

NLWJC - KAGAN

EMAILS RECEIVED

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[12/01/1998 - 12/02/1998]

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Phillip Caplan to Elena Kagan re no subject (1 page)	12/02/1998	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([Kagan])
OA/Box Number: 500000

FOLDER TITLE:

12/01/1998-12/02/1998]

2009-1006-F

kc189

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 10:28:55.00

SUBJECT: Updated list of Welfare Offsets

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Here's a list of the proposed offsets with some additional information. Most significant is that OMB scores the version of Medicaid cost allocation that states prefer at \$1 billion over 5 years -- not small potatoes. The harsher version reaps \$2 billion in savings. ===== ATT
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D25]MAIL409350536.326 to ASCII,
The following is a HEX DUMP:

FF57504334090000010A02010000000205000000E31F00000002000041C9FF5DCC231C61A6C503
9FDE235FA122E07B3DDD796DFCD544F333BD22D3D209E4AAF06C130128DED9510950471878DB4B

Proposed Welfare Related Offsets

12/1/98

Policy	Year 1 Savings (Outlays)	5 Year Savings	Comment
<p>Limit Transfers from TANF to SSBG to 4.25% in FY 2000</p> <p>Under this proposal, the amount of TANF funds states could transfer to the Social Services Block Grant would be lowered from 10% to 4.25% in FY 2000 (the transportation bill already made this change for FY 2001). This offset would allow us to fully fund SSBG in FY 2000. States use SSBG for child care, child protective services, elderly programs, and other low income services.</p> <p>This limitation would in particular affect the 15 states that transferred more than 4.25% to SSBG in FY 1999 (CT, DE, FL, GA, KY, MD, MA, MI, NJ, NY, PA, TX, VT, VA, WI).</p>	<p>\$600 million</p>	<p>\$600 million</p>	<p>This proposal saves about \$130 million <u>more</u> than needed to restore the SSBG cuts (cost of SSBG restoration is about \$470 million).</p> <p>You could propose a revenue neutral alternative, e.g.:</p> <p>1) Allow transfers of more than 4.25% -- exact amount to be determined -- which would ease the transition for states now transferring more than 4.25%; or</p> <p>2) Allow states to transfer a certain amount <u>on average</u> -- thus states that transferred less in TANF funds would allow other states to transfer more;</p> <p>States will consider this TANF change to be in bad faith.</p>
<p>Freeze State Supplemental Growth Fund at FY '99 Levels</p> <p>Currently, low benefit states with population growth get 2.5% increases in their TANF grants.</p> <p>Under this proposal, states that got increases in FY 98 and FY 99 would not receive another increase in FY 2000 (AL, AK, AZ, AR, CO, ID, FL, GA, LA, MS, MT, NC, NM, NV, TN, TX, UT)</p>	<p>\$60 million</p>	<p>\$60 million</p>	<p>In general, cuts in TANF funds -- even a subcategory of TANF funds like these -- set a bad precedent and states will consider it bad faith.</p> <p>However, if cuts are needed, freezing states at their current level of increase is a decent way to achieve savings, because it maintains the increase states got in FY '98 and FY '99.</p>
<p>Medicaid Cost Allocation</p> <p>The proposal would:</p> <p>Part 1: Lower federal Medicaid payments by the amount of Medicaid administrative costs that were in the TANF block grant; and</p> <p>Part 2: Forbid states from using TANF dollars to pay Medicaid administrative costs.</p> <p>This Spring, a similar proposal was put in place for Food Stamps in the Ag Research bill.</p>	<p>\$295 million</p>	<p>\$1.9 billion</p>	<p>States and advocates will protest mightily over this proposal. While they are willing to accept Part 1 (they will grudgingly agree that the TANF block grant was inflated to include administrative costs for which they still receive an open ended match, thus allowing them to "double dip"), they argue, rightly, that Part 1 combined with Part 2 (forbidding them from using TANF funds for Medicaid administrative costs) is tantamount to "no dipping." Eliminating Part 2 cuts overall savings in half (to about \$1 billion over 5 years and \$50 million in year 1).</p>
<p>Eliminate Child Support Enhanced Match for Paternity</p>	<p>\$50</p>	<p>\$300</p>	<p>Proposals were in our FY '99 budget.</p>

Policy	Year 1 Savings (Outlays)	5 Year Savings	Comment
<p>Establishment and Child Support Hold Harmless</p> <p>This proposal would provide the regular 66% federal match for paternity establishment laboratory tests (an enhanced 90% match was put in place years ago to encourage their use).</p> <p>It would also eliminate the “hold harmless” provision which guarantees states their 1995 level of TANF-related child support collections despite caseload reductions (the hold harmless was put in place in 1996 to protect states from the effects of new “family first” distribution rules which requires states to pay past due child support to the families first instead of to the federal and state governments).</p>	million	million	

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 13:50:07.00

SUBJECT: Crime Strategy Meeting

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Amy Weiss (CN=Amy Weiss/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Charles A. Blanchard (CN=Charles A. Blanchard/OU=ONDCP/O=EOP @ EOP [ONDCP])
READ:UNKNOWN

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Jason H. Schechter (CN=Jason H. Schechter/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Essence P. Washington (CN=Essence P. Washington/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Patricia E. Romani (CN=Patricia E. Romani/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

Bruce Reed will be having a Crime Strategy Meeting on Thursday, December 3, at 5:15 p.m. in his office, 2 Floor, West Wing.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 13:04:08.00

SUBJECT: FYI: Minn judge ruled to unseal the "IVA" index of industry documents

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

As you recall as part of our documents directive, DOJ filed a brief in the Minnesota court to unseal the tobacco industry's document index. The court has ruled in our favor, but the decision is stayed pending possible appeal.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 12:58:08.00

SUBJECT: Internet and Tobacco

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Here are the issues DOJ raised regarding tobacco and the Internet:

The 1970 law banning cigarette ads on t.v. and radio was upheld before the commercial speech doctrine was developed. They believe if the court were to consider the ban today, that it would be struck down. Thus, they fear that we would risk losing the t.v. and radio ban if we applied it to the internet and were challenged in court. If the FDA authority to regulate tobacco advertising is upheld by the courts or by Congress, the FDA could develop a properly tailored rule banning ads on the Internet that appeal to kids.

FYI: the 1970 law bans cigarette ads on "any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission." Thus, DOJ says, the FCC would need to make the formal determination of jurisdiction before DOJ could act.

I was asked if we knew why the Internet ban was not included in the state settlement (it was as you recall in the June 20th agreement).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 1-DEC-1998 13:04:08.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])

READ:UNKNOWN

TEXT:

Reminder: your toxic toys mtg. is at 1:00 in room 211 OEOB

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 19:02:34.00

SUBJECT: Central American relief

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Scott Busby (CN=Scott Busby/OU=NSC/O=EOP @ EOP [NSC])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Marjorie Tarmey (CN=Marjorie Tarmey/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Leslie Bernstein (CN=Leslie Bernstein/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Scott Busby and I met this morning with DOJ, INS and State to develop final recommendations on how we should proceed with announcements related to the post-Mitch situation in Central America. The following outlines the issues discussed and the decisions that we need to make.

1. TPS

We received the first half of q&a from State and were promised the rest by the end of the day today. Also by c.o.b. today, State is going to provide us with a final position on whether we should reinstitute stays of deportation for either the Dominican Republic or Haiti given our decision to provide stays for Guatemala and El Salvador (to ensure consistency). State will also provide any information we need to support our final decisions on this issue.

The group recommends that Commissioner Meissner make the TPS announcement, along with a person from the State Department. It was thought that Doris would be best equipped to respond to the immigration questions. We would seek to have her do the announcement on Monday afternoon (she is out of the country this week) to give us adequate time to brief representatives of the countries before the Central Americans presidents arrive on Thursday for the debt relief conference.

As to addressing concerns about fraud, INS proposes to reduce the TPS registration to six months (it has traditionally been coextensive with the TPS period) and will be developing questions to assist in determining eligibility.

2. Legislative Parity

All of the legislative affairs folks (Caroline Fredrickson (WH), Patty First (DOJ), Allen Erenbaum (INS), Broderick Johnson (WH), and Gina Abercrombie-Winstanley (NSC)) agree that we should not make any

announcement supporting legislation to achieve "parity" for Salvadorans and Guatemalans until after they have had much more time to work with members of Congress. Their fear is that if we make the announcement too soon, that will only give those who will be opposed to the legislation (such as Lamar Smith) a chance to get to the swing voters or other key members before we can. The leg. folks feel particularly strongly about this in light of indications of support for some kind of legislative action for Central Americans by Sens. Hatch and Abraham. Caroline noted that Hatch would be particularly put off by an announcement of our decision on legislation after he has indicated interest, but before he has been fully consulted about such a proposal.

However, the group agreed that it would be a good idea to indicate to the advocacy community and the Ambassadors to El Salvador and Guatemala (and possibly the presidents if there is a POTUS or VPOTUS meeting with them) that we plan to work with Congress to enact legislation next year that would achieve parity for Salvadorans and Guatemalans.

3. Extreme Hardship and the NACARA regulation

DOJ (including INS) is opposed to including in the final NACARA regulation any presumption of extreme hardship (rebuttable or otherwise) for nationals from El Salvador and Guatemala. This opposition is based on the following: (1) such a presumption has never before been utilized; (2) a country-based presumption would be inconsistent with the concept of "individual adjudication" that underlies suspension claims; (3) it would be inconsistent with the facts (b/c it would not be "extreme hardship" for some Salvadoran and Guatemalan nationals to return to un-harmed parts of their countries and b/c hardships created by the hurricane will be significantly diminished by the time these adjudications occur); and (4) such a conclusion would be inconsistent with our decision not to grant TPS to these countries (b/c a presumption of extreme hardship would imply that these countries cannot really absorb their nationals).

INS would agree to provide information to immigration judges and NACARA adjudicators on hurricane-related conditions in El Salvador and Guatemala and direct them to take these conditions into account when adjudicating suspension claims for nationals of those countries. They would also consider amending the NACARA regulation to specifically identify conditions relating to natural disasters as relevant to the extreme hardship determination.

Thus, we may be able to couple our TPS announcement with a general statement that we plan to ensure that the conditions created by Hurricane Mitch are taken into account in the process of deciding NACARA suspension cases.

4. Next Steps

We need to decide the following:

a. Whether we agree to defer announcement of our support for legislative parity until we have had more of a chance to work with Congress.

