitions. State proposals indicate that in addition to educating target populations, ASSIST coalitions will support a variety of anti-smoking legislative initiatives, including smoking restrictions.

o While it is now fairly common for employers to restrict smoking on the job, some have gone even further in attempting to require that employees not smoke off the job as well. Since 1989, 28 states have passed some form of legislation that makes it illegal for employers to restrict off-the-job smoking. These laws differ in language and provisions: Some expressly prohibit discrimination against smokers; others prohibit discrimination for off-the-job use of legal products; still others have laws prohibiting discrimination against employees for engaging in legal activities off the job.

o Organized labor and civil liberties groups have generally supported broad-based privacy legislation, which would affect a greater number of workers. In 1991, the AFL-CIO issued a statement in support of privacy legislation. While business interests have opposed broad-based privacy legislation in part because they fear losing the freedom to hire whom they choose, business in general is less opposed to legislation focusing only on smoking or the use of "legal products" or some other narrow definition.

o Important to the mission of The Institute in the public smoking issue is the ability of Public Affairs Division staff to identify and nurture coalition partners, allies and experts who can enhance the ability of the Federal Relations and State Activities divisions to achieve their objectives.

II. Objectives

To support the defeat of unwarranted smoking restrictions and to discourage unfair discrimination against smokers.

III. Strategies, Goals & Tactics

Strategy: Continue to work with allies and expert consultants to encourage the point of view that ETS be considered in the context of all indoor air quality factors. Promote ventilation solutions, air filtration/cleaning technology and more efficient use of existing systems as options for public officials, employers and business owners considering smoking restrictions.

Goals and Tactics:

At the federal level:

1. Through the Tobacco Industry Labor Management Committee (TILMC), its consultants and allies, encourage continued involvement of labor organizations and the AFL-CIO IAQ Task Force in OSHA rulemaking and IAQ legislation.²

2. Through the TILMC, encourage interested labor organizations, such as the American Federation of Government Employees, Service Employees International Union and others, to develop position statements and corresponding materials in support of broad federal indoor air quality standards and regulations.
3. Encourage IAQ testimony by consultants, allies and business coalitions on federal legislation regarding indoor air and ventilation standards. Encourage media activity in conjunction with legislative efforts. As appropriate and subject to availability of funds, identify additional spokespersons at the national level.²
4. Encourage state LMC counsel to work with NEMI to identify indoor air quality briefing opportunities with labor organizations and other liberal organizations. These consultants also would represent the TILMC in other coalition efforts with organized labor/liberal groups. Promote federal OSHA activity in lieu of separate state regulation. Promote IAQ contract language.
5. Through media, testimony and briefings as appropriate, promote findings of the American Federation of Government Employees IAQ survey of Social Security Administration workers at the federal level.¹

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6. Encourage consultants, allies and business coalitions to publicize the benefits to employers of cleaner indoor air through testimony and briefings.

7. Encourage consultants, allies and business coalitions to increase awareness and acceptance of the ASHRAE ventilation standard 62-1989 as a means of addressing indoor air quality problems, through articles, briefings and marketing brochures.
 - a. Encourage consultant, ally and business coalition availability to participate in conferences, workshops and seminars, to prepare articles for trade publications and to engage in other educational activities as appropriate.

 - b. Encourage consultants, allies and business coalition members to sit on committees as appropriate to monitor attempts to oppose the objectives of ventilation standards.²

 - c. Groups potentially interested in adoption of the standard include health and environmental groups; industrial hygienists; employee organizations; building owners, managers and engineers; architects and interior designers.

8. Drawing from the ranks of consultants, allies and business coalitions, identify expert witnesses who will be available to testify before federal legislative and regulatory bodies, brief public officials, participate in interviews and make presentations to business and ally groups on IAQ and ventilation issues.

At the state level:

1. Through the TILMC, encourage interested labor organizations, such as the American Federation of Government Employees, Service Employees International Union and others, to develop position statements and corresponding materials in support of broad indoor air quality standards and regulations. Encourage these organizations to promote their positions as appropriate in states identified by the State Activities Division.

