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Cc: "McMillin, Stephen S."
Subject: Night Note 12/12
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[Pending Issues 12-12.doc](#)
[Policy Time Calendar 12-12.doc](#)
[Working Group Calendar 12-12.doc](#)
[Cabinet Member Schedule 12-12.doc](#)

Pls 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

December 12, 2005

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

FROM: STEVE MCMILLIN, BRIAN HOOK, and JEREMY KATZ

RE: NIGHT NOTE

Methamphetamine. Today, DEA requested OMB clearance of a letter to Congress with the sole purpose of supporting the proposed meth provisions in the PATRIOT Act. The bill, among other things, includes requirements for behind-the-counter retail sales of cold medicine containing pseudoephedrine. Given that support for such provisions would contradict the President's policy time decision to stay neutral on any behind-the-counter legislation, DPC recommended that the draft letter be withdrawn as it contradicts current policy. DPC is further informed that DOJ intends to publicly support the meth provisions as a conduit for passage of the PATRIOT Act. DPC is concerned that this may contradict our current neutral stance on meth. DPC has raised this concern with OLA and plans to raise the issue at senior staff tomorrow.

FEMA Hotel Situation. A class action law suit was filed on behalf of Hurricane Katrina victims against FEMA on November 10. This morning, a judge for the United States District Court for the Eastern District of Louisiana ruled that FEMA cannot require Katrina victims to leave hotels until February 7, 2006. This extends by one month the deadline that FEMA had set for the 10 states with the highest hotel populations. DHS, DOJ, and WHCO are reviewing the order, and an appeal is almost certain.

Levees. Rove, Hubbard, Bolten, and Powell met to discuss CEQ/OMB analysis of the Corps' levee options. Discussion centered on a package of options that would repair the breaches; complete the "authorized" system; plug the 3 main drainage canals in New Orleans and install pumps at Lake Ponchartrain; "armor" the levee system with steel, rock, etc.; and add 2-5 feet to the levee height for metropolitan New Orleans. Levees outside the metro area would be restored to their previous condition. This work could be completed as soon as late 2008. Price tag on these options run from the low to the high single digit billions. This would be substantially more protective, but still would not allow us to say "Cat 3" definitively (price tag in the teens of billions, and much longer to build). Principals will reconvene on Tuesday to decide on path forward.

Other Issues

- Agriculture Disaster Package (Sommers/NEC; Katz) – Senator Martinez introduced an agriculture disaster package on 11/17 that CBO scores at \$2.1 billion. The bill would provide disaster money for production losses that have occurred as a consequence of five hurricanes (Dennis, Katrina, Rita, Ophelia and Wilma). The bill would assist with losses to program crops, nurseries, citrus, livestock, sugar, timber, and fisheries. This proposal does not address damages incurred as a consequence of other natural disasters (drought, flood, etc). It is likely that any agriculture disaster bill will be attached to the last appropriations bill moving before Congress leaves for the year -- probably the Defense Appropriations bill. Senator Cochran is working on a spending package for ag disasters that have occurred throughout 2005. This package will spend approximately \$4 billion. All producers who have incurred a 35% loss and are in a USDA-designated disaster county will be eligible for payment. He will attempt to attach this package to the DOD Approps bill before Congress adjourns and will likely be successful. The package will be partially, but not fully, offset by cuts in other programs, potentially using some of our Katrina reallocation package as offsets. At a staff level, we have expressed our concern with this package. USDA will spend a record amount on farm programs this year and this approach is certainly excessive based on the payments being made.
- Air Traffic Control Commercialization (Sharp/DPC; Hook) – On 11/28 FAA Administrator Marion Blakey requested Federal mediation to bring the air traffic controller contract negotiations to a close. The union must agree to mediation and has not yet done so. If mediation fails (could be weeks or months), the FAA can declare an impasse and notify Congress of its intent to enforce its contract. If Congress does not act to alter the contract in 60 days, FAA can impose its terms.
- AMT (Hennessey/NEC; Katz) – NEC, OLA, COS, and Treasury held a conference call on 12/7 to discuss Senate strategy on the stand-alone AMT bill. Kyl has argued that the AMT bill should be held to leverage additional moderate/Democrat votes for cap gains/dividends, but Frist favors pushing AMT stand-alone. It was agreed that the downside of Kyl approach (Administration tagged with holding up AMT relief until next year) outweighs any potential gains (few of the moderate/Democrat targets would likely be swayed by this strategy).
- Amtrak Reform (Sharp/DPC; Hook)
- Asbestos (Ho/DPC; Hook)
- Associated Health Plans (Leggitt/DPC; Katz)
- *Avian Flu (Venkaya/HSC; Katz) - Over the weekend industry reviewed the language and consulted with leadership. The House still opposes compensation and the Senate is split on FDA defense (can't sue unless FDA takes enforcement action first). Leadership is inclined to put together a package with a judicialgatekeeper and FDA defense provision with a pre and post event compensation fund package that includes a funding trigger so it doesn't score. OLA has communicated that the Administration was not comfortable with the FDA defense and a post event compensation fund. OLA indicates Hill was not persuaded. Candi is aware of the situation and is likely suggest Principals gather to discuss.*
- Bahrain FTA (Daly/NSC; Katz) -- On 12/7, the House passed the agreement by a vote of 327-95, with 115 Democrats voting for the bill. We expect the Senate to vote for the agreement this week. If the Senate passes the agreement it is possible the agreement will enter into force on January 1, 2006.
- *Beef (Sommers/NEC; Katz) – The first shipment of U.S. beef to Japan in two years is scheduled to leave on Saturday after Japan today partially lifted its ban. The news helped raise U.S. cattle prices, and at least two major beef companies said they were eager to start shipping small*

amounts. USDA acted today to lift our ban on "kobe" beef from Japan. We banned import of kobe beef because of Japanese BSE findings.