Scott and I agree that this announcement should be deferred, in the interest of actually getting the legislation passed. We also agree that we should indicate to the advocacy community and the Ambassadors to El Salvador and Guatemala that we plan to work with Congress to enact legislation next year that would achieve parity. Jim Dobbins and Scott would conduct the briefings with the Ambassadors.

b. Whether we agree with the INS/DOJ view that we not adopt a presumption of extreme hardship for Salvadorans and Guatemalans covered by NACARA (n.b., such a presumption would be based on the totality of the circumstances vis-a-vis Salvadorans and Guatemalans covered by NACARA -- i.e., the history of unfair denial of asylum claims; ABC litigation; NACARA; our statements in support of parity).

Scott and I recommend holding off on this decision until after the end of the comment period for the NACARA regulation (end of January). This gives us more time to consider this option and avoids our making regulatory decisions outside of the notice & comment process.

c. Whether we continue to believe (given the strong possibility that the announcement will be TPS only) that press availability on the announcement (with Doris and someone from the State Dept.) would be better than a press release.

Scott and I recommend that Doris and someone from State should do a press availability. Our concern is that a press release would result in an uncontrolled message.

d. Whether we continue to believe that we need to announce TPS for Honduras and Nicaragua before the POTUS or VPOTUS possibly meets with the Central American presidents (on Dec. 10th or 11th). Our thinking had been that we did not want the TPS question to be open when the POTUS meets with the presidents; however, in light of the fact that the announcement will be good news for two countries and not for the other two, does that change the calculation?

Scott and I recommend that we make this announcement Monday afternoon (December 7th). Jim Dobbins was agnostic, but we think that (1) the decision is overdue (Dobbins agrees); and (2) there is an advantage to taking the TPS issue off the table in advance of the presidents' visit.

Please let me or Scott know what you think about these issues and whether you would like to get together to discuss them. Thanks.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 18:28:58.00

SUBJECT: For Daily Update

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

On December 2nd, Children's Defense Fund and National Coalition for the Homeless are releasing a rather pessimistic report on welfare reform called "Welfare to What: Early Findings on Family Hardship and Well Being". The report mainly compiles findings from previous studies; the only new data were collected by local non-profit advocacy organizations monitoring welfare reform in six states. I'm currently reviewing the report and will provide a summary later this evening.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 1-DEC-1998 08:26:52.00

SUBJECT: Any interest in the Energy Dept's

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Sarah A. Bianchi (CN=Sarah A. Bianchi/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

announcement on nicotine addiction research results? Energy plans to
make an annct on the new results tomorrow.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 13:05:38.00

SUBJECT: Crime Meeting Agenda

TO: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
BR. et.al.:

While I know we haven't nailed down a time/date for the crime meeting this week, in the hopes that we will do so soon, here's a draft agenda.
Comments? jc3

Crime Meeting Agenda
December 2, 1998

I. Update on FY 2000 budget and new initiatives

- Status of funding for COPS II/Crime Bill II
- DAG's Crime Bill II recommendations
- Other budget issues -- Brady fee, state prison funding, etc.

II. Events/announcements

- Date certain for guidelines on prison drug testing/treatment
- Recommendations on gun shows (1/7)
- YCGII Report (2/9)

Other:

- Timing/guidelines for community prosecution grants
- Timing/guidelines for COPS/school safety earmark
- Timing/announcement for announcement of Exile earmark

III. Miscellany

- NICS: (1) Can sale be denied solely on an arrest? (2) Implementation follow-up?
 - Impact of OMB guidance for CJS appropriations -- how will funds be allocated?

-- DOJ proposed directive requiring firearms to be stamped -- not etched.
-- Pending reports to be released.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sally Katzen (CN=Sally Katzen/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 12:16:32.00

SUBJECT: revised ag paper - table stays the same

TO: Lisa M. Kountoupes (CN=Lisa M. Kountoupes/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Sylvia M. Mathews (CN=Sylvia M. Mathews/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elise H. Golan (CN=Elise H. Golan/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: David W. Beier (CN=David W. Beier/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

CC: Frazierp (Frazierp @ midusa.net @ inet [UNKNOWN])
READ:UNKNOWN

CC: Janet L. Graves (CN=Janet L. Graves/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Rhonda Melton (CN=Rhonda Melton/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

Please disregard the previous draft ag paper and replace it with this.
It is only slightly different from the earlier one, we should all be on
the same page. Sorry for any inconvenience.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D6]MAIL47229253P.326 to ASCII,
The following is a HEX DUMP:

FF57504332060000010A02010000000205000000E0CE000000020000DA29A9A834EAB755DC5E30
ADC0903C92618F717DA347B9C04F58872B882ACE70F1BB1DFC5CFEF5C474A937B467D09572E368

HOW TO FIX THE FARM INCOME SAFETY NET

I. Introduction

For more than a decade bipartisan farm policy has directed producers to seek income increasingly from markets rather than from Federal subsidies. The 1994 Crop Insurance Reform and 1996 Farm Bills attempted to create a farm income safety net of market-oriented crop insurance and commodity marketing loan programs, rather than ad hoc disaster, market intervention, and price support programs. Farm income reached a record \$61 billion in 1997 as export demand grew and world commodity stocks tightened from 1995.

In 1998 in the US, regional inadequacies of crop insurance (including low coverage and participation), weather and multi-year production problems, and nation-wide low prices for many commodities provoked sharp criticisms of the 1996 Farm Bill and crop insurance. Proposals appeared in July to revive price-setting Federal subsidy programs, mainly through raising USDA's "marketing loan rate" to boost crop payments to farmers (see Appendix B for discussion).

II. Administration Proposals

In response, an NEC-led interagency group this summer crafted a package of proposals to address the specific areas of need throughout the nation's farmland. This included targeted assistance for regions of need, primarily through a supplemental crop insurance benefit for multi-year losses.

Second, the President announced on July 18th the purchase and donation overseas of 2.5 million tons of wheat to boost US farm prices and to relieve hunger around the world, using existing USDA authorities and mandatory funding. In November, the President announced an additional food-aid package of 3.1 million tons of wheat and other commodities for Russia.

Finally, the Administration agreed to support Sens. Harkin's and Daschle's proposal to remove the 1996 Farm Bill limitation on marketing loan rate levels.

III. Status of Farmer Assistance

The Administration negotiated a \$6 billion disaster assistance package in the FY 1999 Omnibus Appropriations Bill to boost farm income. The President further charged Secretary Glickman with addressing the "gaps" in the farm safety net that were exposed during the 1998 crop year. Recently, the Congressional Agriculture Committees have announced their intention to address the problems through the crop insurance program.

The marketing loan provisions of the 1996 Farm Bill did work to the extent of providing \$2 billion to farmers under existing authority, spending that was not projected in the FY 1998 Mid-Session Review of the Budget. The \$6 billion in additional assistance should maintain farm income in crop-year 1998 near the 1997 record level. The issue is how much enhancement does the safety net need? Should Federal programs prevent any farmer's income from falling below the five-year average level? Should income supplements be targeted to smaller, low-income farmers? Total additional USDA outlays for production agriculture approved since July, above those assumed in the FY 1999 Budget, amount to approximately \$10 billion, including the costs of the recent food-aid programs.

IV. Problems in Farm Country and Options for Dealing with Them

In its FY 2000 Budget request, USDA proposes to continue the path of the 1996 Farm Bill, and Administration policy, by helping farmers to manage risk. It recommends a series of program changes to: make crop insurance more attractive by covering more risk at reduced costs; enhancing emergency programs; and expanding risk-management education. A proposal could also re-establish the requirement that farmers purchase crop insurance, and send a message to farmers that these increased insurance subsidies would negate the likelihood of future emergency payments such as those provided through the FY 1999 Omnibus bill.

Gaps in the Safety Net

This section lists the five main problems with the current farm income safety net, then analyzes the options, in addition to the USDA proposals. The options can be dialed by benefits and costs. Also, to achieve targeting by income or gross revenues, means-testing could be overlaid on most options to address the recurring issue that insufficient payments go to the neediest or smallest farmers while most payments continue to go to relatively wealthy and large-scale farmers.

Problem One: Crop loss due to natural disaster -- crop insurance can fail to indemnify enough of the loss because:

- a) Too little acreage is insured (i.e., too few farmers participate); and
- b) Insured acreage is covered at too low a percent of expected revenue (i.e., too little coverage is purchased by the average farmer).

Problem Two: Multi-year crop loss due to natural disaster, where:

- a) Poor production history hurts "good" farmers by raising premiums and lowering the insurable yield; and
- b) Even higher, "buy-up" coverage levels, after consecutive loss years, may indemnify too little to sustain the farm operation.

Problem Three: Low prices nationally, as much as 40 percent below the 5-year average, primarily due to large harvests and reduced export demand.

Problem Four: High producer expenses, where:

- a) certain regions have high production costs arising from natural factors; or
- b) exogenous shocks raise input costs like fuel, or livestock feed from a small

crop.

Options:

1. Enhance Crop Insurance. ([Agency name] _____ supports; _____ recommends against because...) Increase crop insurance subsidies on all Federal crop insurance products, both “yield insurance” and “revenue insurance” plans. This would be achieved by increasing coverage on free Catastrophic (CAT) policies and increasing premium subsidies on higher levels of yield and revenue insurance. **(See Appendix A for background on crop yield and revenue insurance.)**

<u>Estimated costs:</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
(outlays in millions of dollars)			1,541	1,587	1,635
1,684	1,734				

The proposed increases hold two strong attractions for farmers: a) the obvious attraction of increasing the value of their insurance policy at no extra cost, and b) increasing the likelihood that they will receive an indemnity payment. In other words, instead of simply decreasing the amount of farmer-paid insurance premium cost at current coverage levels (which would have no impact on the probability of receiving an indemnity payment), the USDA proposal would both avoid cost increases to the farmer and raise the level of indemnity payments.

Revenue insurance policies are currently subsidized by USDA at a lower percentage than comparable yield insurance policies. This option would increase the USDA premium subsidy for revenue insurance on par with yield coverage, increasing the incentive to purchase this expensive, but more comprehensive, coverage. It also has the added positive effect of increasing the farmers’ incentive to sell their crops on the forward market.

Farmers are notoriously reluctant to forward contract much of their crops out of fear that prices will increase after they have locked in their forward price. Crop Revenue Coverage (CRC) allows farmers to forward contract with the confidence that if prices go up after they have obligated themselves to deliver at a lower price, they will not miss out on higher revenues because CRC indemnifies against missing out on higher prices. The commodity exchanges find this aspect of revenue coverage attractive because trading volume would increase. However, they also have expressed some concern over the extent to which subsidized revenue coverage might compete with their futures and options contracts.

Ensuring Participation

Because this option is in large part a marketing strategy to increase program participation, its success ultimately hinges on its impact on buyer behavior. Insurance is not currently required of producers, and they will have to make their own risk management decisions -- to buy or not to buy. However, large media advertising campaigns (also proposed by USDA) combined with a program structure that would virtually eliminate the lower coverage range of buy-up insurance would help to ensure the expected response on the part of farmers, as long as they can be convinced that the government will not once again revert to ad hoc disaster payments as future "disasters" arise.

