

OSHA AND SECONDHAND SMOKE

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POWELL TATE

OVERVIEW

(OSHA's smoking restriction)... is expected to be among the most controversial OSHA regulations ever proposed.

BNA's Employee Relations Weekly

On March 27, 1994, the Occupational Safety and Health Administration took an unprecedented and disturbing step by proposing a rule that would essentially ban smoking in every private sector and many state and local government workplaces. Veiled as part of a larger rulemaking effort to address Indoor Air Quality (IAQ), this draconian approach has already drawn praise from anti-smoking forces and concern from America's unions.

To make matters more difficult, OSHA has set up a tight timeframe -- with a two week public hearing planned for the middle of July and a conclusion to the rulemaking process by the end of the year. Labor groups fear that OSHA will not be able to make the case for a broad IAQ regulation at this point, however, OSHA may very well rule on the narrow issue of ETS. The end result: OSHA will become "smoking police," monitoring the lives of workers. What's more, labor may lose its chance to ensure a broader IAQ regulation.

For several reasons, strong labor opposition represents the best hope for affecting the OSHA rulemaking process. First, the Clinton Administration is sensitive to labor concerns following a public rift with labor over NAFTA. Furthermore, the full Democratic legislative agenda for the Fall will likely require labor support on a number of issues. The Administration, specifically the Department of Labor, must be made to realize that the proposed smoking restriction is not worth jeopardizing the current tender relationship with labor or put at risk a much more important legislative goal for labor -- the reform of the occupational safety and health statute.

Clearly, other segments of the industry will be working with key constituencies such as small business. However, the Labor Management Committee and Powell Tate are particularly well positioned to educate and mobilize labor.

To turn the tide on the OSHA process, Powell Tate recommends the Tobacco Industry Labor Management Committee consider a two phase campaign aimed at demonstrating to key decisionmakers and the American workforce the unreasonableness of OSHA's proposed smoking restriction rule:

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Phase I: Mobilizing the Labor Opposition

Given the short timeframe before the hearings, it is critical that all those groups opposing the OSHA regulation mobilize and make themselves heard. The Committee will identify potential messengers at the national and local level to carry the message to key political targets as well as the media. Working with the Committee, Powell Tate will assist in developing clearly defined messages and amplifying the voices of the opposition.

Phase II: Creating An Atmosphere for Change

The TI Labor Management Committee and other concerned groups must create an atmosphere in which OSHA will be viewed as "missing the forest for the trees" by focusing on ETS. To accomplish this task, Powell Tate recommends building a political and media case against OSHA's rule using the vehicles outlined in this proposal.

The goal is illuminate the extreme nature of OSHA's approach and bring both political and public pressure to bear on the process to keep OSHA focused on developing a broad IAQ regulation without adopting a separate and draconian measure to ban smoking.

AUDIENCES

A series of messages about the threats to personal privacy, business autonomy and broad IAQ regulation should be directed at two different types of audiences: potential allies and decisionmakers/influentials. The categories include the following:

Potential Allies/Spokespeople

- The LMC Unions -- Bakery, Confectionery and Tobacco Workers; the Sheet Metal Workers; the Machinists; and the Teamsters -- and other unions that could include the Hotel and Restaurant Workers.
- Affiliated Labor Groups
- Former and Current State Labor Commissioners
- Workplace experts/lawyers

Decisionmakers

- Labor Department Officials -- including the Secretary and his key staff, and the senior executives of OSHA

- Other Administration Officials
- Selected members of the two relevant congressional authorizing committees
- Selected members of the two relevant congressional appropriations committees
- Media

PHASE I: MOBILIZING THE OPPOSITION

Changing the course of the OSHA rulemaking effort at this point will require a carefully orchestrated campaign that includes:

- Message Development
- Ally Recruitment
- Spokesperson Identification and Preparation
- Material Creation -- including press materials, fact sheets and OSHA submissions.

Furthermore, time is of the essence. Phase I of the campaign must be completed by the end of June in order to ensure adequate preparation for the opportunity presented by the mid-July public hearings and the critical open record period immediately following.

Message Development

There are clearly two types of messages needed for this effort: the first -- a public message aimed at building opposition to the unreasonable, draconian nature of the proposed regulation. The second -- a more sophisticated message aimed at political and labor decisionmakers demonstrating the threat the OSHA rule poses to the hope of a broader IAQ regulation.

Powell Tate will develop precise messages that reflect the following themes:

- OSHA has gone beyond the bounds of reason -- calling for "big brother" tactics to police the activity of workers. Truckers will not be able to smoke in their truck cabs and waiters can lose their jobs.
- OSHA is not dealing with the real issue -- improving the quality of indoor air.
- Passage of this smoking regulation will make passage of a broader IAQ rule more difficult.

Ally Recruitment

With solid messages firmly in hand, the next job is finding the best people to carry those messages. The Committee and its allies will educate the broad labor community about the

Congressional Outreach

While Congress does not play a direct role in the OSHA rulemaking process, certain members of Congress can make a difference by opposing the narrow smoking proposal. The committee and Powell Tate will work with labor representatives to set up briefing, arrange phone calls and draft letters to targeted members of Congress. The agency will focus its efforts on 25-30 key members of authorizing and appropriations committees. If necessary, the number of targeted members could be slightly enlarged. The goal is not to generate a large quantity of congressional response, rather to focus on energizing members who can have a significant impact on the key Department of Labor officials.

