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Subject: Night Note 3/20
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Please Note - This Information is Sensitive; Eyes Only

Attached are the Pending Issues, the Policy Time Calendar for this month, the Working Group Calendar for this week and next, and the Cabinet Member Schedule for the following week.

Thanks,
James
x61475

March 20, 2006

MEMORANDUM FOR ANDY CARD, KARL ROVE, JOE HAGIN, and MIKE GERSON

FROM: STEVE MCMILLIN, JEREMY KATZ, and MYRIAH JORDAN

RE: NIGHT NOTE

RU486. Last week, the FDA became aware of 2 additional deaths of women who had used RU-486. While the precise causes have yet to be confirmed, the incident seemed to fall into the pattern of 4 similar deaths that occurred between September 2003 and June 2005. All of those deaths involved an off-label use of the RU-486 drug regime. Upon receiving the 2 reports last week, FDA published a public health advisory reiterating to doctors the dangers involved with the off-label use of this drug. Following release of this advisory, on Friday, Planned Parenthood (the largest prescriber of RU-486 in the U.S.) announced it would begin recommending against the off-label use to its patients. This is a substantial shift in Planned Parenthood's policy.

Pensions. Grassley spoke with Al over the weekend, and NEC staff has followed up with Grassley staff. Grassley is not happy with Enzi apparently "backsliding" after a Member agreement had been reached last Tuesday on a number of pension issues. Grassley has written a letter to Enzi urging a return to the Tuesday oral agreement and a strong pension bill generally. Grassley and Thomas have been working closely together and both have consulted with the Administration over the last few days. Today there was a meeting of NEC principals at which we discussed how best to exert influence over the outcome of the pension conference. Al may speak to Boehner and to Enzi about closer involvement with administration staff, which has trailed off in recent days (other than the one-on-one contacts with Grassley and Thomas). There was also discussion about raising for POTUS the prospect of a veto recommendation if the conference produces a weak bill. It appears that Grassley and Thomas are committed to producing a bill that we can sign, and that Boehner also intends to do so, though his analytical interpretations do not yet match those of the administration, Grassley, or Thomas. Of the key players in the conference, only Enzi seems to have goals that are in a different direction from the Administration. According to NEC, Baucus is also in close agreement with Grassley and the Administration on several of the issues.

CFIUS Checkpoint. Negotiations with Check Point's lawyers over the weekend produced a draft mitigation agreement/NSA that includes multiple conditions on the governance and control of Check Point and Sourcefire (the U.S. company). While most agencies have been willing to consider an NSA, there is a growing view that it is impossible to craft a mitigation agreement that will address all security concerns raised by the transaction. While good progress was made with lawyers for the company and they feel positive, we believe that it is highly likely that Check Point's end goal is to unify its product with Sourcefire's. Taken to its logical conclusion, one can see a scenario where Check Point eventually produces the unified product, loses the need for Sourcefire, and ends the NSA in a short period of time. Treasury continues to seek consensus among agencies. A report will be sent to the President 3/23 (this Thursday), unless the company withdraws.

Other Issues

- Administrative Reforms (Troy/DPC; Jordan)
- Advanced Energy Initiative Action Team (Epifani/NEC; Katz)
- AFL-CIO (Sharp/DPC; Jordan)
- *AHPs (Leggitt/DPC; Katz) – DPC has scheduled a meeting on 3/22 with DOL, HHS and EOP to review the language in the Enzi bill which reported last week. The goal of this meeting is to decide what we can and can't accept in the current form of the bill and to determine what kind of changes we'd want to make if the bill reaches conference.*
- *Airlines (Sharp/DPC; Jordan) – The FAA, the controllers, and the Federal mediator have agreed to extend talks on a day-to-day basis, but an impasse is still the most likely outcome, perhaps some time this week. In the event of an impasse, FAA must notify Congress. If Congress does not act within sixty days to undo or alter the FAA's final proposal, the FAA can implement its contract over the union's objections. NATCA does not like this impasse resolution procedure and Senator Obama is pushing a bill on their behalf to force the parties into binding arbitration if Congress does not act in 60 days. At DOT's recent House budget hearing, Chairman Knollenberg expressed his strong opposition to the Obama bill.*
- Amtrak (Sharp/DPC; Jordan)
- Anthrax (Venkayya/HSC; Katz)
- ANWR (Epifani/NEC; Katz) – The Senate passed the Budget Resolution that included ANWR 51-49. The Senate approved a Domenici amendment 51-49 that creates a \$450 million Energy Reserve Fund by taking \$150 million annually from anticipated ANWR bonus bid receipts in Fiscal Years '09 through '11. The money will help fund the implementation of the Energy Policy Act of 2005 and help fund conservation, efficiency, and renewable energies to foster more energy independence.
- Asbestos (Ho/DPC; Jordan)
- *Avian Flu (Venkayya/HSC; Katz) – Today, Secretaries Norton, Johanns and Leavitt held a press conference in Washington DC to proactively communicate to the public our expectation that avian influenza will be found in birds in the U.S. as soon as April. According to HHS, the tough questions centered around four issues: 1) Who's in Charge?; 2) how transparent we would be given that we are "an administration that has undermined science"; 3) if this will be a repeat of Katrina; and 4) Questions on our process for releasing the tests on birds.*
- Aviation Security (Baker/HSC; Jordan)
- Bioethics Agenda (Levin/DPC; Jordan) – OLA and DPC met on 3/15 with House Majority Whip Roy Blunt's staff to discuss advancing the President's bioethics agenda. Blunt's staff expressed interest in seeing the items referenced by the President in the State of the Union Address (prohibitions on fetal farming, human-animal hybrids, and commerce in embryos) introduced as stand-alone measures in the coming months. They suggested that a bill prohibiting fetal farming (i.e. the initiation of pregnancy solely for research purposes) stood the best chance of success, while the other measures may stand a better chance as appropriations riders later in the year, but that all should be introduced, as pro-life Members would find them appealing this year. Blunt's staff will seek out sponsors, and continue to work with the White House to shape the bills.
- *BSE (Hennessey/NEC; Katz) – USDA announced on 3/13 that it had confirmed, through both initial and follow-up testing, a third BSE infected cow in Alabama. On 3/16, USDA exhumed the cow and was able to verify that the animal is over 10 years old (thus born before the feed ban was put in place). USDA has also located and quarantined a 6-week old calf of this*