However, to reduce the uncertainty associated with buyer behavior, the Administration could reimpose the provision of the 1994 Crop Insurance Reform Act which required producers to purchase some level of crop insurance in order to receive any other USDA program benefits, especially the basic AMTA payments. This so-called "linkage" provision was in effect for one year, the 1995 crop year, and resulted in nearly doubling the amount of crop insurance sales. Linkage was not particularly controversial, and its abolition in the 1996 Farm Bill in response to some producers' objections was accomplished without serious policy review by the Administration or Congress.

Pro:

- Consistent with the market-oriented farm policies of the 1996 Farm Bill.
- The President explicitly noted the need to fix crop insurance.
- Has best chance of enactment, given congressional Agriculture Committees' stated plan to propose major improvements in crop insurance.
- Would significantly increase crop insurance participation if not undermined by ad hoc disaster spending, and particularly if "linkage" is re-established (requirement that a producer buy crop insurance in order to participate in other USDA programs).
- Crop insurance is more inclusive than many other USDA programs, covering nearly 70 different crops.
- Crop insurance is more friendly to the beginning farmer. Other programs (e.g., AMTA payments) have more cumbersome eligibility hurdles.
- Avoids sending a "mixed message" on the economic structure of farm policy (the hope of future ad hoc disaster spending or direct price/income support), and encourages producers to actively manage their risk, albeit on very concessional terms.
- More revenue insurance purchases would increase the number of producers protected against both weather risk and market risk.

- Private commodities exchanges expect to benefit from increased trading volume.
- Could be used as a “transitional” fix: Subsidies could be dialed down as future conditions and policies warrant.

Con:

- Because the program does not guarantee benefits or require participation, its efficacy is ultimately dependent on buyer behavior (unless “linkage” is re-established).
- Increasing coverage at the CAT level could result in a “buy-down” effect; i.e., farmers who previously paid for buy-up insurance opt for free CAT coverage.
- Budget “watchdog” groups may protest the new subsidies to U.S. agriculture as unnecessary.
- Private commodity exchanges might object to perceived competition from government-subsidized price risk management tools, i.e., revenue insurance.

2. Fix Multi-year Crop Insurance. ([Agency name] _____ supports; _____ recommends against because...) Introduce a new multi-year loss insurance provision as an optional add-on to the crop insurance policy. A version of this was included in the Administration’s summer ‘98 farm disaster aid package and enacted in the Omnibus bill. This proposal would make the availability of multi-year coverage permanent.

<u>Estimated Costs</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	
(outlays in millions of dollars)			171	176	181	187
192						

The development of this provision is only in the discussion stages at USDA but the product could be rolled out by the 2000 crop year. OMB would work with USDA to ensure that no duplicate benefits would be paid through these provisions to either new insureds or producers who received 1998 emergency assistance for multi-year losses.

The 1998 emergency multi-year loss benefits simply provided supplemental indemnity payments to qualified insured farmers equal to 25 percent of the indemnities received over the relevant crop years. The new policy provisions would likely have a similar effect, i.e., retroactively increase coverage levels for consecutive-loss years (if the farmer was insured in each year) and pay out supplemental indemnities. The actual structure of the coverage has yet to be proposed by USDA.

It would be for multiple years or losses but not in perpetuity (e.g., cap at 5 or 6 years).

Pro

- Consistent with the market-oriented farm policies of the 1996 Farm Bill.

- Directly responds to one of the most vocal constituencies, (the Dakotas) during the debate on 1998 emergency assistance.
- Crop insurance covers more crops and is more available to new farmers than most other USDA commodity assistance programs.

Con

- Because the program does not guarantee benefits or require participation, its efficacy is ultimately dependent on buyer behavior.
- Moral hazard, while true for subsidized crop insurance generally, could be greater.

3. Cover More Non-insured Crops. ([Agency name] _____ supports; _____ recommends against because...) Increase support for non-insured crops covered by the Non-insurance Crop Assistance Program (NAP).

<u>Estimated costs:</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	
(outlays in millions of dollars)			475	489	504	519
535						

Despite the growth in the number of crops covered by the insurance program over the last decade, many crops remain for which no insurance is available, e.g., artichokes, lettuce, ginseng, mushrooms, and many more. This option proposes to increase NAP coverage on par with coverage increases of CAT insurance; i.e, guarantee about 42 percent of expected revenue, and includes livestock among “non-insured” commodities covered under NAP.

Benefits can be targeted, such as through USDA’s proposal to increase crop-loss assistance on non-insured crops for small farms, and provide increased incentives for private companies to seek out and “sell” free CAT coverage to limited resource farmers.

Pro:

- Addresses the vulnerability of producers who raise crops and livestock for which no insurance exists.
- Could be perceived as unfair if CAT coverage is raised while NAP is not.

Con:

- Costly to cover more minor crops, mostly vegetables, which was not a source of national farmer dissatisfaction in summer ‘98.

4. Promote Commodity Options. ([Agency name] _____ supports; _____ recommends against because...) Increase USDA's current educational options pilot programs (OPP) and other risk management education and outreach efforts.

<u>Estimated costs:</u> (outlays in millions of dollars)	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
OPPs on two commodities	21	22	22	23	24
Education and outreach		29	30	31	32
33					

Options on futures contracts are often cited as the equivalent of price insurance. Producers who purchase "put" options have effectively purchased a price floor. When prices go up, they can still enjoy the benefits of higher prices, but they are protected if prices fall below the floor, or "strike price", they purchased.

USDA has recently implemented a program to teach dairy farmers how to use these markets that provides a short term, hands-on trading experience with USDA sharing the cost of the options contracts. The program lasts only for six-months per producer and allows the producer to buy options on a limited quantity of milk. The producer learns the markets, the terminology, hedging strategy, and how to select and deal with a broker.

The program vision is not for permanent subsidies. Its sole objective is to educate the producer in the hope that the producer will continue to manage price risk using options after "graduating" from the short term, subsidized program. For OPPs to succeed, legislation would require a change to remove language requiring budget neutrality. The 1996 Farm Bill stipulates that OPPs must be budget neutral "to the maximum extent practicable". USDA interprets that to mean that recipients of USDA program payments who participate in an OPP must forego in program payments the amount of the subsidies they will receive under the OPP. This provision does not apply in USDA's current dairy OPP because dairy farmers are not currently receiving program payments. Thus, the offset is not "practicable".

In addition, USDA would conduct aggressive outreach programs to organize county-level workshops, develop university curricula, and a multimedia advertising campaign.

Pro:

- Consistent with the market-oriented reforms of the 1996 Farm Bill.
- Futures/options markets exist for most of the eight major "program crops".
- Complements the other options such as increased insurance coverage by alerting and introducing farmers to risk management tools.

Con:

- Futures/options markets exist for only a limited number of crops.

5. Permit Risk Management Accounts. ([Agency name]_____ supports; _____recommends against because...) Provides a tax advantage for building financial reserves to be used for farm contingencies. In its “Bluebook” of policy guidance for the 1996 Farm Bill, the Administration proposed “income stabilization accounts”. Treasury representatives suggest that the permanent tax relief measures for farmers in the FY 1999 Omnibus Appropriations Bill are sufficient. These included: extending loss-carryback provisions in “good” years for farmers, and permanent extension of income averaging. These were scored by Treasury as reducing tax receipts by \$36 million annually, but the actual effect of these changes in the tax code on farm income is not yet known. (A similar, “FARRM” IRA proposal was nearly adopted in the FY 1999 Omnibus bill.)

Risk management or income stabilization accounts could be designed to provide benefits for only relatively small or low-income farmers. Such accounts are being tried in Canada and France. They normally permit pre-tax deposits into the account up to a certain amount. Incentives such as a government contribution component could be considered as well. In the event of a disaster, the farmer is permitted to withdraw the funds without penalty. The withdrawals would help support the farmer until the next crop year and would likely be taxed in a lower bracket than the farmer’s normal income.

The income amounts deposited, the withdrawal triggers (e.g., decreases in gross revenues, net income, price index below moving average, etc.), eligibility and consequent costs are widely adjustable. This concept could be announced as a pilot program for a specific commodity or region.

<u>Estimated costs:</u> (outlays in millions of dollars)	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
	200	200	200	200	200

Pro:

- Encourages prudent savings while reducing the impact of future disasters on both the farmer and the Federal budget.
- Builds on producers’ current ability to manage their income streams by savings and timing of input and capital purchases for tax purposes, popular approaches for farmers.
- Makes more comprehensive an Administration safety net policy of “various solutions appropriate to segments and conditions in farm country”.

Con:

- Treasury representatives believe this option would - if not targeted - disproportionately aid large, wealthy farmers while providing little assistance to small farmers.
- Low farmer participation would be expected.

6. Strengthen Standing Emergency Programs. ([Agency name]_____ supports; _____ recommends against because...) USDA’s proposal includes assistance for livestock, and would allow farmers to receive both CAT and NAP benefits, USDA disaster loans, and other USDA farm credit. Some were included in Summer ‘98 Administration package.

<u>Estimated costs</u> (outlays in millions of dollars)	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
a) Emergency livestock feed	24	25		25	26
27					
b) Allowing both CAT and NAP benefits	10	10	11	11	11
c) Small agriculture-related business loans (discretionary)	(50)	(52)	(54)	(56)	(58)

Pro:

- Small farm- and small business-oriented.
- CAT and NAP can be re-structured to also limit benefits to larger, well-capitalized operations.

Con:

- Without proper limits in place, CAT and NAP are subject to abuse by larger businesses.

7. Land Retirement. ([Agency name]_____ supports; _____ recommends against because...) Some producers farm land that encounters natural disabilities (like excessive wetness or disease) that persist longer than one year, but that is likely to return to production. USDA could enter medium-term contracts (3 - 5 years non renewable) to retire such land, including land in the Upper Plains that is diseased or under water, or land in the southwest that is quarantined due to karnal bunt. Payments would be made for “environmental benefits”, including conservation practices aimed to restore the land to production. An area-wide problem could be required to trigger in a farm’s land for eligibility. USDA’s Conservation Reserve Program (CRP) retires land for 10-year periods, but not when they are made unproductive due to natural afflictions. A version of this proposal was included in Administration’s Summer ‘98 package and in the 11/13 USDA budget letter, but was not enacted.

<u>Estimated costs: (outlays in millions of dollars)</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
	50	75	100	100	100

Pro:

- Would fill a gap in the current program structure, since there is no program aimed at this problem.

Con:

- Unlikely need for medium-term retirement program; land problems better ameliorated through farming practices or a program that would permanently retire land.

8. Marketing Loans. ([Agency name] _____ supports; _____ recommends against because...) Uncap 1996 Farm Bill levels. (See Appendix B for background.)