- *Boeing Advocacy (Daly/NSC; Katz)* - While deputies at Commerce and State have not yet given their final concurrence, the two agencies are likely to recommend against Presidential advocacy on behalf of Boeing for their bid with Quantas Airlines. Boeing's request was triggered by reports that PM Blair had written to Howard offering landing rights for Quantas in Paris if the company purchases 100 or more Airbus planes. Commerce has pointed out that it is unclear what leverage Australian officials would have on a purchasing decision by Quantas, a publicly-owned company. Also, Boeing has spurned Commerce's offer of cabinet-level advocacy. Boeing, which did not make its advocacy request until last Friday, insists that a Presidential call or letter would be needed prior to a Quantas board meeting on Dec. 14.
- *Brazil Compulsory Licensing of HIV/AIDS Drugs (Hunter/NSC; Katz)* – U.S. pharmaceutical companies Abbott, Merck, and Gilead have been in separate negotiations for months with the Brazilian Ministry of Health to reach an agreement on the supply of three AIDS drugs. On 10/10, Abbott signed an agreement with Brazil. Gilead met with the Brazilian authorities and Gilead tells NSC the meeting was constructive. The Brazilians agreed to continue from Gilead proposal presented on 5/24. The Brazilian government had comments on the proposal primarily related to their desire to not link price reductions to set consumption levels. Gilead agreed to consider the request and provided immediately a counterproposal which is under evaluation at this time by the Brazilian government. The Ministry of Health has pledged to reply to the Gilead counter proposal, but indicated in an initial meeting that it seemed reasonable. Gilead is cautiously optimistic.
- *CAFE (Sharp/DPC; Hook)*
- *Campaign Finance Reform (Taylor/OPA; Hook)*
- *Canadian Corn Dispute (Sommers/NEC; Katz)* – On 11/15 Canadian Border Services ruled against the United States for dumping subsidized corn on the Canadian market. The Ontario Corn Growers Association says the U.S. subsidies are driving down the price of corn around the world, making it difficult for Canadian farmers to survive. The Ontario group filed a complaint with Canadian Border Services in September about the impact of American subsidies on Canadian farmers. The Canadian corn farmers want duties imposed to raise the price of corn in Canada, and for Ottawa to file a complaint with the WTO to force the U.S. to get rid of its subsidies. The amount of the resulting duties will be released Dec. 15, about midway into the meeting of the WTO in Hong Kong. Many view this as an effort by the Canadian government to secure rural support for their potential upcoming elections.
- *Canadian Lumber (Hunter/NSC; Katz)* – The final antidumping and anti-subsidy margins on Canadian lumber announced by Commerce on 12/6 were virtually unchanged from the preliminary margins issued in June. The average combined final margin is 10.81 percent, while the preliminary figure was 10.62 percent. The U.S. industry issued a statement applauding the results and highlighting the inconsistency between Commerce's subsidy findings and the NAFTA panel's recent directive to Commerce to calculate a de minimis subsidy rate. Canada's International Trade Department issued a statement stressing that the rate announced today is significantly lower than the 20 percent rate presently collected by Customs, and asserted that prior NAFTA decisions obligate Commerce to revoke these orders. Canada will likely challenge this determination through the NAFTA panel process or in U.S. court.
- *Cement (Shirzad/NSC; Katz)* – In discussions on 12/4 and 12/5, Commerce and Mexican officials continued to make progress on an agreement to end this long-standing dispute. The discussions focused on increasing the three million metric ton quota figure proposed by the U.S. by an additional 250-500,000 tons, including a provision to allow for the importation of 250,000

tons of cement above the quota if the U.S. government determines additional supply is needed to respond to a natural disaster; the duration of the agreement; and the duty rate on cement imported under the agreement. Commerce will be sending a revised proposal to the Mexicans on Thursday. Both sides will now consult with their respective industries on these issues, and talks will continue on the margins of the Hong Kong ministerial next week. Commerce hopes to be in a position to announce an agreement in early January.