animal and they are in the process of testing it for possible BSE infection. Officials have also learned that in early 2005, the cow gave birth to a black bull calf, which is in the process of being traced. The owner of the deceased cow purchased it from the estate of a deceased farmer and apparently has no records on the cow. Thus, it is unclear at this time where the cow originated.

- CAFE (Hannegan/CEQ; Katz) – On 3/15, Deputies met to discuss DOT's draft final rule which sets new fuel economy standards for light trucks, saving 7.8 billion gallons of fuel. The rule will also change the compliance system to reduce the safety hazards associated with the current system, to push all manufacturers to introduce fuel saving technologies into their vehicles, and to cover Medium-Duty Passenger Vehicles (8,500-10,000 lbs.) for the first time. DPC will follow up with OLA to discuss the potential for Congressional amendments to overturn the rule. Democrats will oppose a provision that preempts state laws regulating greenhouse gases, and some Republicans may oppose the rule because it is costly to the manufacturers. Communications will work with DOT Communications to develop messaging. OMB must clear this rule by 4/1.
- CALEA (Russell/NEC; Katz) – There is internal consensus on the substance of a CALEA bill, but lack of consensus on the appropriate timing and strategy for pursuing it. The Chief will host a meeting on Wednesday with Senior Staff to discuss.
- Campaign Finance Reform (Taylor/OPA; Jordan)
- *Canadian Lumber (Hunter/NSC; Katz) – Last Friday, a NAFTA Panel issued a decision concerning the Commerce Department's determination last November that the Canadian government provides de minimis subsidies to its lumber industry. As expected, the Panel affirmed Commerce's determination. The Panel did not, however, address the Canadians' request for an order directing Customs to refund all of the countervailing duties collected since 2002, when the anti-subsidy order took effect. We now face a deadline of 4/27 to decide whether to appeal the case to a NAFTA Extraordinary Challenge Committee (ECC). The political pressure on the Administration to pursue this appeal is likely to be intense, although the likelihood of an ECC overturning the Panel decision is extremely low. If we are unsuccessful before the ECC, the Commerce Department will be faced with terminating the countervailing duty order, which accounts for about three-quarters of current duties.*
- Cargo Security/TWIC (Baker/HSC; Jordan) – DHS briefed HSC and OMB on the implementation of the Transportation Workers Identity Credential (TWIC) and their plans for enhancing cargo/supply chain security on 3/13.
- *CFIUS DP World (Shirzad/NSC; Katz) – CFIUS, DP World and P&O are discussing a withdrawal of the filing currently in the 45-day review phase, subject to a letter that requires them to complete the sale to a U.S. buyer. DP World put out a press statement announcing it would sell all its U.S. port operations within four to six months to an unrelated American buyer. The president of their U.S. subsidiary said there was "already significant interest in the sale from American buyers." Day 30 is 4/3, Day 45 is 5/19, Congress is scheduled to be out the week of the 29th of May. However, we need to 1) continue to monitor the status of this sale, 2) work with Congress on possible CFIUS legislation and 3) move forward with the review and investigation.*
- *CFIUS GKN (Shirzad/NSC; Katz) – On Friday the company withdrew from the investigation until it works through its issues with the DOD. These include the DOD completing its internal review of whether GKN has received the necessary DOD clearances and whether through the purchase, GKN would be considered a sole source supplier of items sold to the*

military. GKN is a private UK company seeking to purchase Sierracin Corp, a U.S. producer of windshields and cockpit enclosures for U.S. military aircraft.