OSHA Submissions/Testimony

The public hearings, slated for mid-July, represent an opportunity to raise the public awareness of the proposed rule. To take advantage of the situation, labor representatives must be prepared with engaging, powerful testimony that captures the attention of the media and the public, which is likely unaware of the proposed change. Powell Tate will assist in the creation of strong submissions peppered with examples that throw cold water on OSHA's proposal. Again, the goal is not quantity in submissions but quality. The agency will work with the Committee to locate those labor representatives who offer the most compelling cases.

Beyond submissions for the public hearings, the Committee will work with those labor allies that have existing relationships with the Secretary of Labor, his key staff and senior members of OSHA.

Media Outreach

Simultaneous with Phase I of the campaign, Powell Tate will develop an extensive national media list including:

- health and workplace reporters at the top 40 newspapers;
- wire service reporters;
- Labor Department reporters;
- syndicates;
- television reporters and producers; and
- national radio program producers.

Once materials are developed, the agency will work to educate the media on the issues and set up interviews for key labor spokespeople. The list will continually be refined and updated as the rulemaking process advances.

Beyond the national media education and outreach, Powell Tate will develop media opportunities in key regional markets for labor spokespeople. Such opportunities would include letters to the editor, op-eds, and radio bookings.

Radio Talk Shows

Today radio talk shows represent the playing field for many issues in the public arena. Witness the power of Larry King during the 1992 presidential campaign and the enormous audience of talk show hosts such as Rush Limbaugh. Powell Tate has experience in working with radio talk show producers and hosts across the country. The agency will work to either schedule a media spokesperson on these programs or entice the host to discuss the issue on the show using attention-grabbing examples of "life after the passage of the OSHA regulations."

Public Hearing Media

Using the national media list developed, the agency will facilitate interviews and briefings by labor spokespeople for all media covering the public hearings. The agency will attempt to arrange briefings in advance of the hearings as well as set up interviews "on site" as the hearings proceed. The key to media coverage at the time of the hearings is flexibility and quick response.

Advertising

The week prior to the public hearing, Powell Tate recommends that one of the lead unions such as the Sheetmetal Workers or another appropriate labor group run ads in opinion leader publications such as *The National Journal* and *Roll Call* to turn up the heat on OSHA. The ads could feature a political cartoon in which a truck driver is swarmed by an OSHA SWAT team looking for smoking on the job. The accompanying copy could point out the absurdity of the situation as well as the costs for "policing" smoking. Implementing this element will also require the resolution of issues such as who signs the ads and pays for them.

Following the ad placements, Powell Tate can take the political cartoon and send it to regional and local newspapers via a matte service.

Video News Release (VNR)

The public hearing could potentially provide some good footage for use in a video news release. Immediately following the hearing, Powell Tate would assemble a VNR for distribution via satellite to television stations across the country. The VNR could include hearing testimony, a case history (such as Blue Cross/Blue Shield building in Michigan), and interviews with labor representatives.

BUDGET

The labor mobilization and education campaign is designed to create an atmosphere that will change the direction and content of the OSHA rulemaking on secondhand smoke. Affecting change is always more difficult than protecting the status quo. As a result, Powell Tate believes a successful campaign will require the full complement of media and educational tools. The campaign was designed on the basis of that strategic premise. The following line item budget is an estimate of monthly costs. Some work, such as material creation, is front loaded; some, like the hearing, are back loaded, and others, such as media outreach, are continuous activities. Therefore, this monthly line item budget reflects an average for the proposed work over a six to seven month period.

	<u>Time</u>	<u>OOPs</u>
Message Development	\$1,000.00	\$ 250.00
Ally Recruitment	1,000.00	100.00
Spokesperson ID and preparation	1,500.00	200.00
Material Creation	2,500.00	1,000.00
Congressional Outreach	3,000.00	250.00
OSHA Submission and Tracking	3,500.00	400.00
Media Outreach	7,500.00	1,000.00
Talk Radio	2,500.00	300.00
Public Hearing Media	4,000.00	350.00
Advertising	850.00	TBD
VNR	<u>1,000.00</u>	<u>2,000.00</u>
TOTAL	<u>\$28,350.00</u>	<u>\$5,850.00</u>
GRAND TOTAL	<u>\$34,200.00</u>	

As a final note on the budget, it is important to emphasize again that the time and out-of-pocket expenses are estimates of monthly averages. For example, the VNR built around the OSHA hearing is a one time cost whose total time estimate is \$6,000 and \$12,000 in out-of-pockets. However, for the sake of simplicity, in this budget presentation its cost is spread out over six months.

CONCLUSION

Following a carefully analysis of the OSHA rulemaking and the competing interests surrounding this rule, Powell Tate believes that labor can play a unique and defining role in altering it. However, effecting that change will require a focused and intense campaign that uses a variety of means to develop and then project labors concerns. We are prepared to answer any further questions on this proposal and the companion budget. Powell Tate looks forward to working with you on this program and appreciates the opportunity to submit this proposal.