- CFIUS (Daly/NSC; Katz) – On 11/25, Check Point Ltd. (the Israeli computer security company) notified Treasury that, based on unresolved compliance issues from an earlier CFIUS filing, it was withdrawing its request for a CFIUS review of its proposed acquisition of Sourcefire (a U.S. internet security company maker of anti-spyware software). Therefore, this review will not go to investigation today. Check Point is still intent on going through with the acquisition of Sourcefire and a CFIUS review following an expedited resolution of their compliance issues. However, even if Check Point and CFIUS agencies work through the unresolved compliance issues from the earlier CFIUS filing, serious national security issues remain a challenge for their proposed acquisition of Sourcefire.
- Clear Skies (Stolpe/CEQ; Hook)
- Climate Change (Connaughton/CEQ-Hook) – On 12/7 the Canadian Prime Minister attacked the U.S. for its position on climate change. "To the reticent nations, including the United States, I say this: There is such a thing as a global conscience." Connaughton, who noted that Canada's emissions are growing at a faster rate than the U.S. (and many other countries), asked J.D. and Faryar for clearance to have an informal discussion with the Canadian Ambassador.
- Conflict-of-Interest-Reporting (Sharp/DPC; Hook)
- *Continental (Sharp/DPC; Katz) - On 12/8, Continental said it reached an agreement on a contract with its flight attendants, represented by the International Association of Machinists (IAM) that must now be ratified by the membership. This morning the IAM announced that if the agreement is rejected by its members, the IAM will ask its members to authorize a strike.*
- *Delta (Sharp/DPC; Hook) - On Sunday Delta reached a tentative agreement with its pilots that could save the airline more than \$152 million a year. The agreement must be ratified by pilots no later than Dec. 28 and by the U.S. Bankruptcy Court in New York. Both sides will ask the bankruptcy court Tuesday to suspend the company's request to reject the pilot contract.*
- *Doha (Shirzad/NSC; Katz) - Formal meetings begin tomorrow and will last through Sunday the 18th. While typically the serious negotiations occur during the last two days, Portman and Sec. Johanns have already held a series of meetings with Ministers. Portman met with a large group of Latin countries who complained about the EU's banana regime and noted their desire to see market access improvements across the board (they are not fans of duty-free and quota-free market access just for least developed countries). Press has focused questions on Lula's call for a Leaders summit, Japan's market opening for U.S. beef, and a new "aid for trade" package, and cotton. Tomorrow, Portman and Faryar will be meeting with Egypt, Zambia, and the African cotton producing nations.*
- Drug Reimportation (Leggitt/DPC; Katz)
- *Education (Wilson/DPC; Hook) - DPC hosted a Deputies Meeting on 12/9 to discuss a five-pronged approach to promoting and discussing school choice for the FY 2007 budget and SOTU. The five-pronged approach include: 1)"Pell Grants for Kids"; 2) highlighting the efforts of the Administration in promoting for relief for private schools impacted by Hurricane Katrina; 3) education tax credits; 4)ensuring equitable services funds are being provided to private schools; and 5)incorporating school choice as part of an overall national competitiveness message. DPC is working with the Department of Education to craft an overall policy framework under the umbrella of "school improvement". Principals will meet this*

Thursday. Separately, the Department of Education has notified us that they will not renew their MOA with CDC, which allowed CDC to extrapolate information from metropolitan Atlanta schools relating to prevalence of students with developmental disabilities. The MOU was initiated five years ago during the Clinton Administration and expires Sunday, December 11. ED indicated that their interpretation of the Family Educational Rights and Privacy Act (FERAL) precludes the agreement and would require a parent's consent for CDC to utilize their child's educational records for their study. ED's decision will also likely impact CDC's agreements with other states who have relied on this MOA as the basis for their information sharing agreements. This decision will draw criticism from Autism advocates who view the CDC studies as critical to their cause but will be lauded by pro family and privacy groups. ED and HHS are working together on the rollout of this decision.

- EEO-1 (Sharp/DPC; Hook) – On 11/17 the EEOC voted 3-1 to approve minor changes to the EEO-1 form. Employers use EEO-1 to report the race and ethnicity of their workforce. OMB will review the new form before it becomes final.
- Endangered Species Act (CEQ; Hook) – Interior has drafted a revision of the ESA regulations and is beginning the process of vetting the draft with EOP and engaging Commerce, which also has ESA authorities. CEQ will need to referee the interagency struggle for a common approach to regulations, and CEQ may also need to harmonize the content of the rules with the Congressional debate.
- Energy (Hannegan/NEC; Katz)
- Entergy New Orleans (Hennessey/NEC; Katz) - WH was informed on 12/8 by an Entergy lobbyist that the 3 letters exchanged between Entergy's VP and Al Hubbard were provided by the company to Governor Blanco. In anticipation of impending public release, WHComm is providing the letters preemptively to the N.O. Times-Picayune and a couple of national publications, and is making Keith available for background discussions.
- Faith Based (Towey/OFB; Hook) – DPC and OFBCI met with Sen. Santorum's staff on 12/6 to discuss the charitable giving incentives included in the Senate tax bill (S. 2020) that passed on Nov. 18th. Sen. Santorum would like more enthusiastic Administration support of the charitable provisions. The House is expected to take up the legislation before the end of the year, but will likely not include any charitable giving provisions. In conference, the Senate is expected to push for the inclusion of the charitable provisions in the final bill and would like Administration support. Many of the provisions included are supported in the FY06 budget except for the non-itemizer deduction, which is a priority for Sen. Santorum.
- Farm Bill (Sommers/NEC; Katz) – Hubbard/NEC hosted a meeting on 11/30 with Johanns, Wolff, and other EOP staff to discuss the provision in the Senate reconciliation bill extending the current Farm Bill through 2011 (as a budgetary baseline gimmick). The House continues to strongly oppose this provision, with our support. In case that support wanes, alternatives were discussed including persuading the Senate Budget Committee to provide budget baseline relief to Chambliss, pursuing non-Farm Bill savings (many already rejected by Congress), or even forgoing ag-related savings in reconciliation to avoid what Johanns considers the greater harm of extending the current Farm Bill.
- FDA (Leggitt/DPC; Katz) - *On Wednesday, the FDA plans to publish its final rule on labeling requirements for prescriptions drugs. The rule contains a broad statement in the preamble that the FDA intends the rule to preempt a range of state tort claims. Although FDA requested comments in the preamble to the proposed rule on the product liability implications of the labeling changes, the proposed rule did not contain an agency statement specifically indicating that it supports broad preemption. Rather, this portion of the final rule is the result of numerous comments requesting that the agency state in the final rule that FDA approval of*