- China (Shirzad/NSC; Katz)
- Civil Rights (Ho/DPC; Jordan)
- Clear Skies (Stolpe/CEQ; Jordan)
- *Clean Air Act (Stolpe/CEQ; Jordan) – On Friday, 3/17, the D.C. Circuit issued its decision on litigation challenging the Administration's New Source Review Equipment Replacement Provision (ERP) rule (commonly referred to as NSR2). The Court held that EPA's interpretation was contrary to the Clean Air Act statutory language, and vacated the rule. The President's National Energy Plan called for EPA to clarify NSR regulations. EPA finalized the ERP rule in October 2003 and it was stayed by the DC Circuit in December 2003. The Administration supported legislative action to codify this rule last fall during House debate on the Barton refinery legislation and again in the Advanced Energy Initiative. CEQ will convene a meeting this week to discuss the implications of the ruling and our next steps. The ERP clarifies which equipment replacement projects at a plant are routine maintenance and thus exempted from NSR review and which are not and thus subject to NSR review. The rule is designed to remove disincentives for owners and operators of power plants and manufacturing facilities to undertake routine activities that would improve safety, reliability and efficiency of their plants.*
- Climate Change (Connaughton/CEQ; Jordan)
- Competitiveness (Wilson/DPC; Jordan)
- Cooperative Conservation (Cohen/CEQ; Jordan) – A Deputies meeting was held 2/13 to discuss the drafting, packaging, and strategy for the Cooperative Conservation legislative package. Components from DOI, EPA, USDA, and DOC-NOAA are in various stages of internal review, informal review, and formal interagency review. Hill and constituent outreach will begin on each component as soon as the LRM process has been completed.
- Corn (Shirzad/NSC; Katz) – USTR filed a request on 3/17 for WTO consultations with Canada on a Canadian antidumping and anti-subsidy case involving U.S. exports of grain corn. *The request was filed last Friday in order to allow the U.S. side to cite the request in a hearing held today by the Canadian authority conducting the case. We are still trying to confirm that the request was actually raised by the U.S. side, but have no reason to believe that is was not. NSC worked closely with USTR to ensure that the request was not a surprise to the Canadian government and does not adversely affect the President's upcoming meeting with Prime Minister Harper in Cancun at the end of the month. In order to maximize notice to the Canadian government, Portman reached out to Canadian Trade Minister Emerson on 3/16 to alert him to the request, and Deputy USTR Schwab and NSC's Dan Fisk also spoke on 3/16 with Jonathan Fried (Harper's national security advisor) to inform him of the filing. Harper agreed it was better to file the request now rather than after the Cancun meetings, and expressed his appreciation for the advance notice. Press coverage of last Friday's request for consultations has been very light.*
- Critical Infrastructures Protection (Nielson/HSC; Jordan)
- Counter Radicalization meeting (Nielsen/HSC; Jordan) - DPC, HSC, and NSC met to discuss DHS's counter radicalization efforts. DPC is concerned about the potential political implications if this effort is leaked and/or misinterpreted. NSC strongly felt that this effort is important, and there was general agreement to have some White House coordination of this effort led by Zarate (HSC/NSC). In addition, the group will reach out to White House Communications to seek their guidance and make sure they are aware should this effort gain

public attention. The group also thought it best to have as clear a line of separation as possible between the national security agencies' counter terror efforts and the positive outreach efforts, by DHS, State, Education and others, to ensure appropriate assimilation into American life.

- Doha (Shirzad/NSC; Katz)
- Drug Free Communities (Leggitt/DPC; Katz)
- Drug Reimportation (Leggitt/DPC; Katz)
- Education (Wilson/DPC; Jordan)
- *Endangered Species Act (Schildwachter/CEQ; Jordan) – CEQ hosted a PCC discussion on 3/14 on development of a new ESA rule. The drafting team briefed on the approach to Critical Habitat, science, interagency consultation, new listings, and reinstating the distinction between Threatened and Endangered species. The drafting team has provided rule language to OMB for informal review, and is finalizing language for formal review. CEQ is prepping read-aheads for a Deputies meeting by end of this week or early next.*
- *Entitlement Commission (Blahous/NEC; Katz) – The action team held a meeting this evening. NEC's understanding is that the Commission is in a holding pattern pending senior-level discussions with leadership. WH Press expects a USA Today article out tomorrow asking what happened to the Commission and more stories and press requests picking up on that theme over the next couple of weeks baring some new announcement/statement from the Administration. We discussed Hagel's amendment which was dropped that would establish the commission legislatively and how he wants to be on the commission itself.*
- Everglades (Connaughton/CEQ; Jordan)
- Farm Bill (Hennessey/NEC; Katz)
- FDA (Leggitt/DPC; Katz) – On 3/17, Lance Leggitt in DPC met with FDA and HHS to discuss resolution of the FDA draft statement affirmatively declaring that there is no medical use for marijuana, and highlighting its harmful side effects. The statement would also be sent in the form of a letter to Rep. Souder in response to his request from FDA earlier this year. The substance of the letter will then be posted as an advisory on FDA's website.
- Federal Sentencing Guidelines (Ho/DPC; Jordan) – Bill Mercer (Principal Associate Deputy AG) testified on 3/16 before the House Subcommittee on Crime, Terrorism, and Homeland Security and present DOJ's proposal for reform of the federal sentencing guidelines. In response to the increasing number of sentences below the recommended guidelines in the wake of the Supreme Court's Booker decision in 2005, DOJ will propose that a system of minimum guidelines be enacted in order to restore mandatory sentencing. DOJ plans to brief DPC and other White House offices the week of 3/20 on follow-up legislative strategy for the sentencing reform proposal. Chairman Sensenbrenner has spoken out forcefully against lower sentences and increased racial disparity indicated by recent studies.
- *FHA Reform (Streeter/DPC; Jordan) – Following on last week's deputies meeting on this issue, DPC brought Brian Montgomery and fellow HUD colleagues over to meet with OMB, NEC, OVP, and CEA to work through a couple of open issues: first, whether there are enough conditions attached to FHA's proposed flexibility in offering new mortgage insurance types, and second, how to raise the loan limits so that borrowers in higher cost areas can benefit from FHA insurance. Though OVP requested more time to review the proposed legislative language, all parties clearly understand that credit reform requirements, FHA risk-management practices, and OMB's recommendations for strengthening accountability provide a framework within which to reach agreement on how best to offer the new products. We will reconvene on*