2. Encourage state TILMC counsel to work with NEMI to identify indoor air quality briefing opportunities with labor organizations and other liberal organizations in the states. These consultants also would represent the TILMC in other coalition efforts with state labor/liberal groups. Promote federal OSHA activity in lieu of separate state regulation. Promote IAQ contract language.

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3. As appropriate, promote findings of the American Federation of Government Employees IAQ survey of Social Security Administration workers in states identified by the State Activities Division.¹
4. Encourage IAQ testimony by consultants, allies and business coalitions on state legislation regarding indoor air and ventilation standards. Encourage media activity in conjunction with legislative efforts.²
5. Through the TILMC and in conjunction with the State Activities Division, seek opportunities to support indoor air quality seminars -- supporting federal action and opposing state regulation -- in targeted areas sponsored by independent groups representing unionized contractors or employers who are concerned with IAQ issues.
6. Seek opportunities, in conjunction with the State Activities Division and the TILMC, to encourage allies, business coalitions and consultants to deliver briefings on energy and ventilation issues to state and local business groups with the goal of encouraging the adoption of broad-based IAQ policies.
7. Drawing from the ranks of consultants, allies and business coalitions, identify expert witnesses who will be available

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to testify before state and local legislative and regulatory bodies, brief public officials, participate in interviews and make presentations to business groups on IAQ and ventilation issues.

8. Through the TILMC, continue to provide assistance to unions and union officials on matters related to employee efforts to restrict or ban smoking in the workplace and/or to implement IAQ policies.

a. Continue to identify opportunities to conduct building ventilation studies in areas or among employers considering smoking restrictions. Support efforts to promote indoor air quality awareness.

b. Encourage state and local labor councils/international unions to negotiate during contract talks for reasonable accommodation of workers who smoke, and to view smoking restrictions in the broader context of indoor air quality. In conjunction with NEMI, promote model indoor air quality and accommodation contract language as appropriate.

Other:

1. Through the TILMC, encourage interested labor organizations, such as the American Federation of Government Employees, Service Employees International Union and the Coalition of Labor Union Women, to develop general position statements and corresponding materials in support of broad indoor air quality standards and regulations.

2. Encourage consultants, allies and business coalitions to review and comment on IAQ manuals and documents produced by government agencies and trade groups, with the goal of supporting ventilation language and discouraging source control language.¹

3. Support indoor air allies and business coalitions that promote ventilation solutions through the building systems approach. Support the ability of such groups to increase their memberships, outreach and recognition and thus to enhance their visibility with federal regulatory and legislative groups.²

4. Encourage consultants, allies and business coalitions to publicize the benefits to employers of cleaner indoor air through briefings and marketing materials.²

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5. Work through the TILMC and NEMI to encourage articles on indoor air quality as a workplace issue for submission to union publications. Promote reprints as appropriate.
6. Continue to support, through the TILMC and NEMI, indoor air quality exhibition booths at trade shows, conventions and other meetings as a means of promoting indoor air quality videos and other materials.

IV. RESOURCES

A. Staff

1. Public Affairs: Fernicola Suhr, other issues staff, Media Relations, Information Center and Production Services staff.
2. State Activities: Woodson, Avedon.
3. Federal Relations: Lewis, White, Vinovich.

B. Consultants

1. Scientific and technical experts.
2. Labor experts.
3. Public relations counsel.
4. Legal consultants.
5. Economists.

C. Coalition Groups

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1. Tobacco Industry Labor Management Committee.
2. Trade and other business organizations.
3. Business indoor air quality groups.

D. Materials

1. Tobacco Industry Labor Management Committee IAQ kit and video.
2. General public smoking materials and brochures.
3. Consultant, ally and business coalition issue and marketing materials on IAQ.
4. AFL-CIO resolutions on employee privacy and workplace smoking.
5. Media clips and journal articles on employee privacy.

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