labeling preempts conflicting or contrary state law, including court decisions, for purposes of product liability litigation. Because preemption was not specifically contemplated in the proposed rule, the special preemption requirements of the Executive Order on Federalism issued by President Clinton, including consultation with the States, have not been satisfied. For this reason, concern has arisen in OMB about whether to delay publication of the final rule pending satisfaction of the EO's consultation requirements. Delaying the rule to allow more extensive consultation, however, would likely focus attention unhelpfully on the preemption provisions in the final rule and, for that reason, be strongly resisted by HHS/FDA. OMB is leaning toward moving ahead with the planned rollout, while looking closely at whether the EO's consultation requirements have been triggered by the rule, which merely restates the prior position taken by the agency in numerous court filings.

- Federal Sentencing Guidelines (Ho/DPC; Hook) – The Supreme Court has declined to confront the question of retroactive application of its decision in *Booker v. U.S.* limiting federal sentence enhancements based on facts not found by a jury. The Court denied review in 11 cases on the issue, including one case in which it had sought the Solicitor General's views. As usual, there was no explanation for the denials. The Solicitor General had argued that *Booker* should not be applied retroactively, because it failed the "new rule" test of the Supreme Court's 1989 decision in *Teague v. Lane*.
- Flood Insurance (Warsh/NEC; Katz)
- Florida Everglades (Hannegan/CEQ; Hook)
- FMLA (Sharp/DPC; Hook)
- GSEs (Warsh/NEC; Katz)
- Great Lakes Outreach (Kathy/Khary) – Connaughton and Maggie met with Chicago Mayor Daley to discuss the Great Lakes Collaboration. The Mayor is requesting new federal money for the Great Lakes region as a new announcement. We shared the list of federal commitments with him and are continuing to work with his staff and EPA on the announcement of near term actions for the Great Lakes.
- *Health Care Big Ideas (Ramthun/NEC; Katz) - At NEC Principals today, we continued our discussions of health care financing options that build on and expand HSAs. There is general agreement that we should raise the contribution limits for HSAs. Advisors are split on whether we should make HSA contributions and premiums exempt from payroll taxes in addition to income taxes. Doing so would give self-employed and uninsured Americans the same tax benefits as those with employer-sponsored insurance. The group also discussed potential offsets to the cost the HSA proposals. Unresolved is whether we should drop our 5-year-old refundable tax credit for health insurance for low and moderate income Americans as an offset.*
- Health IT (Leggitt/DPC; Katz) – DPC plans to meet with OMB and HHS early next week to discuss a “checklist” mapping out deliverables over the next year to ensure we continue forward progress on achieving the HIT goals for CY 2006 and beyond.
- *Immigration (Ho/DPC; Hook) -- DPC hosted a meeting to identify options for the President in supporting the assimilation of new immigrants to America. The Head of DHS's Office of Citizenship presented a slate of options for administrative and legislative action, including: (1) speeches by the President and the Cabinet at naturalization ceremonies across the country (similar to President Wilson's celebration of "National Americanization Day" nearly 100 years ago when he, his cabinet members, and Supreme Court Justice Louis Brandeis gave speeches at naturalization ceremonies in 150 cities around the Nation); (2) administrative reforms such as creating an interagency "Task Force on New Americans" to coordinate and leverage resources currently spread throughout the Federal government, and to encourage private-sector volunteerism in teaching English and civics to new immigrants; and (3) legislative*

reforms, such as permitting immigrants who become fluent in English to gain citizenship in four years instead of five, embodied in legislation sponsored by Senators Alexander and Cornyn. DPC is writing an options memo that will incorporate the suggestions and recommendations elicited at the meeting for further review and consideration within EOP.