Wednesday to come to final agreement. We expect we will also reach agreement on how to structure the loan limits for higher-cost areas in the Wednesday meeting.

- Flex Fuel Vehicles (Epifani/NEC; Katz)
- Flood Insurance Program (Kupfer/NEC; McMillin) – House Financial Services Committee finished its mark-up of a flood insurance bill. The measure would increase the program's borrowing authority to \$25 billion and would institute a number of reforms. The only significant action in the Committee was the defeat, by a vote of 45-10, of a Hensarling (R- TX) amendment requiring the immediate elimination of all subsidies. Instead, the bill has a gradual phase out of the subsidies for non-primary and non-residential properties.
- Foreign Investment in U.S. Airlines (Sharp/DPC; Jordan)
- Foster Care Waivers (Pardue/DPC; Jordan)
- GNEP (Epifani/NEC; Katz)
- GSEs (Kupfer/NEC; Katz)
- *Health Action Team (Ramthun/NEC; Katz) – The action team met today. The Senate will have “Health Week” the first week of May. No word yet on whether the House plans to do a “Health Week” too. We also discussed legislation on HSAs. Senator Allen introduced the first of 5 bills since the SOTU to enact the President's HSA expansion proposals. Allen's bill called for the expansion of the HSA annual contribution limits to cover all out-of-pocket expenses through HSAs. After recess, Senators Burns and Santorum will introduce bills covering tax relief for premiums and low-income Americans. HHS discussed a speech on 3/14 at the Commonwealth Club in San Francisco that Leavitt made. HHS will identify 25 markets that are “high-cost” where employers are interested in reducing health care costs. Leavitt and Hubbard would visit some or all of these markets and challenge employers to sign a “Declaration for Health System Change” and by signing the Declaration these employers would agree to do the following: 1) offer a HSA option to their workers; 2) contract only with insurers that make price and quality information transparent to their workers; and, 3) contract only with insurers that adopt health IT standards developed by the Secretaries AHIC.*
- Health IT (Leggitt/DPC; Katz) – Secretary Leavitt hosted the AHIC on 3/6. The next AHIC meeting is 4/25. DPC will host a meeting with HHS during the first week in April to preview the 4/25 AHIC meeting.
- Helping America's Youth (Parker/DPC; Jordan)
- HHS Vouchers (Towey/OFBI; Jordan)
- HIV/AIDS (Troy/DPC; Jordan)
- Hotels in Gulf (Streeter/DPC; Jordan)
- HSAs (Ramthun/NEC; Katz)
- Immigration Assimilation (Ho/DPC; Jordan)
- Immigration Border Patrol (Baker/HSC; Jordan)
- Immigration Borders (Ho/DPC; Jordan)
- Immigration Extension of Temporary Protected Status (Ho/DPC; Jordan)
- Immigration No Match (Baker/HSC; Jordan) – HSC, DPC, and ten representatives from DHS (Policy, OLA, and CIS) met with Senate Finance staff on 3/10 to resolve ongoing questions from Senator Grassley's staff regarding Basic Pilot (DHS's electronic employment verification system) and DHS's proposals for using the Social Security database for immigration enforcement purposes. DHS was unable to answer several key questions posed by Senator Grassley's chief Social Security advisor, who is clearly wary of including Social Security provisions in the comprehensive immigration reform bill for both committee-jurisdictional and

more substantive reasons. DHS could not, for example, explain in detail the process for enumerating aliens for Basic Pilot verification purposes or what restrictions on the use of the Social Security database DHS seeks to relax as part of immigration reform. DHS-OLA will work to obtain answers to these and other questions early next week before Senate Judiciary consideration of the worksite enforcement provisions of the Specter mark.