<u>Estimated costs</u> (outlays in millions of dollars)	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
	4,000	4,000	4,000	3,000	3,000

Removing the 1996 Farm Bill’s limitation on marketing loan rates (85 percent of a five-year moving average minus high and low years, but not more than the 1995 level) would enable the loan rates to rise to a level that practically guarantees regular annual payments in the years ahead.

This would turn the marketing loan program into a type of “deficiency payment,” a program abolished by the 1996 Farm Bill. As a general commodity program, it would apply to all major field crops for the 1.8 million participants in USDA crop subsidy programs. This was proposed by Sens. Harkin and Daschle in the summer, and by the Administration in some forms, but defeated in Congress on six occasions.

A targeted version, a “two-tier marketing loan”, was proposed by Sen. Daschle in the 1996 Farm Bill deliberations. This proposal would offer a higher loan rate for a minimum volume of production per farmer, e.g., the first 10,000 bushels. Production above that level would receive a lower loan rate or none at all. This regime would provide relatively greater benefit to smaller producers.

Pro

- Popular with many populist supporters of the Administration.
- Would be perceived as supporting smaller, less efficient farmers.

Con

- Would return farm policy back to failed, costly past programs that hurt US exports and would lead to production supply controls, widely unpopular with farmers.
- Untargeted version would provide gratuitous financial windfall to many farmers.
- Targeted version would be opposed by many larger farmers, especially of cotton and rice.
- Would compete/conflict with market-oriented programs (e.g., revenue insurance, OPPs).
- Fails to help individual farmers with diminished or failed crop.

9. Federal Assistance for Exports. ([Agency name] _____ supports; _____ recommends against because...) Donations and support for faltering export markets.

<u>Estimated costs</u> (outlays in millions)	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
	2,500	2,500	2,500	2,500	2,500

The humanitarian food aid packages of July for wheat and November for Russia could be extended so long as the commodity to be donated remains in surplus in the US. While sufficient funding usually is not an obstacle for the mandatory programs and emergency authorities involved, this action is limited by GATT rules on subsidies, our trading partners' complaints, and the undermining of US commercial exports. The actual impact of Federal donations on US farm prices is in dispute, but the announcements of donations are seen as popular among many farmers, if not commodity markets. The Administration's active role in managing the Asian economic crisis--a major cause of reduced demand for US agricultural exports--is viewed as a general form of help to US farmers, but indirect and longer-term.

Pro:

- Perceived in farm country as positive action.
- Can cause "additional" exports to those countries unable to purchase food.

Con

- Need for bulk commodities is limited. Truly hungry people not already being supplied by standing government programs tend to need consumer-ready foodstuffs.
- Limited by tendency to displace US commercial exports.
- Unpredictable impact on markets means unreliable domestic farm support program.

V. Offsets

USDA has not proposed any offsets to date. OMB recommends PAYGO offsets from cuts in guaranteed Agriculture Market Transition Act (AMTA) payments. The shift in funding would effectively redistribute funds guaranteed to producers who have not experienced crop losses and rewards those who have actively managed their yield risk and paid a share of the associated costs. AMTA payments are only authorized through FY 2002; however, baseline rules extend the authorization and baseline spending indefinitely.

The distribution of AMTA payments by state compares favorably to the expected redistribution of funds through increased crop insurance subsidies. Some discrepancies arise among certain Midwestern states (Iowa, Illinois, Indiana, Nebraska) that receive significant AMTA payments and whose proportion of benefits would likely be eroded and shifted toward states with higher crop insurance losses. Many of the states experiencing increases in their proportional benefits are those with particular problems over the most recent period (Texas, North Dakota, Minnesota, Georgia, North Carolina, South Carolina). In effect, the redistribution takes benefits from areas with a lower incidence of crop losses and moves them to areas that have been harder-hit in the past year and have had historically higher levels of uninsured or underinsured producers.

Further, in a loss-year similar to the one experienced in 1998, the redistribution of benefits channels funds much more dramatically to areas in the most need.

However, crop insurance indemnities are not guaranteed as are AMTA payments. Coverage begins at specified loss levels verified at the individual farm level. The same number of dollars is projected to be disbursed over the long run, but wide variations in year-to-year outlays will occur. The proposal channels funds to farmers who have taken proactive steps to manage their risk and suffered verified losses, at the cost of guaranteed payments withdrawn from farmers holding AMTA contracts. Using AMTA payments as an offset achieves some targeting of AMTA benefits.

BACKGROUND

Appendix A: Crop Insurance

Yield Insurance (USDA's standard multi-peril crop insurance products)

Crop insurance coverage is made up of two components, yield coverage and price coverage. The buyer can choose among various coverage combinations of both yield and price. The minimum coverage level insures 50 percent of average yield at 60 percent of a USDA-set price. This plan is known as Catastrophic Risk Protection (CAT), or "50/60" coverage. The highest coverage available nationally is the 75/100 level. The most popular coverage to date is the 65/100 level. At this level of coverage, if the insureds suffer a 50 percent yield loss, they are made whole on the lost production up to 65 percent (or 15 percent in this case) and the indemnity payment would amount to the 15 percent of covered loss times 100 percent of the USDA-set price.

USDA offers two general levels of insurance coverage; Catastrophic Risk Protection (CAT), and so-called "buy-up" coverage which is all coverage levels higher than CAT. CAT premium is 100 percent subsidized and the farmer only pays a nominal administrative fee for it. CAT covers only 30 percent of expected revenue. Buy-up coverage is available at levels between 60 and 75 percent of expected revenue and is subsidized on a scale that slides downward as coverage increases. In other words, 65 percent coverage involves a 40 percent premium subsidy, and 75 percent coverage involves a 24 percent subsidy.

USDA has performed marketing analysis to estimate how much an average producer is willing to pay for buy-up crop insurance. That amount is \$5.30 for each \$100 of liability insured. USDA proposes to apply that farmer-paid amount to a coverage level that is considered high enough to restore credibility to the crop insurance program in the wake of the harsh criticisms last summer. That level is 70 percent of expected revenue.

The following example illustrates how the insurance coverage works:

- a) a corn grower with 1,000 acres and an average yield of 100 bushels per acre has an expected yield of 100,000 bushels;
- b) the insured price set by USDA is \$2.30 per bushel;
- c) "70/100" coverage is purchased, so the farmer has insured \$161,000 of liability (70,000 bushels at \$2.30/bu.);
- d) if the farmer experiences a 40 percent yield loss (i.e., a harvest of 60,000 bushels) an indemnity of \$23,000 would be paid (i.e., the 10,000 bushels that would make the farmer whole up to 70 percent of average production multiplied by 100 percent of the \$2.30/bu. price);

- e) the total insurance premium for the coverage would likely be around \$13,000, of which 32 percent, \$4,160, is currently paid by USDA;
- f) USDA also reimburses the private insurers' administrative expenses at a rate of 24.5 percent of gross premium, or in this case \$3,185.

Revenue Insurance

Standard crop insurance policies do not indemnify producers who have not experienced crop losses due to natural causes. However, even a producer who harvests 100 percent of expected yield can be put on difficult financial footing through price declines. The Federal crop insurance program currently offers three policies that provide indemnities in the event of falling prices regardless of crop losses ("revenue insurance"). These products are all less than three years old.

Two are struggling to become established but one has been very successful. Crop Revenue Coverage (CRC), developed by one of the private crop insurance companies, now accounts for 16% of the crop insurance market (nearly \$300 million in annual premium). This is a very high growth rate over just three years, particularly in light of its price tag -- CRC premiums are 30 percent higher than comparable yield insurance on average.

Revenue insurance policies are subsidized by USDA at a lower percentage than yield coverage. It is worth noting that, in light of this lower subsidy on a high-priced policy, CRC's growth tends to contradict the notion that farmers are unwilling to pay significant premium costs for crop insurance. This, in turn, further supports options that retain market-oriented safety net programs, with an eye toward dialing down subsidies over the long term.

CRC's success in the market is attributable to one unique component of its coverage; CRC indemnifies if prices fall *and* if prices rise; CRC will indemnify yield loss at the current market price if it has gone up during the insurance period. To summarize, revenue policies work much like standard policies but pay out indemnities in more circumstances:

- a) yield loss when prices remain unchanged (like standard policies);
- b) yield loss when prices fall (like standard policies);
- c) yield loss when prices rise (CRC pays out at the higher market price);
- d) no yield loss but prices fall (revenue policies only).

The following is an example of revenue insurance, scenario "d" above:

- a) a corn grower with 1,000 acres and an average yield of 100 bushels per acre has an expected yield of 100,000 bushels;
- b) the insured price, established by the average price of December corn futures during the month of February, is \$2.45 per bushel;
- c) "70/100" coverage is purchased, so the farmer has insured \$171,500 of liability (70,000 bushels at \$2.45/bu.);
- d) by December, the farmer has no yield loss (i.e., a harvest of 100,000 bushels)

- e) but, the average price of that same December corn futures contract at harvest time (November) has dropped to \$2.00/bushel (i.e., down 45 cents/bushel). An indemnity of \$31,500 would be paid (i.e., the 70,000 bushels insured multiplied by 100 percent of the \$0.45/bu. price decline);
- f) the total insurance premium for the coverage would likely be around \$17,000, of which 24 percent, or \$4,160, is currently paid by USDA;
- g) USDA also reimburses the private insurers' administrative expenses at a rate of 23.5 percent of gross premium, or in this case \$3,995.

Appendix B: Boosting Farm Income Through Marketing Loans

A major goal of some farm interests is to increase USDA's "marketing loan rate" so it would guarantee farm income robust enough to cover the relatively higher costs of production of some U.S. farmers. Sens. Daschle and Harkin were chief proponents of increasing ("uncapping") marketing loan rates during the summer's debate on how to improve the farm income safety net.

How marketing loans work

USDA's marketing crop loans, a program to enable farmers to avoid selling during the lowest-price (harvest) period of the year, basically set a price floor for the crop, backed by the Treasury. Farmers take out a 9-month loan from USDA at harvest time based on a statutory "loan rate" or price per bushel. If market prices drop below the loan rate, farmers can repay the loan at the lower market price per bushel. USDA absorbs (loses) the difference between the market price and the (higher) loan rate price, and the farmer keeps the crop to sell on the market. Marketing loans are available for the major US field crops, like wheat and corn. Payments under the program are limited to \$75,000 per person per crop year.

Current issue

The 1996 farm bill capped the loan rate at 85 percent of the five-year moving average price for the commodity, but not more than 1995 levels. The 1990 farm bill gave the Secretary of Agriculture discretion to reduce the loan rate from the five-year average, depending on market conditions and budget costs. That bill also required that supply controls be imposed appropriate to those market conditions to determine the size of the crops produced and the cost to the government. Uncapping loan rates would raise them (by 22 percent for wheat, 15 percent for corn) to an average price level that would be unusually high at present, because it would include the historic record high price period of 1995 and 1996. Farm interests have not suggested reimposing supply controls, which is unpopular with farmers.