- Indian Trust/Cobell (Ho/DPC; Hook) – On 11/15 the Court of Appeals for the D.C. Circuit ruled that the district court owes substantial deference to Interior's proposed \$335 million accounting plan (and may not impose Judge Lamberth's \$12 billion substitute).
- Katrina Housing (Streeter/DPC; Hook) - FEMA's recovery director testified today before the House Housing and Community Opportunity subcommittee about the overall housing response to Katrina. Democrats on the committee criticized the Administration's response to the hurricane as insensitive and unfocused, and they also complained that Secretary Jackson did not send a HUD representative, which they had requested. HUD had asked for a separate hearing.
- Katrina/Governor Barbour (McMillin/COS) - Haley met with Hubbard, Powell, McMillin, and Grant. The Governor reported growing frustration and uncertainty about the future among coastal residents, driven in part by continued congressional inaction on funding and a perception that FEMA thinks it is “wrapping up” long before the job is done. Powell and Barbour discussed the uninsured homeowner issue at length, with Powell striking a good balance between skepticism and sympathy.
- Literacy (Wilson/DPC; Hook) -- The Department of Education hosted a briefing on 12/7 to discuss the upcoming December 15th release of results from the National Assessment of Adult Literacy. The assessment was administered in 2003, the first time since 1992. Summary of the results: 1) 11 million adults are functionally illiterate; 2) Looking at overall literacy levels, the only area that has increased since 1992 is in mathematical literacy; 3) African American scores are up; 4) Hispanic scores are significantly lower; and 5) Adults with a college or graduate degree had lower literacy scores than in 1992. At this point, OMB's FY2007 budget passback zeroes out Adult Education State Grants, which serves the needs of adults who lack basic literacy or a high school diploma.
- MCC (Shirzad/NSC; Katz)
- Medicaid Clawback (Ramthun/NEC; Katz)
- Medicaid Commission (Ramthun/NEC; Katz)
- Medicare Prescription Drugs (Ramthun/NEC; Katz)
- Medical Liability (Ho/DPC; Hook)
- Microsoft (Altbach/NSC; Katz) – On 12/7 the Korean Fair Trade Commission (KFTC) issued a finding on the Microsoft case and reached an E.U. style decision, finding that Microsoft had violated Korean competition laws. Microsoft expected a favorable decision, and was very disappointed by the KFTC's findings, which could require it to sell two different versions of windows in Korea. Microsoft will likely appeal this decision. Microsoft was very complimentary of Administration assistance in this investigation.
- *Municipal Finance (Warsh/NEC; Katz) - Sec. Snow transmitted a letter today to Leader Frist, strongly opposing Federal guarantees of municipal securities. The guarantees are included in HR 4440, which passed the House. At WH Leg recommendation, Al will call Grassley to reiterate the Administration's concerns.*
- *NASA (Russell/NEC; Katz) – NEC held a Principals meeting today. Options were discussed for the Space Shuttle, the vision (the crew exploration vehicle) and NASA Science. No decisions were made, but discussions centered on the safety implications and budgetary implications of the different potential choices. Principals discussed whether or not to complete the space station, how many shuttle flights would be necessary to keep the station orbiting, risk factors*

associated with the shuttle, the advantages and disadvantages to accelerating construction of the crew exploration vehicle, and the budget for NASA Space Science.

- *National Academies of Science Report (Russell/OSTP; Hook) - DPC hosted an internal Deputies meeting today to discuss a four step initiative focusing on math and science competitiveness. The four policy areas addressed include: 1) promoting Math & Science in the K-12 pipeline; 2) promoting training to help mid-career workers; 3) welcoming the world's best minds by reforming the immigration system and 4) promoting private and public sector scientific research. The current proposal is \$1.3 billion. DPC is working with OSTP to develop allocations for a \$1 billion proposal and a \$750 million proposal, representing policy priorities at various funding levels. An external Deputies meeting with representatives from Education, Commerce, Labor and Homeland Security is being scheduled for later this week.*
- *Native Hawaiian (Ho/DPC; Hook)*
- *NCLB (Medina/DPC; Hook)*
- *Ninth Circuit Court of Appeals Split (Ho/DPC; Hook) – DOJ has sent a views letter to Chairman Sensenbrenner expressing support for splitting the U.S. Court of Appeals for the Ninth Circuit. In its letter, DOJ explains that "dividing the 9th Circuit would improve the administration of justice," as the "sheer size of the 9th Circuit has led to serious administrative difficulties that have adversely affected its ability to render justice efficiently."*
- *Potential NYC Transit Strike (Sharp/DPC; Hook) - Over the weekend, the Transport Workers Union (TWU) Local 100, which represents nearly 34,000 workers for the New York Metropolitan Transportation Authority's (MTA) New York City Transit Division, voted to authorize a strike when the union's contract expires at 12:01 a.m. on Friday December 16. The MTA says a strike would be illegal and has gone to court to get an injunction. A judge will hear arguments tomorrow.*
- *OFHEO (Warsh/NEC; Katz) –*
- *OMB Risk Assessment Plan (Kaplan/OMB; Katz) – OMB is preparing to issue a bulletin for comment on 12/12 that will require agencies to provide more accurate and transparent risk assessments. OMB-OIRA is concerned that agencies sometimes deem a substance a risk (famous recent examples include levels of arsenic in drinking water or mercury in tuna) without providing the underlying assumptions about the level of acceptable risk such that the risk then becomes overstated. There will likely be agency and/or environmental-lobby resistance to the bulletin under the view that the White House is interfering with the agencies' scientific expertise.*
- *Patriot Act (Ho/DPC; Hook) - The PATRIOT Act conference report has been signed by a majority of the conferees (all Republicans, no Democrats). It will go to the House floor on Wednesday morning, where it should pass without any difficulty. It will likely be on the Senate floor Wednesday afternoon, where it will face a filibuster. We will have to work hard to get enough votes for cloture.*
- *Pensions (Blahous/NEC; Katz) – On Friday, the PBGC appealed Aloha Airlines' bankruptcy reorganization plan because it includes four pension plan terminations. The airline has lined up exit financing contingent on the plan terminations and is concerned that the PBGC appeal will scare off the investor and force the carrier into liquidation. Aloha has 3,500 employees and carries 85% of the inter-island cargo. Tomorrow, the bankruptcy court will hear from the airline and the PBGC.*
- *Peru FTA (Shirzad/NSC; Katz) – On 12/7 USTR successfully closed the FTA negotiations w/Peru. NSC reports that Portman began outreach to the Hill at the same time. NSC believes this to be an encouraging step as we go into the week of WTO talks in Hong Kong that start*