- *Immigration Reform (Ho/DPC; Jordan)* – At the request of Chairman Specter's staff, a representative from consular affairs at the State Department met with them late today to discuss the administrability of a "return home" requirement for the current undocumented population to obtain lawful permanent resident (LPR) status. White House OLA and DPC also attended the meeting, which focused on how a "return home" requirement could be structured to minimize the potential for economic disruption here in the U.S. and administrative burdens on State Department consular offices abroad. Specter staff members are working this week to develop a compromise TWP proposal that can secure six Republican votes, including Senators Cornyn and Kyl, whose bill would require the current undocumented population to depart the country over a five-year period before re-entering the U.S. either as temporary workers or as LPRs. Specter staff members are exploring a possible compromise that would allow current illegal immigrants to join TWP from inside the U.S., but require them to leave the country before they could become LPRs. Specter staff also expressed interest in exploring how to set a "trigger" to ensure the current "backlog" of about 3 million people waiting for a green card has been cleared before any of the 12 million illegal immigrants can adjust to LPR status. DPC and OLA will set up a call tomorrow morning with appropriate representatives from the State Department to respond to staff's request.
- *Immigration Refugees (Camponovo/NSC; Jordan)* – NSC held a deputies meeting on 3/15 to try to reach resolution on the State Department's proposal to create a short-term resolution for DHS to review refugee applicants from the Tham Hin camp, and a longer-term solution for other refugees affected by the "material support to terrorism" issue. Post-9/11 amendments to the Immigration and Nationality Act created a broader definition of "terrorist organization," and a bar on admissibility for those who provide such organizations with "material support." The State Department's position is that FY 2006 refugee admissions will be dramatically reduced unless resolution is reached quickly, and that a strict interpretation of the INA provision could lead to exclusions of certain refugee populations that would be inconsistent with our foreign policy. On 3/15, it was decided that there should be intelligence reviews on the various "terrorist organizations" at issue, that there should be coordination with Congress on the issue, and that it would be helpful for lawyers from each agency to meet to discuss their interpretation of the statute. Thus far, legal staff from each agency is interpreting the statute consistent with their agency's policy view, and inconsistent with each other.
- *Immigration Secure Border Initiative (Baker/HSC; Jordan)* – DHS briefed HSC on 3/8 on the progress that has been made on SBI. They reported that they have essentially eliminated catch and release for Latin American OTM's (Other Than Mexicans) on the southwest border except for families and El Salvador nationals. This is still a very small subset of illegal immigrants, but they plan to begin detaining family groups around 4/15, and hope to achieve a legislative solution for El Salvadoran immigrants. Currently, El Salvadorans cannot be placed in expedited removal because of an outstanding injunction. They also reported on the progress of SBInet – or lack thereof. DHS hopes to issue a Request for Proposal (RFP) in early April, and to award the contract in September. HSC has still been unable to obtain a report on SBI from DHS (it was originally promised by Monday, 3/13), and has not yet seen any slides for the 3/23 policy time. DHS has also not yet submitted a draft of the RFP.

- Immigration Worksite Enforcement (Baker/HSC; Jordan)
- Indecency (Russell/OSTP; Katz)
- Indian Gaming (Ho/DPC; Jordan)
- Indian Trust/Cobell (Ho/DPC; Jordan)
- Internet Communications (Ho/DPC; Jordan) – The House is now expected to consider H.R. 1606, the Online Freedom of Speech Act, after next week's recess. The bill would exempt Internet communications from the meaning of "public communication" subject to FEC regulation. A supportive SAP is in the final stages of clearance. The bill failed to pass under suspension of the rules last November (225-182, short of the required 2/3rd), but is headed toward passage in the House this week and is likely to pass the Senate as well (Senator Reid is the sponsor of the Senate companion measure, and Senator Frist has indicated his support).
- Internet Pharmacy (Leggitt/DPC; Katz)
- IRS (Kupfer/NEC; Katz)
- Katrina CDBG (Streeter/DPC; McMillin) – HUD sent a team to LA last week to assist LA as it drafts its plan for its \$6.2 billion in CDBG for its last supplemental. After a couple of weeks of challenges getting them engaged, they now seem to be fully engaged with HUD. HUD's assessment as of 3/16 is that LA is roughly where MS was about a month ago. LA still needs to make some decisions on the compensation policy for homeowners (namely, how much goes to homeowners that rebuild, that decide to leave, etc.) and still has to figure out some critical questions on how they will administer the program. They are also trying to put together a plan that addresses rental property needs that does not yet have enough detail. LRA is shopping drafts of their current thinking around with local leaders in hopes of getting buy-in from all parties. HUD believes that LA should have fleshed out something more suitable for public comment in 2 weeks.
- *Katrina Mobile Homes (Streeter/DPC; McMillin) – DPC and OMB have converted FEMA's various contemplated courses of action into a one-page plan to which DHS/FEMA is to react by Monday. The plan envisions moving 5,000 of the 10,000 units into MS and LA by late June. The MS units should be in place by mid-May, but the LA units will take longer to deploy given the challenges of siting them. Given the historical average annual rate for using these type of units, OMB's projection is that less than 1,000 units will be deployed for upcoming 2006 storms, leaving more than 4,000 units to disperse elsewhere. DHS has said they need until 3/31 to develop a complete plan for dispersing the remaining units to multiple storage sites from which they can be deployed in storms beyond 2006 until depleted. But they have at least said their plan would involve putting units in California and in northern states in which their usage is more common.*
- Legal Reform (Ho/DPC; Jordan)
- Levees (Hannegan/CEQ; Jordan)
- LNG (Hannegan/CEQ; Katz) – CEQ hosted an interagency meeting under Executive Order 13212 (Energy Projects) to review the current status of Federal permitting of offshore LNG facilities. This meeting was stimulated by NOAA's recent issuance of a draft guidance discouraging the use of "open-rack vaporizers" (ORVs) which use seawater to warm up the LNG for transport by pipeline to users. Current Administration policy is to allow the use of ORVs, but with mitigation activities to minimize the impacts on Gulf fisheries. NOAA opposes the use of these ORVs because of potential impacts on fish species in the Gulf of Mexico - young fish and larvae are killed as the facility intakes seawater, but it is unclear how significant this impact is relative to fishing, etc. At the same time, EPA is preparing guidance on how to implement their National Pollutant Discharge Elimination System (NPDES) permitting