For example, a wheat farmer with 100,000 bushels in 1998 faced a capped loan rate of \$2.58/bushel, an average price of \$2.65, but a low price of \$2.35. He received \$23,000 (100,000 times the 23 cent gap between the low price and the loan rate) by asking USDA for a "loan

deficiency payment" when the low price prevailed. (A loan deficiency payment is a common variation of a marketing loan. Foregoing entirely a USDA crop loan, the farmer gets a cash payment from USDA for the difference between the loan rate and the prevailing market price.)

The farmer then held onto the crop for 10 weeks and sold it at \$2.70 and received \$270,000. The marketing loan boosted the farmer's 1998 income by 9 percent under the current loan rate regime (\$23,000 divided by \$270,000). If the wheat loan rate had been uncapped, the USDA loan deficiency payment would have been \$81,000 (100,000 times the 81 cent gap between the low price and the uncapped loan rate of \$3.16 for 1998), a boost of 30 percent to the farmer's income.

Costs

USDA to-date has paid about \$1.6 billion in marketing loan gains on the 1998 crop for all major commodities. Probably the costs for this crop under current loan rates will total about \$2 billion this year. Uncapping loan rates for one year only on the 1998 crop, as Sens. Daschle and Harkin proposed, would have cost an additional \$5 billion in FY 1999. The cost for uncapping on the 1999 crop only, with outlays largely in FY 2000, probably would be about \$4 billion according to current price projections.

Policy significance

Federal attempts in the 1960s and 1980s to protect farmers from market cycles demonstrated that USDA price-support loan rates that are within about 25 percent of commodity market prices distort markets by:

- setting an effective floor on market prices for producers;
- stimulating US production;
- increasing taxpayer costs;
- leading to production controls, reduced exports and greater foreign production.

Loan rates that are low relative to market prices avoid these distortions, but can provide an income safety net in case of a price collapse. An NEC interagency process concluded in 1994 that raising loan rates slightly was dubious policy because of its market effects even when it would cost much less than under current price conditions.

Budgetary costs and policy problems could be reduced when raising marketing loan rates by targeting the payments to those producers in greatest need. For example, this could be done by excluding high-income farmers and limiting the higher loan rate to each producer's first few thousand bushels of grain.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 17:49:27.00

SUBJECT: Massachusetts time limit

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

FYI, the two year state time limit hit in MA today. There's been a lot of local press, protests etc, but not much national attention yet. I'd asked ACF to prepare this Q&A just in case.

----- Forwarded by Andrea Kane/OPD/EOP on 12/01/98 05:45 PM -----

Michael Kharfen

12/01/98 04:56:39 PM

Please respond to mkharfen@acf.dhhs.gov

Record Type: Record

To: Andrea Kane/OPD/EOP

cc: See the distribution list at the bottom of this message

Subject: Massachusetts q&a

Andrea,

as requested, attached and below is the q&a's on Massachusetts time limit.

Massachusetts Time Limit Questions & Answers

12/1/98

Background: Massachusetts's time limit of 2 years of assistance for nonexempt families began on December 1, 1996. Families can receive assistance for no more than 2 years within any 5-year period. There is an overall limit of 5 years of assistance. Approximately 41,000 of the over 81,000 families receiving assistance in December 1996 were subject to the two year limit. The state reports that over 35,000 of those families have since left the rolls because of parents taking a job, receiving enough unearned income or moving to another state making them ineligible for assistance.

Q1 How many people are expected to hit the time limit today?

A1 Massachusetts estimates that 5,000 families reach the two-year limit of assistance on December 1. Of those families, around 2,200 have applied for extensions while 2,800 will receive notices over the next 2 weeks that their benefits will be terminated.

Q2 Who is exempt and subject to the time limit?

A2 The State is using the exemption policies that were originally approved under a waiver from the Clinton administration in 1995. Approximately 50 percent of the families receiving assistance in December 1996 when the time limit started were exempt. Most were exempt because they have a child under 2 years old. Other exemptions included child only cases, teen parents, parents with a disability and a parent caring for a child with a disability. All other families were subject to the time limit.

Q3 What exemption policy does the state have?

A3 Massachusetts gives extensions on a case by case basis. The state Commissioner will consider giving extensions to parents working full-time but who are earning less than the cash benefit level, a parent who lacks child care to take a job and a parent who has made a good faith effort to find but was unable to get a job. These parents must have followed all the state's welfare rules. The state will also grant waivers for continuing benefits for children where the parent is incapacitated.

Q4 What, if any, services will the state provide for families who lose cash assistance?

A4 Massachusetts is developing formal arrangements for services to families who lose cash benefits. These arrangements will include outreach, referral and case management programs; transportation services; vocational evaluation and subsidized employment; and assistance for non-English speaking families.

Michael Kharfen
HHS Administration for Children & Families
mkharfen@acf.dhhs.gov
<http://www.acf.dhhs.gov>
(202) 401-9215 phone
(202) 205-9688 fax

- massqa.doc

Message Copied

To: _____

Diann Dawson

Ellen Dahl <"Ellen=Dahl%ASPA%OS.DC" @ acf.dhhs.gov>

Mack A Storrs

Olivia Golden

Patricia Savage Bravo

Stan Gardner ===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D39]MAIL43796753H.326 to ASCII,

Massachusetts Time Limit Questions & Answers
12/1/98

Background: Massachusetts's time limit of 2 years of assistance for nonexempt families began on December 1, 1996. Families can receive assistance for no more than 2 years within any 5-year period. There is an overall limit of 5 years of assistance. Approximately 41,000 of the over 81,000 families receiving assistance in December 1996 were subject to the two year limit. The state reports that over 35,000 of those families have since left the rolls because of parents taking a job, receiving enough unearned income or moving to another state making them ineligible for assistance.

- Q1 How many people are expected to hit the time limit today?
- A1 Massachusetts estimates that 5,000 families reach the two-year limit of assistance on December 1. Of those families, around 2,200 have applied for extensions while 2,800 will receive notices over the next 2 weeks that their benefits will be terminated.
- Q2 Who is exempt and subject to the time limit?
- A2 The State is using the exemption policies that were originally approved under a waiver from the Clinton administration in 1995. Approximately 50 percent of the families receiving assistance in December 1996 when the time limit started were exempt. Most were exempt because they have a child under 2 years old. Other exemptions included child only cases, teen parents, parents with a disability and a parent caring for a child with a disability. All other families were subject to the time limit.
- Q3 What exemption policy does the state have?
- A3 Massachusetts gives extensions on a case by case basis. The state Commissioner will consider giving extensions to parents working full-time but who are earning less than the cash benefit level, a parent who lacks child care to take a job and a parent who has made a good faith effort to find but was unable to get a job. These parents must have followed all the state's welfare rules. The state will also grant waivers for continuing benefits for children where the parent is incapacitated.
- Q4 What, if any, services will the state provide for families who lose cash assistance?
- A4 Massachusetts is developing formal arrangements for services to families who lose cash benefits. These arrangements will include outreach, referral and case management programs; transportation services; vocational evaluation and subsidized employment; and assistance for non-English speaking families.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leslie Bernstein (CN=Leslie Bernstein/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 1-DEC-1998 16:07:45.00

SUBJECT: Phthalates 12/1

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Marjorie Tarmey (CN=Marjorie Tarmey/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Industry, consumers, trade blows on phthalates
ENDS Daily - 01/12/98

European industry and consumer groups have clashed bitterly over the disputed PVC softening chemicals phthalates, following the latest EU scientific report on the issue. The row includes allegations of "mis-information" traded between the European Consumers' Organisation (Beuc) and toy and plasticiser manufacturers.

In an opinion released yesterday, the EU committee on toxicity, ecotoxicity and the environment concluded that there was still "cause for concern" over phthalates used in toys. The committee found two phthalates, DINP and DEHP to present risks above the strictest safety threshold, though below levels at which actual harm has been observed in tests (ENDS Daily 30 November).

Beuc responded by calling on the EU to immediately ban "all toys" containing phthalates through emergency provisions in product safety legislation. The organisation has been in favour of prohibition since the EU scientists' earlier report in April, and now says that the case for a ban has been strengthened.

The new report marks a "watershed" in the debate on phthalates, according to Beuc. It is now clear that the use of phthalate softeners in children's toys carries a "substantial and unnecessary health risk," and that there should be "grave concern" over the issue, the organisation says.

Beuc described efforts by the European toy and plasticiser industries to defend phthalates as "obscene". Children are being "deliberately placed at risk by toy manufacturers who have executed a systematic campaign of mis-information," the consumers' group concluded.

But in a statement released today, the European Council for Plasticisers and Intermediates (ECPI) and Toy Industries of Europe claimed that it was Greenpeace and Beuc, rather than

themselves, who were "misleading the public" on phthalates. The bodies called on environmental organisations to "stop their ill-informed and fear-mongering campaign," which they said was "scaring parents into believing their children can be harmed by sucking soft plastic toys."

According to ECPI and TiE, the new scientific opinion "does not state that plasticised toys are unsafe". They also describe as "good news" the committee's conclusion that there is a greater margin of safety than it previously thought for DINP, the main phthalate used in toys.

Moreover, the organisations say, new scientific findings, which were reviewed by the committee but not incorporated into its conclusions, would further increase the safety margin for DINP from 75 to well over 100. Under normal scientific procedures, this would take the chemical beyond the threshold at which there is cause for concern.

Contacts: Beuc (<http://www.beuc.org>), tel: +32 2 743 1590; Toy Industries of Europe, tel: +32 2 732 7040; ECPI (<http://www.ecpi.org>), tel: +32 2 676 7243.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 11:09:43.00

SUBJECT: December Event Updates

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

1. Airplane safety, 12/19. Three options emerged: 1. NPR is pushing hard for a "holistic" aviation safety plan they are putting together. I said we shouldn't count on another plan for a deliverable. They haven't gotten it to us, but we should get a draft this p.m. -- if this is only a radio it may be ok; 2. Black box. Currently, airlines give black box data to the FAA after an accident. FAA could do a voluntary or mandatory requirement to airlines to turn in black box data whether or not there has been an accident. 3. Other. We are pushing FAA to come up with something else.

2. Child Safety Seats 12/10. We've been briefed by the highway folks, it looks ok, they are a little worried about getting OMB approval but it should be doable.

3. Food Safety. Our budget got screwed, USDA is upset that they have user fees (and threaten to nix the initiative if their baseline isn't funded), FDA got no money for its initiative. Otherwise, it'd be a good event.