Monday. On sugar, the amount in the agreement is small -- total of 11,000 tons (2,000 tons of which are organic, which apparently we do not grow).

- Postal Reform (Sharp/DPC; Hook) – USPS reported on 12/6 it concluded FY 05 with a net income of \$1.4 billion on record revenues of \$70 billion and record volume of 212 billion pieces of mail. Standard Mail, which businesses use to reach consumers, outpaced First-Class Mail for the first time in history with 101 billion pieces of Standard Mail compared to 98 billion in First-Class Mail. First-Class Mail grew slightly in 2005 after three years of decline. On 11/15 Deputies met to discuss postal reform legislation. The House passed an expensive bill in July, but the Senate bill has stalled because of a disagreement between Senators Collins and Bond over a rate-setting provision. The Administration has supported reform, but does not particularly like either bill and included a senior advisors' veto threat in the House SAP against the bill's price tag. The Administration has been assured that these and other objectionable provisions will be removed in conference, but there is no clear plan for making these corrections. Deputies agreed that we should not intervene to settle the Senate dispute at this time, given the lack of urgency to move the postal bill and other pressing issues that Senator Bond is associated with.
- Physician Payments (Ramthun/NEC; Katz)
- Prison Industries (Ho/DPC; Hook)
- Rice (Shirzad/NSC; Katz) – The WTO Appellate Body on 11/29 affirmed a panel decision that found the Mexican antidumping investigation on U.S. rice exports, as well as portions of Mexico's antidumping and countervailing duty laws, are WTO inconsistent. Mexico is an important and growing market for U.S. rice, with exports of approximately \$183 million in 2004. Mexico cannot appeal the decision announced today and must now implement the Appellate Body decision or face possible retaliation by the United States.
- *Saudi Arabia WTO (Hunter/NSC; Katz) - As of December 11th, Saudi Arabia became a full member of the WTO and are participants in the Hong Kong ministerial talks. On Thursday, the WTO will have a formal welcome for new members (including Saudi Arabia).*
- SBA Loans (Warsh/NEC; Katz)
- Social Security (Blahous/NEC; Katz)
- *Southwest (Sharp/DPC; Hook) - Pilots at Southwest have agreed to fly more hours each month in a deal designed to save the company about \$4 million a year. The agreement was ratified by members of the Southwest Airlines Pilots' Association and runs through July. Southwest is expected to seek to make the changes permanent when the union and the company begin negotiating a new contract in April. This agreement is good for pilots because they are paid based on time in the cockpit, and good for the airline because this new productivity will increase Southwest's competitiveness.*
- *Steel (Shirzad/NSC; Katz) – At a meeting of the interagency on Friday, economic deputies unanimously decided not to recommend that the President impose "section 421" (a product-specific China safeguard) remedies on imports of circular welded non-alloy steel pipe from China. A decision by the President is required due to the International Trade Commission's (ITC) finding that imports of steel pipe were injuring the U.S. industry. Agencies agreed not to impose remedies because: 1) some ITC Commissioners had voted against injury, 2) the U.S. industry continues to be profitable, and 3) it is likely that China could successfully challenge the remedies at the WTO. USTR is slated to submit the recommendation to the President by Dec. 15, with a Presidential decision due by Dec. 30.*
- Steroids (Ho/DPC; Hook) – On 11/14 Major League Baseball and its player's union announced a tough new steroids policy. The new plan is essentially what Commissioner Selig proposed earlier this year: a 50-game suspension for a first offense, a 100-game suspension for a second

offense, and a lifetime ban for a third offense. After a two-year period, players could appeal a lifetime ban. Although discussions on the Hill between Commissioners and Members are ongoing, the agreement may preempt the passage of any steroid bills.