authority under the Clean Water Act which requires them to issue a permit for all point sources of water pollutants (such as offshore LNG facilities). Based on current application trends, it appears that few offshore facilities will apply for licenses using ORVs in the future, but this group will continue to review whether the current Administration policy regarding these facilities is appropriate. This group will also review steps that can be taken to further shorten the actual time elapsed during the licensing process.

- Lobbying Reform (Kelley/WHC; Jordan)
- Medicaid Clawback (Ramthun/NEC; Katz)
- Medicaid Commission (Ramthun/NEC; Katz) – The Commission met this week in Atlanta. Hennessey, Maggie Grant and McMillin had a conference call 3/2 in which we decided to allow the March meeting to go forward without a change in direction.
- Medical Liability Reform (Ho/DPC; Jordan)
- Methamphetamine (Leggitt/DPC; Katz)
- Mine Safety (Sharp/DPC; Jordan)
- NASA (Russell/OSTP; Katz)
- Native Hawaiian (Ho/DPC; Jordan)
- NCLB (Medina/DPC; Jordan)
- New Orleans Elections (Ho/DPC; Jordan) – As expected, the Justice Department announced on 3/16 that it has pre-cleared a plan for the first elections in New Orleans since Hurricane Katrina. The Justice Department also announced it will send election observers to monitor the April 22 balloting. The pre-clearance announcement met with criticism from national civil rights groups and individuals such as Jesse Jackson, who claimed that two-thirds of the eligible population will be disenfranchised, and called it “more onerous than the poll tax laws of 1965.” Critics of the plan also charge that not enough has been done to ensure voters scattered by the storm will be able to vote. (Although the state plans to set up satellite polling places all around the state for New Orleans residents, it did not choose to set up such stations outside Louisiana.) Jesse Jackson said he plans to organize marches and to sue over the election plan.
- OCS (Epifani/NEC; Katz)
- OIRA EO (Yanes/OMB; Katz)
- Part D (Ramthun/NEC; Katz)
- Port Security (Baker/HSC; Jordan)
- Postal Reform (Sharp/DPC; Jordan) – On 3/15, Deputies met to discuss the status of postal reform legislation in preparation for policy time this Thursday, 3/23. The House and Senate have passed their bills but the House Leadership is delaying appointing conferees until the House, Senate, and WH sit down to hammer out an agreement. The Administration is seeking more reform provisions and zero budget impact. OMB estimates the House and Senate bills would increase the deficit by \$17 billion over 10 years (CBO scoring is \$5 billion over ten years due in large part to using different interest rate assumptions).
- Potassium Iodide/KI (Kaplan/OMB; Katz) – Pursuant to Executive Order 12866, as amended early in this Administration, OIRA has asked for the assistance of the COS office (McMillin) to resolve competing views regarding an HHS rule to stockpile sufficient KI for distribution to populations within 20 miles of a nuclear facility (current practice is 10 miles). HSC/HHS believe proceeding with the rule is consistent with the law and previous policy decisions. NRC believes expanding KI stockpiling is an inefficient and ineffective way to protect populations, and that new unnecessary regulatory burdens will hamper the approval of new nuclear plants. NEC/DOE have not weighed in, but NRC’s concerns have their attention.