4. Homeless vets. I assume this is off now that disabled housing has been done.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Fred DuVal (CN=Fred DuVal/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 1-DEC-1998 10:19:13.00

SUBJECT:

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Have you all seen the letter from Chiles to Podesta re: Floridas tobacco deal? John wants a response drafted.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-DEC-1998 14:45:11.00

SUBJECT: FYI: Sect Herman appeared today at a welfare/fathers event with Ford Fdn

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

FYI: The Ford Foundation today announced \$10 million in new grants for its Partners for Fragile Families: Focus on Fathers program, which employment and parenting programs for young, low income fathers. Herman will highlight some of the Welfare to Work grants we've already announced that focus on noncustodial fathers.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June Shih (CN=June Shih/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 1-DEC-1998 18:14:13.00

SUBJECT: congressional meeting/pbor draft. comments asap.

TO: Paul K. Orzulak (CN=Paul K. Orzulak/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

TO: Jessica L. Gibson (CN=Jessica L. Gibson/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Tracy Pakulniewicz (CN=Tracy Pakulniewicz/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Ann F. Lewis (CN=Ann F. Lewis/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Sarah A. Bianchi (CN=Sarah A. Bianchi/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Tracey E. Thornton (CN=Tracey E. Thornton/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Lawrence J. Stein (CN=Lawrence J. Stein/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Ruby Shamir (CN=Ruby Shamir/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Draft

Shih 12/1/98

PRESIDENT WILLIAM J. CLINTON

STATEMENT AFTER CONGRESSIONAL MEETING

THE WHITE HOUSE

DECEMBER 2, 1998

Good Morning. As the Vice-President and Senator Daschle said, we have just had a very productive discussion about our agenda for the new Congress.

This is a remarkable moment in the history of America. With the strongest economy in a generation, we have the means to tackle the challenges before us. And as we saw in this last election, we have also found the will. From education to social security to health care, the American people have reached a strong consensus for action. They have made it very clear to their leaders in Washington that they want us to get to work on the issues that matter most in their lives -- modern schools and world-class educations for their children, a sound social security system for the 21st Century, and strong patient protections in this era of managed health care.

And that is why Senator Daschle, his colleagues and I are determined to make the passage of a comprehensive Patients², Bill of Rights a key priority next year. We must give Americans the peace of mind that comes from knowing that when they fall ill, they will be treated as people, not dollar signs on a ledger book. I have taken all the steps within my power as President to strengthen patient protections. Just this week, my Administration informed hospitals across America that they must provide emergency care to those who need it and may not deny service while waiting for approval from an insurance company. But now the time has come for Congress must do its part to protect America²,s patients. With Sen. Daschle and his colleagues leading the way, we must work together across party lines to make the Patients², Bill of Rights law. Protecting patients isn²,t a Democratic issue or a Republican issue. Protecting patients is an American issue.

Thirty days ago, the American people gave all of us in Washington our marching orders: They want us to get to work on their behalf and on their business. We Democrats have heard them loud and clear. And we will work with colleagues of good faith across party lines to create a new season of achievement for the American people.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Phillip Caplan (CN=Phillip Caplan/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-DEC-1998 17:37:26.00

SUBJECT: Medal of Freedom

TO: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Jeffrey M. Smith (CN=Jeffrey M. Smith/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TO: Holly L. Gwin (CN=Holly L. Gwin/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TO: Marsha Scott (CN=Marsha Scott/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bob J. Nash (CN=Bob J. Nash/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Barry J. Toiv (CN=Barry J. Toiv/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Jake Siewert (CN=Jake Siewert/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Lowell A. Weiss (CN=Lowell A. Weiss/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Sylvia M. Mathews (CN=Sylvia M. Mathews/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Eric W. Woodard (CN=Eric W. Woodard/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Stacie Spector (CN=Stacie Spector/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Marjorie Tarmey (CN=Marjorie Tarmey/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Sara M. Latham (CN=Sara M. Latham/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Tracy Pakulniewicz (CN=Tracy Pakulniewicz/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Virginia Apuzzo (CN=Virginia Apuzzo/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Minyon Moore (CN=Minyon Moore/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Neal Lane (CN=Neal Lane/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TO: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ruth A. Eaglin (CN=Ruth A. Eaglin/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Antony J. Blinken (CN=Antony J. Blinken/OU=NSC/O=EOP @ EOP [NSC])
READ:UNKNOWN

TO: Joseph P. Lockhart (CN=Joseph P. Lockhart/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Paul D. Glasstris (CN=Paul D. Glasstris/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Jeffrey A. Shesol (CN=Jeffrey A. Shesol/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Wesley P. Warren (CN=Wesley P. Warren/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Katharine Button (CN=Katharine Button/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ann F. Lewis (CN=Ann F. Lewis/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: John Podesta (CN=John Podesta/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Paul E. Begala (CN=Paul E. Begala/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Daniel W. Burkhardt (CN=Daniel W. Burkhardt/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Sean P. Maloney (CN=Sean P. Maloney/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

There will be a meeting on Friday, December 4, at 9:45 am in the First Lady's Conference Room (Rm 100) to discuss Medal of Freedom candidates to recommend to the President. We've received a number of suggestions on

candidates, narrowed the list a little, and now need to discuss a close-to-final list to give to the President from which he can make choices.

The ceremony will likely be in January (maybe early February) but to do things right, we should get a memo to the President prior to Christmas.

I'll circulate some paper late tomorrow so that you can look it over prior to the meeting. Let me or Carol Cleveland in my office know if you can make it.

Thanks.

Message Sent

To: _____

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-DEC-1998 18:32:22.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])
READ:UNKNOWN

TO: BRUCE N. (Pager) #REED (BRUCE N. (Pager) #REED [UNKNOWN])
READ:UNKNOWN

TEXT:
please call michael waldman 62272

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Phillip Caplan to Elena Kagan re no subject (1 page)	12/02/1998	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([Kagan])
OA/Box Number: 500000

FOLDER TITLE:

12/01/1998-12/02/1998]

2009-1006-F
kc189

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Bradley M. Campbell (CN=Bradley M. Campbell/OU=CEQ/O=EOP [CEQ])

CREATION DATE/TIME: 2-DEC-1998 10:17:32.00

SUBJECT: Toxic Toys Documents

TO: Neera Tanden (CN=Neera Tanden/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Sally Katzen (CN=Sally Katzen/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Alphonse J. Maldon (CN=Alphonse J. Maldon/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Bruce McNamer (CN=Bruce McNamer/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

I am attaching my revised versions of the statement and press guidance, mostly small changes to Jen's excellent draft, which incorporate comments from Jen provided by voicemail this morning after seeing Ann Brown's Today show. Also below are today's AP and WP articles. As you will see, the number of companies involved makes it awkward to name them individually in the POTUS statement. ----- Forwarded by Bradley M. Campbell/CEQ/EOP on 12/02/98 10:12 AM -----

Ariel T. Mendez
12/02/98 10:04:00 AM
Record Type: Record

To: Bradley M. Campbell/CEQ/EOP
cc:
Subject: 12/2/98 phthalates articles

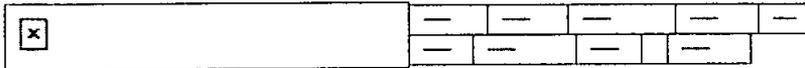
Hey there Brad,

Here are two articles about phthalates in toys. One is from the Wash. Post, the other is from the AP News services. Just open them from Netscape.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:



DECEMBER 02, 04:47 EST

Commission Won't Seek Toxic To y Ban

WASHINGTON (AP) — Government safety regulators are asking toymakers to quit using a suspected carcinogen as a plastic-softening compound in baby rattlers and teething toys, but have decided against trying to ban all toys made with the substance.

The Washington Post quoted Consumer Product Safety Commission officials in today's editions as saying studies show that the amount of the chemical — diisononyl phthalate — ingested by small children "does not even come close to a harmful level."

The agency was scheduled to announce its actions today, along with advice to parents to discard soft vinyl toys that their children chew or hold in their mouths for long periods of times.

"Few children, if any, are at risk," Ronald Medford, the commission's assistant executive director for hazard identification and reduction, told the Post. "But given the number of uncertainties, we are — as a precaution — asking the toy industry to take certain steps to reformulate their products intended to go into children's mouths."

The newspaper said phthalates have been linked in laboratory studies to cancer in mice and rats. They also are a suspected source of liver and kidney damage in laboratory animals.

The commission identified only one line of pacifiers and nipples — Clear and Soft made by Gerber Products Co. — that parents should immediately discard, the Post said.

Some major retailers, including Kmart and Toys R Us, have already begun pulling plastic teething toys made with phthalate from their shelves.

"We've just been looking at the research and reading up on it," Kmart spokeswoman Michele Jasukaitis said in an interview with The Associated Press. "We are going forward in the interest of our customer safety."

Jasukaitis said Kmart would continue to monitor other products containing phthalate, including those that might not be explicitly for teething but could end up in the mouths of young children anyway.

Toys R Us, the world's largest retailer of children's products, promised last month to have the teething toys off its shelf by Nov. 18.

The commission said Sears, Roebuck and Co., Wal-Mart Stores and Target Stores also have announced plans to remove phthalate teething toys and rattlers from their shelves.

Several toy manufacturers, including Mattel Inc., Walt Disney Co. and Little Tikes Co., have said they plan to phase out use of the additive.

Environmental groups had asked the commission to ban the chemical ingredient and issue an advisory to parents on its dangers.

At least seven European governments have banned the use of phthalates in certain toys that commonly are put in children's mouths.

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===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:



JCPenney

washingtonpost NEWS STYLE SPORTS CLASSIFIEDS MARKETPLACE
PRINT EDITION TOP NEWS WORLD NATION POLITICS METRO BUSINESS & TECH HEALTH OPINION WEATHER

CPSC Won't Seek Phthalate Ban

Agency Asks That the Chemicals Not Be

Used in Some Toys< p> By Caroline E. Mayer

Washington Post Staff Writer

Wednesday, December 2, 1998; Page C16

Click here to build the heart of "your" NETWORK.

The Consumer Product Safety Commission staff has decided against recommending a ban on soft plastic toys made with phthalates, a controversial group of chemical additives that have been linked to cancer and kidney and liver damage in animals.

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In an announcement scheduled for release today, the agency will say its studies show that the amount of phthalates ingested by small children "does not even come close to a harmful level."

Even so, the agency has asked the nation's toymakers to remove phthalates from soft plastic baby rattles and teething toys because significant uncertainties remain about the chemical used to make vinyl toys flexible and pliable.

For products already in the home, the CPSC is advising concerned parents to discard any soft plastic teethingers, rattles or toys that their children may chew or hold in their mouths for long periods of time.