- Stem Cells (Levin/DPC; Hook)
- Strengthening America's Community Initiative (Streeter/DPC; Hook)
- TANF (Streeter/DPC; Hook) - *Senate and House members are discussing several provisions for reauthorizing TANF during reconciliation. There is agreement on setting a firm work participation requirement, namely 50 percent of the entire caseload for a state would have to be at all times engaged in work (because of the credits states got for reducing their caseloads, the current program is virtually gutted: last month, 56 percent of the entire caseload nationwide did not participate in even one hour of work or work-related activity of any kind). Getting the 50 percent work participation requirement is key for us. Also, surprisingly, there has been initial agreement on \$1 billion in child care funding. Whether this will hold on the Senate side is in question, since they have been pushing for \$6 billion, but so far it is on the table. Negatively, there is no agreement on raising the work hours per week, and there is talk of letting the marriage initiative funding be used on other activities, which we would oppose. Grassley may now be backing off somewhat, but so far as we know, the discussion about getting this done in reconciliation is still alive. DPC is tracking this closely and frequently communicating the importance of our priorities.*
- Tax Reform (Hennessey/NEC; Katz)
- Telecom (Russell/NEC; Katz) Telecom (Russell/NEC; Katz) - *In a significant policy shift, six cable companies announced today that they would offer a "family-friendly" programming package or tier. The announcement was made at a hearing held by Senator Stevens. Six cable operators agreed to provide a family-friendly package to address concerns about unsuitable programming for children and head-off calls for new mandatory programming requirements. The six cable operators were Comcast, Time Warner, Advance/Newhouse Communications, Bresnan Communications, Insight Communications, and MidContinental Communications. These companies plan to offer the family tier early next year. It is not yet clear exactly what programming will be offered and how much the new package will cost consumers. When finalized, consumers will be able to choose among a basic package with broadcast networks and public stations, the currently available programming tiers, or the new family tier.*
- TRIA (Warsh/NEC; Katz)
- Tricare Rx (Leggitt/DPC; Katz) – *OMB has indicated that it appears DOD will present a discretionary 2007 proposal to align Tricare benefits for retirees ages 38-65 with copays and deductibles for retired FEHBP participants. Currently, these individuals pay on average \$680 a year versus \$3,700 for civilian and other private plans. In addition, OMB has asked for DPC's input on the advisability of including in the President's budget provisions that would authorize charging a monthly premium to retired veterans over 65 that receive the Tricare pharmacy benefit. The premium would be similar to the premium charged to seniors on Medicare Part D. Claude has expressed concerns about proposing drug benefit premium changes, as well as the other cost-sharing provisions that we think DOD will propose in the near future. Any savings that DOD proposes under the Health Care benefits are designed to allow DOD to reach the budget goal set by OMB.*
- Uncompensated Care/Katrina (Ramthun/NEC; Katz)
- Union Officer Conflict of Interest Reporting, LM-30 (Sharp/DPC; Hook)
- Veterans (Leggitt/DPC; Katz) – *VA will be releasing DOD estimates on traumatic injuries resulting from Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) late this*

week. DOD estimates there are 5,000 service members who have received traumatic injuries. This information will be released in conjunction with implementation of a new benefit for injured service members. The benefit pays up to \$100,000 for injuries such as loss of limb, sight or other traumatic losses. The benefit is retroactive for members who suffered a qualified injury in OEF or IOF.

- *Voting Rights Act (Ho/DPC; Hook) - The Supreme Court unexpectedly agreed to review the constitutionality of Texas's 2003 Texas congressional redistricting plan. The Justice Department's decision to "preclear" the plan under the Voting Rights Act has been subjected to public scrutiny recently by a series of media reports based on a leaked memo authored by Justice Department career staff, who concluded the plan impermissibly diluted minority voting rights. The issues raised by the case include the validity of partisan gerrymanders, the treatment of minorities under Section 2 of the Voting Rights Act, the constitutionality of drawing bizarrely shaped districts in dealing with minority voters, and number limits on creating minority-controlled districts. The Court will likely hear oral argument on the case in April.*
- Vouchers (Streeter/DPC; Hook)
- *White House Conference on Aging (Leggitt/DPC; Katz) – Claude Allen and Secretary Leavitt spoke at the opening session of the Conference today. Both were well received. The delegates will vote to select the top fifty resolutions today and then break out into workgroups to develop implementation strategies.*
- Workforce Training in the Gulf Region (Sharp/DPC; Hook) – On 11/30 DOL announced the "Pathways to Construction Employment Initiative" to help workers in areas impacted by the hurricanes enter a career in construction through outreach, skills assessment, and placement in apprenticeship or pre-apprenticeship programs. It will target the residential, commercial, industrial, and heavy highway construction sectors, as well as shipbuilding and heavy marine construction. Grants of \$5 million each will be awarded to the Louisiana Community and Technical College System, working in close partnership with the Louisiana Department of Labor, and the Mississippi Department of Employment Security, working in close partnership with the Mississippi State Board for Community and Junior Colleges.