- Prisons (Ho/DPC; Jordan) – Following on a briefing given two weeks ago to WHC arranged by Senator Talent's office, representatives from the US Probation offices in St. Louis and Charlotte briefed staff on 3/16 from DPC, DOJ (OLP, BJP, and BOP), DOL, and COS on a remarkable prisoner reentry initiative launched in those districts. The program includes employment and education programs and has demonstrated success in reducing unemployment and recidivism among ex-offenders. DPC will continue to work where appropriate with the probation office to assist in expanding the program and coordinating it with national DOJ prisoner reentry initiatives. The group will be holding a national conference in St. Louis April 11-13.
- Science (Hays/OSTP; Katz)
- *Smallpox Tabletop (Venkayya/HSC; Katz) – On 3/18 Fran hosted a tabletop exercise meant to test the USG's ability to respond to an attack through aerosolization of smallpox. Jeremy attended for the Chief's office.*
- Steroids (Ho/DPC; Jordan)
- Stem Cells/Bioethics (Levin/DPC; Jordan)
- Strengthening America's Community Initiative (Streeter/DPC; Jordan)
- TANF (Streeter/DPC; Jordan)
- Tax Reconciliation (Kupfer/NEC; Katz)
- Tax Reform (Kupfer/NEC; Katz)
- Telecom (Russell/NEC; Katz)
- TX Supplemental (Streeter/DPC; McMillin) – As of 3/14, the House appropriators are looking at a conference strategy for TX on the supplemental. OLA has been working to block ideas such as moving to a 90/10 cost share on debris removal for TX, and Powell's office went over the housing numbers with the Speaker's staff on Monday, 3/13, to demonstrate that TX's housing damage estimates are far higher than the evidence supports. OLA has quietly indicated sympathy for additional education funds should that prove necessary, but that we were not communicating anything final on that front.
- *Title IX (Wilson/DPC; Jordan) – The Committee on Appropriations requested last year that the Department of Education prepare a report no later than 3/17/2006, addressing the use by higher ed institutions of student surveys to assess interest in intercollegiate sport. A Clarification offered by the Department in March 2005 was intended to provide recipient institutions with additional guidance concerning compliance with the survey component of the Department's three-part test used to assess whether institutions are providing nondiscriminatory opportunities to participate in intercollegiate athletics. The report's final conclusions state: 1) that in many cases there were a number of deficiencies in the design and implementation of the survey instruments, including limited or selective distribution and low response rates; and 2) the Model Survey and implementation procedures developed by NCES in the Additional Clarification issued in March 2005 were developed to address these deficiencies so schools could more effectively measure student interest, with a student interest survey, using an unbiased, standardized methodology that maximizes the possibilities of obtaining correct information and facilitating responses. Steve spoke to Birch Bayh on 3/17 to listen to his concerns and to provide a general preview of the report's conclusions. Fmr. Sen. Bayh seems to want another meeting like those arranged in the past by Jay Lefkowitz.*
- Trade Enforcement (Shirzad/NSC; Katz) – Prior to a Finance hearing on China (to be held on 3/29), Senator Grassley plans to introduce legislation directed at China: 1) strengthening antidumping rules (to ensure that new shippers of subject merchandise pay their bills); 2) improving enforcement; 3) establishing reporting requirements on the enforcement of our trade laws, and 4) requiring Treasury to address currency imbalances (i.e., looking at factors

such as trade imbalances in their currency report). Senator Grassley is seeking a strong, widely-supported bipartisan bill to serve as an alternative to the pending Schumer bill (which is due for a vote on 3/31).

- Tricare (Leggitt/DPC; Katz)
- *UAE FTA (Shirzad/NSC; Katz) – UAE's Economy Minister Sheikha Lubna al-Qassimi met with Portman on 3/20 to discuss trade and is meeting with other officials, such as State's Liz Cheney this Wednesday, and possibly Faryar on Thursday. "We are targeting end of April, probably, for the next round," Sheikha Lubna told Reuters today.*
- Veterans (Leggitt/DPC; Katz)
- WH Conference on Aging (Leggitt/DPC; Katz) – On 3/14, the WH Conference on Aging Policy Committee approved a preliminary report that has been sent to Governors. The preliminary report, which is as required under the Older Americans Act of 2000, consists of a letter referencing the top 50 resolutions adopted by the delegates at last December's conference as well as the Census Bureau demographic information about the older population in this country. The Governors will be given an opportunity to comment on the resolutions before the final report is delivered to the President and Congress this June. HHS has been actively involved in the preparation of this preliminary report and is pleased with the approved product.
- *Yucca (Epifani/NEC; Katz) – As of 3/16, the Deputies had resolved all issues related to the proposed Yucca Mountain legislation, except whether the legislation should authorize the Department of Energy (DOE) to proceed with temporary storage of spent nuclear fuel from commercial reactors without first obtaining a Nuclear Regulatory Commission (NRC) license. On March 17th, Deputies agreed that the proposed legislation should require DOE to obtain NRC approval before engaging in temporary storage. DOE is preparing revised legislation to include the requirement of NRC approval by a rulemaking process (rather than licensing) with an 18-month timetable for temporary storage of nuclear waste at Yucca Mountain or any other site. NRC Chairman Diaz was consulted. NEC is preparing a memo for our office outlining the communications and political challenges of this approach before proceeding.*

POLICY TIME – MARCH/APRIL 2006

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
19	20 NO TIME	21 NO TIME	22 3:25-4:10 DPC/HSC: Immigration (45 min)*	23 11:10-11:55 NEC: Economic Update (45 min)	24 NO TIME	25
26	27 11:10-11:55 DPC: Competitiveness Update (45 min)*	28 1:30-2:00 DPC: Postal Reform (30 min)	29 2:35-3:20 NEC: Health Update (45 min)*	30 NO TIME	31 NO TIME	1
2	3 NO TIME	4 1:45-2:30 NEC: Energy Update (45 min)	5 TBD	6 TBD NEC: Katrina Periodic Update (45 min)*	7 NO TIME	8
9	10 TBD	11 TBD	12 TBD	13 TBD NEC: China (45 min)	14 TBD	15
16	17 TBD	18 TBD	19 TBD	20 TBD	21 TBD	22

3/20/06

Possible April Policy Times: AMT; Endangered Species Act; Flood Insurance Reform; Voting Rights Act

Regular Reports: Competitiveness, Energy, and Health; Economic Update (every 5 weeks); Katrina Update (every 3 weeks)