"Few children, if any, are at risk," said Ronald L. Medford, the CPSC's assistant executive director for hazard identification and reduction. "But given the number of

uncertainties, we are -- as a precaution -- asking the toy industry to take certain steps to reformulate their products intended to go into children's mouths," such as teethers and rattles.

The agency says about 90 percent of the nation's toymakers have indicated that they will stop making phthalate teethers and rattles by early next year.

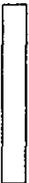
Many of these companies, including Mattel Inc., Walt Disney Co. and Little Tikes Co., have already announced plans to discontinue using phthalates in some toys, including rattles and teethers, after an aggressive publicity campaign by the international environmental group Greenpeace questioned the safety of children's toys made with phthalates.

In early November, Toys R Us Inc., the nation's largest toy retailer, also announced it would pull all phthalate teethers and rattles from its shelves -- a move that was more critical to toy manufacturers' decisions to reformulate their products than the CPSC request, according to an industry official who declined to be named.

The CPSC also is asking toymakers to reconfigure other soft vinyl toys containing phthalates -- such as bath toys and squeeze toys -- intended for children under age 3 that could end up in a child's mouth.

But the Toy Manufacturers Association indicated yesterday it is doubtful that many companies will comply with that request.

"We believe vinyl toys are safe for children of all ages," said association President David Miller. Individual companies have agreed to reformulate their teethers and rattles "not because they're being precautionary but because Greenpeace has managed to frighten parents. We as an industry are proud to make safe products and this [soft vinyl toys] is a safe product. We will not sit idly by and let them do us in over a safe product."



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In addition to Toys R Us and Kmart Corp., CPSC said Sears, Roebuck and Co., Wal-Mart Stores Inc. and Target Stores Inc. also have announced plans to remove phthalate teething rings and rattles from their shelves.

The CPSC found that almost all baby-bottle nipples and pacifiers are made with latex or silicone and therefore do not pose health concerns. There was, however, one exception: the Clear and Soft line of pacifiers and nipples, made by Gerber Products Co., which contain phthalates. The CPSC said parents should immediately discard these products, which Gerber has stopped making and had retailers pull from their shelves.

Gerber also has decided to eliminate any phthalate products designed for children's mouths -- less than 10 percent of its entire line -- "not because they are harmful but because there are some doubts and we build our business on trust and we're doing what's right for babies," said Alfred A. Piergallini, Gerber's CEO.

In recent weeks, the CPSC has come under mounting criticism from environmental and consumer groups for failing to take action on toys made with polyvinyl chloride (PVC). Two weeks ago, Canada issued a health advisory, urging parents to dispose of PVC toys and rattles. Meanwhile, several European countries have announced plans to ban PVC toys.

PVC toys often contain high levels of phthalates to make them soft and pliable. But laboratory studies have shown that phthalates may damage the liver, kidneys and other organs and cause cancer in mice and rats.

Rick Hind, legislative director for Greenpeace's toxics campaign, called CPSC's action "only a baby step because the agency fails to definitively require any action by toymakers." He said "we'll have to pursue litigation for any companies that are not responding," under California's Proposition 65 product-labeling law. That law requires health warnings on all products sold in California

containing ingredients that can cause cancer or birth defects.

Twelve years ago, the toy industry decided to limit the use of one particular phthalate, diethylhexyl-phthalate (DEHP), in vinyl toys because it was found to be carcinogenic.

The industry replaced DEHP with diisononyl phthalate (DINP) and other phthalates, which more recent studies have linked to cancer and other health concerns.

Laboratory animal studies show phthalates to be "clearly toxic," Medford said. But even so, he said, that finding, doesn't permit the CPSC, under its legal authority, to ban the product.

"The agency also needs to prove that there is significant exposure to the chemical to ban the product," he said. "And so far, our data shows that exposure is not at a significant health risk to justify a mandatory ban."

CPSC said it relied on its own tests and two Dutch studies to come to its conclusions.

In one CPSC laboratory test, 35 PVC toys were placed in stainless-steel beakers with artificial saliva and then pounded by a piston for six hours. Only a moderate amount of phthalates were released.

But another study, in which 10 human volunteers chewed a PVC toy and then spit out the accumulated saliva, showed that the amount of phthalates released was nearly 40 times higher than the beaker test. Even then, the commission found that the level released was far less than what it considered the acceptable daily intake. Even so, the commission's scientists were concerned because they found that the amount of DINP released from a product varied widely -- and could not be predicted with any consistency.

"We had expected we would be able to predict how much DINP would come out, based on how

much DINP was in a product or how a product was made but there was absolutely no correlation," Medford said.

Meanwhile, a Dutch study that closely observed 42 children showed that babies, 3 to 12 months old, mouthed toys (excluding pacifiers) an average of 12 minutes a day. Children 13 to 26 months old chewed toys (excluding pacifiers) an average of 2.1 minutes a day.

Based on that study, the CPSC calculated that daily exposure to phthalates was far less than it had expected -- and consequently few if any children were at risk from DINP.

Because the study was so small, however, the commission wants to run a larger human observation test, using about 200 children.

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PRINT EDITION	TOP NEWS	WORLD	NATION	POLITICS	METRO	BUSINESS & TECH	HEALTH	OPINION	WEATHER

Yellow Pages

<input checked="" type="checkbox"/> NextCard Internet Visa - Apply Now	<input checked="" type="checkbox"/> Datek Online
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===== END ATTACHMENT 2 =====

===== ATTACHMENT 3 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

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FF5750435A040000010A02010000000205000000ED0C0000000200005D6833DBE85898

**Questions and Answers on Release of Consumer Products Safety
Commission Report on Phthalates in Toys
December 2, 1998**

Q. What is the Consumer Product Safety Commission (CPSC) releasing today?

A. The CPSC is releasing a report examining the potential exposure and health risks to children from teething, pacifiers, rattles and toys containing chemicals called phthalates (pronounced fal-ates) that are used to soften plastic. The report includes new data on the release or migration of DINP -- the most widely used phthalate -- when children bite, chew or suck on products containing the chemical, as well as a review of existing science on migration of phthalates. The report also evaluates all existing data on the health effects of ingesting phthalates. The report concludes that the plastic does of concern do not release the phthalates, and so children are not exposed to phthalates, at levels even that might be considered potentially harmful. The report also provides information to consumers about the issue, and outlines the CPSC's plans for further study.

The CPSC also announced the plans of [names of manufacturers and retailers] to discontinue selling products containing DINP that are designed for children to put in their mouths in order to allay any fears that their customers may have about buying these products.

Q. What is the Administration going to do in response to this report, which seems to indicate that we don't really know whether products containing phthalates are harmful to children?

A. The report shows that, based on all available evidence, DINP used in toys, teething and pacifiers is not released at levels from the plastic at levels that could ever be considered potentially harmful to children. That said, the report also commits the CPSC to do additional research on this issue. The Administration will support in every way possible the CPSC's efforts to continue to look at DINP and to study alternative methods to soften plastic for use in children's toys.

Q. If this report shows that there is no risk to children, why are toy manufacturers agreeing to phase out the use of the chemical and why are retailers removing products containing it from store shelves?

A. Although there has been no definitive scientific evidence to support removal of these products, toy manufacturers and retailers are acting with an abundance of caution, which we believe is commendable. While this question is better directed to them, I assume that these companies want to make clear to their customers that they take special precautions to protect children, even where there appears to be no risk.

Q. Environmental groups and others claim that the Commerce and State Departments

-- acting at the request of US toy manufacturers -- influenced the European Union's decision not to ban phthalates. Is this true?

- A. The report released today states that the Consumer Product Safety Commission does not believe that there is need for a ban on phthalates in children's toys and other products. While the Commerce and State Departments initially expressed concerns about whether the product bans considered (but rejected) by the European Union were scientifically justified , the Administration recognizes that each country has the right to take whatever precautionary measures they deem appropriate to protect public health. The President has made it clear to the Commerce and State Departments that they should be supportive of any precautionary steps that foreign countries believe to be appropriate under their domestic laws.

**Statement by the President on Release of Consumer Product Safety
Commission Report on Phthalates in Toys**
December 2, 1998

I congratulate Chairman Ann Brown and the Consumer Product Safety Commission on the release of a comprehensive and thoughtful report examining the potential exposure and health risks to children from teething, pacifiers, rattles and toys containing chemicals called phthalates that are used to soften plastic. The report makes clear that children are not at risk of harmful exposure to these chemicals, provides information to consumers about the safety of these products that may contain phthalates, and outlines the Commission's plans to for further study. I also commend the many manufacturers and retailers who are taking the additional, precautionary measure of discontinuing the sale of products containing the phthalate DINP that are designed for children to put in their mouths. This should allay any remaining fears that families have about these products.

The CPSC report and supporting measures by manufacturers will go a long way toward calming concerns about the safety of products used everyday by our nation's youngest children. It also commits the Consumer Product Safety Commission to pursue additional rigorous work in this area. The Administration will support both the Commission's continued efforts to investigate health issues related to phthalates, as well as governmental and private efforts both here and abroad to take appropriate precautionary measures.

###

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elizabeth R. Newman (CN=Elizabeth R. Newman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-DEC-1998 09:24:30.00

SUBJECT: Guidance today

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Sarah A. Bianchi (CN=Sarah A. Bianchi/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Thanks in advance for all your help on guidance today. we need from you all:

Please have guidance in by 11:15 at the latest - thanks

Consumer Product Safety Commission report
Welfare to What report

HHS IG report on Medicare Fraud

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-DEC-1998 17:54:05.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])
READ:UNKNOWN

TEXT:

The COS office wants paper for AG mtg. tomorrow- CR says she does not know what topic of mtg. is

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-DEC-1998 16:15:44.00

SUBJECT: Toys

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Here is the draft statement on toys. Do either of you have a feel for whether we should release it? I am waiting to hear back from Barry Toiv as to whether they've gotten any calls.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-DEC-1998 13:26:29.00

SUBJECT: Toys Q&A as requested

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

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**Questions and Answers on Release of Consumer Products Safety
Commission Report on Phthalates in Toys
December 2, 1998**

Q. What is the Consumer Product Safety Commission (CPSC) releasing today?

A. The CPSC is releasing a report examining the potential exposure and health risks to children from teething, pacifiers, rattles, and toys containing chemicals called phthalates (pronounced fal-ates) that are used to soften plastic. The report includes new data on the potential release of DINP -- the most widely used phthalate -- when children bite, chew, or suck on products containing the chemical, as well as a review of existing science on migration of phthalates. The report also evaluates all existing data on the health effects of ingesting phthalates. The report concludes that the plastic toys at issue do release phthalates -- and so children are not exposed to phthalates -- at levels that might be considered even potentially harmful. The report also provides information to consumers about the issue, and outlines the CPSC's plans for further study.