POLICY TIME – DECEMBER 2005

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
11	12 2:05-2:50 NEC: Medicare/CPI* (45 min)	13 NO TIME	14 2:35-3:20 NEC: NASA* (45 min)	15 1:05-1:50 NEC: Health Tax* (45 min)	16 1:05-1:35 NEC: Katrina Update* (30 min)	17
18	19 11:25-12:10 NEC: Taxes in '07 Budget* (45 min) 1:05-1:50 DPC: School Choice* (45 min)	20 1:45-2:30 NEC: Health Insurance Reform* (45 min)	21 1:55-2:40 OMB: '07 Budget Wrap (45 min)	22 1:05-1:50 DPC: Math/ Science* (45 min)	23 NO TIME	24
25	26 NO TIME	27 NO TIME	28 NO TIME	29 NO TIME	30 NO TIME	31
1	2 TBD	3 TBD	4 TBD	5 TBD	6 TBD	7

12/12/05

Possible December Policy Times: China Overview; Doha Post–Action Review; Energy II; Global Nuclear Energy Initiative/Yucca; Katrina Periodic Updates; Voting Rights Act

* Indicates Cabinet Member Attendance

Working Group Calendar

WORKING GROUP CALENDAR

Monday, December 12 th	Tuesday, December 13 th	Wednesday, December 14 th	Thursday, December 15 th	Friday, December 16 th
1:00 NEC: Principals Meeting on NASA (JK)	9:15 DPC: Weekly DOT call – PCC (BH)	11:00 DPC: Weekly Conf Call w/ DOL (BH)	10:00 DPC: Weekly Call w/ HHS (JK)	
1:00 DPC: Deputies Meeting on Aviation Policy (BH)	9:30 DPC: Meeting on Health IT – PCC (JK)		1:00 DPC: Weekly Asbestos Call – PCC (BH)	
3:00 NEC: Principals Meeting on Healthcare Tax (JK)	10:30 DPC: Principals Meeting on SACI (BH)		3:00 NEC: Weekly Medicare Meeting – PCC (JK)	
4:00 DPC: Deputies Meeting on Math/ Science (BH)	3:00 DPC: Weekly ED Call – PCC (BH)		4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	
	5:30 DPC: Weekly DOJ Call – PCC (BH)		5:15 DPC: Principals Meeting on School Choice (BH)	

Working Group Calendar

Monday, December 19 th	Tuesday, December 20 th	Wednesday, December 21 th	Thursday, December 22 th	Friday, December 23 th
	<p>9:15 DPC: Weekly DOT call – PCC (BH)</p> <p>3:00 DPC: Weekly ED Call – PCC (BH)</p> <p>5:30 DPC: Weekly DOJ Call – PCC (BH)</p>	<p>11:00 DPC: Weekly Conf Call w/ DOL (BH)</p>	<p>9:00 NEC: Biweekly Pension Call – PCC (JK)</p> <p>10:00 DPC: Weekly Call w/ HHS (JK)</p> <p>1:00 DPC: Weekly Asbestos Call – PCC (BH)</p> <p>3:00 NEC: Weekly Medicare Meeting – PCC (JK)</p> <p>4:00 NEC: Weekly Medicaid Meeting – PCC (JK)</p>	

OFFICE OF CABINET LIAISON



CABINET MEMBER SCHEDULE

TUESDAY 12/13/2005

Secretary Jackson

9:45am – 10:30am **Room 164** Venture on Transferring Risks of Mortgage Portfolios Outside the Federal Home Loan Bank System and the Broader GSE Sector

Participants:

HUD

Brian Montgomery, Assistant Secretary for Housing

Hillenbrand Partners

Eric M. Hillenbrand, President and CEO
Thomas D. Casey, Managing Director

Federal Home Loan Bank of Atlanta

Raymond Christman, President and CEO
Kirk R. Malmberg, Senior Vice President for Mortgage Programs

Credit Suisse First Boston

Andrew Atsushi Kimura, Managing Director

Secretary Norton

1:15pm – 1:45pm **Room 164** Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC
Joel Bagnal, HSC

DOI

Thomas Weimer, Senior Advisor to the Secretary

Secretary Snow, Secretary Jackson & Director Bolten

3:30pm – 4:30pm **TBD Room** National Economic Council Principals Meeting on Tax

Participants:

White House

Secretary Card, CoS
Karl Rove, DCoS
Dan Bartlett, Counselor
Ben Bernanke, CEA
Al Hubbard, NEC
Candi Wolff, OLA
Claude Allen, DPC
Mike Gerson, OPSP

David Addington, OVP
Nicolle Wallace, Communications
Steve McMillin, CoS Office
Doug Badger, OLA
Keith Hennessey, NEC

WEDNESDAY 12 / 14 / 2005

Secretary Rice, Secretary Rumsfeld & Director Bolten

2:35pm – 3:20pm **Oval Office** Policy Time – NASA

Participants:

White House

Vice President

Secretary Card, CoS

Karl Rove, DCoS

Steve Hadley, NSC

Scott McClellan, Press Secretary

Dan Bartlett, Counselor

Al Hubbard, NEC

Candi Wolff, OLA

David Addington, OVP

John Marburger, OSTP

Mike Gerson, OPSP

Steve McMillin, CoS Office

Keith Hennessey, NEC

NASA

Mike Griffin, Administrator

THURSDAY 12 / 15 / 2005

No Events Scheduled.

FRIDAY 12 / 16 / 2005

Secretary Chao

12:00pm – 1:00pm **WH Mess** Lunch with Bill McGurn

MONDAY 12 / 19 / 2005

Secretary Chao

b(6)

Secretary Mineta

2:00pm – 2:30pm **Room 164** Office Time

2:30pm – 3:00pm

Room 164

Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnol, HSC

DOT

Maria Cino, Deputy Secretary

John Flaherty, CoS

3:00pm – 4:00pm

Room 164

Office Time