* Indicates Cabinet Member Attendance

Working Group Calendar

WORKING GROUP CALENDAR

Monday, March 20 th	Tuesday, March 21 st	Wednesday, March 22 nd	Thursday, March 23 rd	Friday, March 24 th
8:00 OLA: Daily Immigration Legislative Update (MJ) 9:30 NEC: Weekly American Energy Initiative Action Team (JK) 11:00 NEC: Weekly Health Care Action Team (JK) 3:30 DPC: Weekly ACI Action Team Meeting (MJ) 5:00 NEC: Weekly Entitlement Action Team (JK)	8:00 OLA: Daily Immigration Legislative Update (MJ) 9:15 DPC: Weekly DOT Call – PCC (MJ) 3:00 DPC: Weekly ED Call – PCC (MJ) 5:30 DPC: Weekly DOJ Call – PCC (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 9:00 NEC: Principals Meeting on Katrina (SM) 11:00 DPC: Weekly Conf Call w/ DOL (MJ) 4:00 NSC: Meeting on Refugee Admissions – PCC (MJ) 5:00 DPC: Meeting on Online Pharmacies – PCC (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 10:00 DPC: Weekly Call w/ HHS (JK) 3:30 NEC: Weekly Medicare Meeting – PCC (JK) 4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	8:00 OLA: Daily Immigration Legislative Update (MJ) 12:30 HSC: Meeting on Border & Transportation Security – PCC (MJ) 3:00 HSC: Deputies Meeting on Katrina Lessons Learned (MJ) TBD OSTP: Meeting on ICANN (JK)

Working Group Calendar

Monday, March 27 th	Tuesday, March 28 th	Wednesday, March 29 th	Thursday, March 30 th	Friday, March 31 st
8:00 OLA: Daily Immigration Legislative Update (MJ) 9:30 NEC: Weekly American Energy Initiative Action Team (JK) 11:00 NEC: Weekly Health Care Action Team (JK) 2:30 NEC: Weekly Entitlement Action Team (JK) 3:30 DPC: Weekly ACI Action Team Meeting (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 9:15 DPC: Weekly DOT Call – PCC (MJ) 3:00 DPC: Weekly ED Call – PCC (MJ) 5:30 DPC: Weekly DOJ Call – PCC (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 11:00 DPC: Weekly Conf Call w/ DOL (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 10:00 DPC: Weekly Call w/ HHS (JK) 3:30 NEC: Weekly Medicare Meeting – PCC (JK) 4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	8:00 OLA: Daily Immigration Legislative Update (MJ)

OFFICE OF CABINET LIAISON



CABINET MEMBER SCHEDULE

TUESDAY 03 / 21 / 2006

Secretary Rice, Secretary Chao, Secretary Jackson, Secretary Bodman & Ambassador Portman

12:00pm – 1:40pm **East Room** President's Lunch with the President of Liberia

Secretary Johanns

4:00pm – 5:00pm **CL Conf Room** Kitchen Cabinet Meeting

Participants:

White House

Jim Connaughton, CEQ
Neil Patel, OVP
Barry Jackson, Senior Advisor's Office
David Anderson, OMB
Megan Hauck, OLA
Peter Rowan, OLA
Michael Sommers, NEC
Greg Schildwachter, CEQ

USDA

Chuck Conner, Deputy Secretary
Dale Moore, CoS
Drew DeBerry, DCoS
Beth Johnson, DCoS
Terri Teuber, Director Of Communications

Secretary Chao

5:00pm – 6:00pm **CL Conf Room** Political Briefing with Sara Taylor

WEDNESDAY 03 / 22 / 2006

Secretary Chertoff & Director Bolten

9:00am – 10:00am **CL Conf Room** Principals Meeting on Hurricane Katrina

Participants:

White House

Andrew Card, CoS
Karl Rove, DCoS
Dan Bartlett, Counselor
Candi Wolff, OLA
David Addington, OVP
Nicolle Wallace, Communications
Al Hubbard, NEC
Steve McMillin, CoS Office

Jim Connaughton, CEQ
Jeanie Mamo, Media Affairs
Maggie Grant, IGA

DHS

Donald Powell, Federal Coordinator of Recovery and Rebuilding in the Gulf Coast Region
David Maurstad, Acting Director, Mitigation Division and Federal Insurance Administrator

Barry Jackson, Senior Advisor's Office

DOD

J.P. Woodley, Assistant Secretary of the Army (Civil Works)
Lieutenant General Carl Strock, Commander and Chief of
Engineers, U.S. Army Corps of Engineers

Secretary Leavitt

12:00pm – 1:00pm **WH Mess** Lunch with Secretary Card

THURSDAY 03 / 23 / 2006

Secretary Gutierrez

10:00am – 10:30am **Roosevelt Room** President's Meeting on Immigration Reform

Attorney General Gonzales

1:30pm – 2:10pm **Room 350** Immigration Meeting with Leaders of the Hispanic Faith
Community

FRIDAY 03 / 24 / 2006

Secretary Chao

12:30pm – 1:30pm **WH Mess** Lunch with Dr. Ed Lazear, CEA

MONDAY 03 / 27 / 2006

Administrator Johnson

b(6)

Secretary Mineta

2:00pm – 4:00pm **Room 164** Office Time