The CPSC also announced the plans of a number of manufacturers and retailers to discontinue selling certain toys containing DINP out of an abundance of caution and to allay any fears that customers may have about buying these products.

Q. What is the Administration going to do in response to this report, which by saying that further study is warranted seems to indicate that we don't really know whether products containing phthalates are harmful to children?

A. The report shows that, based on all currently available evidence, DINP used in toys, teething, and pacifiers is not released at levels that could be considered potentially harmful to children. But because our children's safety is of such paramount importance, the report also commits the CPSC to do additional research on this issue. The Administration will support in every way possible the CPSC's efforts to continue to research DINP, as well as to study alternative methods of softening plastic for use in children's toys.

Q. If this report shows that there is no risk to children, why are toy manufacturers agreeing to phase out the use of the chemical and why are retailers removing products containing it from store shelves?

A. Although the current scientific evidence does not support removal of these products, toy manufacturers and retailers are acting with super-abundance of caution, which we believe is commendable. Although this question is better directed to the manufacturers and retailers themselves, we assume that these companies want to make clear to their customers that they take every possible precaution to protect children, even where there appears to be no risk.

Q. Environmental groups and others claim that the Commerce and State Departments -- acting at the request of US toy manufacturers -- influenced the European Union's decision not to ban phthalates. Is this true?

A. The report released today states that the Consumer Product Safety Commission does not believe that there is a scientific basis for a ban on phthalates in children's toys and other products. Although the Commerce and State Departments initially expressed concerns about whether the product bans considered (but rejected) by the European Union were scientifically justified, the Administration recognizes that each country has the right to take whatever precautionary measures it deems appropriate to protect public health. The President has made it clear to the Commerce and State Departments that they should respect any precautionary steps that foreign countries believe to be appropriate with respect to these products.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-DEC-1998 14:07:46.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])
READ:UNKNOWN

CC: MICHAEL A. (Pager) #WALDMAN (MICHAEL A. (Pager) #WALDMAN [UNKNOWN])
READ:UNKNOWN

TEXT:

i still haven't received that memo - thanks - waldman

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-DEC-1998 11:39:03.00

SUBJECT: IMPENDING NY TIMES STORY ON NEW PROBLEMS FOR 55-65 POPULATION

TO: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Gene B. Sperling (CN=Gene B. Sperling/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Peter Kilborn of the NY Times is writing a story painting a fairly devastating picture of the problems faced by 55-65 year olds in accessing affordable insurance. His story will conclude that this problem is getting worse and will only continue to do so b/c of the demographics and new practices by insurers to move away from community rating. This story builds on a recent Washington Post story discussing the large premium increases Kaiser and other insurers are contemplating (or have announced) for this population this year. I expect it to get pretty good placement in the paper and will probably run either tomorrow, Sunday or Monday.

He desperately wants a quote from me or someone else. I have said no, but he keeps on pushing. (My primary concern was that virtually anything from us would box us in on this year's budget decisions.) Having said this, it is a very good opportunity to highlight the President's proposal this year, illustrating that he has recognized and responded to the problems that will be outlined in Kilborn's article.

If we want a quote, we could perhaps think of things that are more oriented to this year's proposal -- not the upcoming budget discussions. Here's one idea, if we are interested

"These problems [underscore the need for] [served as the rationale behind] the President's Proposal to provide more affordable insurance options for this population."

What you think/say? Need guidance as soon as possible. Thanks.

cj

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-DEC-1998 16:27:59.00

SUBJECT:

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
Oops. Forgot to attach the statement in my last email.

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ATT CREATION TIME/DATE: 0 00:00:00.00

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FE9AF936FBBB491C55B179B4815B9EDAF9A0AD2EE02512DFCC047A0A0EF6B5D16474968F483E51

**Statement by the President on Release of Consumer Product Safety
Commission Report on Phthalates in Toys**
December 2, 1998

I congratulate Chairman Ann Brown and the Consumer Product Safety Commission on the release of a comprehensive and thoughtful report examining the potential exposure and health risks to children from teething rings, pacifiers, rattles and toys containing chemicals called phthalates that are used to soften plastic. The report makes clear that the best scientific evidence shows that children are not at risk of harmful exposure to these chemicals. It also provides information to consumers about the safety of products that may contain phthalates, and outlines the Commission's plans for further study. I also commend the many manufacturers and retailers who are taking the additional, precautionary step of discontinuing the sale of products designed for children to put in their mouths that contain the phthalate DINP. This should allay any remaining fears that families have about these products.

The CPSC report and supporting measures by manufacturers and retailers will go a long way toward calming concerns about the safety of products used everyday by our nation's youngest children. This report also commits the Consumer Product Safety Commission to pursue additional rigorous work in this area. The Administration will support both the Commission's continued efforts to investigate any risks to children from phthalates, as well as government and private efforts both here and abroad to take appropriate precautionary measures.

#

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Barry J. Toiv (CN=Barry J. Toiv/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-DEC-1998 10:25:11.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])
READ:UNKNOWN

TEXT:

from toiv, are you doing q&a for potus on stem cell research?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jake Siewert (CN=Jake Siewert/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-DEC-1998 09:01:30.00

SUBJECT: Was This our News? -- What's Left?

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

Commission Won't Seek Toxic Toy Ban

WASHINGTON (AP) -- Government safety regulators are asking toymakers to quit using a suspected carcinogen as a plastic-softening compound in baby rattlers and teething toys, but have decided against trying to ban all toys made with the substance.

The Washington Post quoted Consumer Product Safety Commission officials in today's editions as saying studies show that the amount of the chemical -- diisononyl phthalate -- ingested by small children ``does not even come close to a harmful level.''

The agency was scheduled to announce its actions today, along with advice to parents to discard soft vinyl toys that their children chew or hold in their mouths for long periods of times.

Medford, the commission's assistant executive director for hazard identification and reduction, told the Post. ``But given the number of uncertainties, we are -- as a precaution -- asking the toy industry to take certain steps to reformulate their products intended to go into children's mouths.''

The newspaper said phthalates have been linked in laboratory studies to cancer in mice and rats. They also are a suspected

animals.
pacifiers and nipples
that parents
Us, have
with pthalate
reading up on it,"
interview
forward in the
other products
not be explicitly for
children
children's products,
off its shelf by
Wal-Mart
plans to remove
shelves.
Inc., Walt Disney
phase out use of
ban the
parents on its
the use of
in children's

source of liver and kidney damage in laboratory
The commission identified only one line of
-- Clear and Soft made by Gerber Products Co. --
should immediately discard, the Post said.
Some major retailers, including Kmart and Toys R
already begun pulling plastic teething toys made
from their shelves.
"We've just been looking at the research and
Kmart spokeswoman Michele Jasukaitis said in an
with The Associated Press. "We are going
interest of our customer safety."
Jasukaitis said Kmart would continue to monitor
containing pthalate, including those that might
teething but could end up in the mouths of young
anyway.
Toys R Us, the world's largest retailer of
promised last month to have the teething toys
Nov.18.
The commission said Sears, Roebuck and Co.,
Stores and Target Stores also have announced
phthalate teethers and rattlers from their
Several toy manufacturers, including Mattel
Co. and Little Tikes Co., have said they plan to
the additive.
Environmental groups had asked the commission to
chemical ingredient and issue an advisory to
dangers.
At least seven European governments have banned
phthalates in certain toys that commonly are put

mouths.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-DEC-1998 16:52:33.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])

READ:UNKNOWN

TEXT:

FYI- Rich Tarplin just called you back 690-7627

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jeffrey M. Smith (CN=Jeffrey M. Smith/OU=OSTP/O=EOP [OSTP])

CREATION DATE/TIME: 2-DEC-1998 10:28:21.00

SUBJECT: stem cell -- press guidance

TO: Clifford J. Gabriel (CN=Clifford J. Gabriel/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Holly L. Gwin (CN=Holly L. Gwin/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Nanda Chitre (CN=Nanda Chitre/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Chris -- Nanda Chitre has requested press guidance on the Varmus testimony by 11:30 a.m. Pasted below is a "placeholder" because Varmus is currently testifying as we speak. We'd appreciate having the benefit of your edits and suggestions.

Rachel Levinson is at the hearing now and is expected to report in shortly. A key issue of press interest is whether Dr. Varmus will say that the statute does or does not permit NIH-funded scientists to use some of the stem cells that were produced by the scientists on the second panel. DHHS General Counsel has not reached a decision on this point and Dr. Varmus' written testimony does not answer the question, and he will probably be pressed on the issue.

It may make sense to pass this current version along to Nanda -- with your edits included -- and then, shortly before noon, update the Q&A section in light of what actually transpired this morning's hearing.

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

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The following is a HEX DUMP:

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HUMAN STEM CELL RESEARCH

SENATE HEARING

December 2, 1998

CONTEXT: Dr. Harold Varmus, Director of the National Institutes of Health testifies today before the Senate Labor, HHS Appropriations Subcommittee. The subject of the hearing is human stem cell research.

General

Dr. Varmus will appear as the first witness, followed by the second panel including Drs. James Thomson (University of Wisconsin), John Gearhart (Johns Hopkins University) and Michael West (Advanced Cell Technology, Inc), the scientists associated with three experiments reported recently in which human stem cells were produced from human embryos, fetal tissue, and a human somatic cell fused to a cow egg, respectively. A third panel will be comprised of ethicists including Dr. Arthur Caplan (University of Pennsylvania).

Dr. Varmus will describe the potential scientific and medical benefits of research using human stem cells including the development of treatments for cancer, heart disease, diabetes, Parkinson's and Alzheimer's disease, stroke, burns, and arthritis. Additionally, Dr. Varmus will discuss some of the ethical issues raised by human stem cell research and will reaffirm his commitment to the President's 1994 ban on the use of NIH funds to create human embryos for research purposes.

Beginning in FY 96, annual Congressional appropriations language has extended beyond the President's ban in forbidding research in which an embryo is knowingly discarded, destroyed or exposed to greater than minimal risk. Patient advocacy groups and scientific societies have written Subcommittee Chairman Sen. Specter seeking reversal of the Congressional ban and supporting stem cell research.

Q. What is the Administration's view on human stem cell research?

A. We are told that human stem cell research has great promise, and we are hopeful that these predictions will bear out. Nevertheless, there are a number of ethical, medical and legal issues that need to be sorted out before a policy decision can be made. The President has asked his National Bioethics Advisory Commission to undertake a thorough review of the issues associated with human stem cell research, balancing all the ethical and medical considerations. The Commission's report will assist in defining our next steps.

Q. What is the Administration's view on the Congressional ban on Federally-funded human embryo research?

A. Given the dynamic nature of the science and how that science shapes our ethical understanding, we believe the President's 1994 directive banning the use of Federal funds for the creation of human embryos for research provides appropriate restrictions. Each year, the President's budget has proposed deleting the broader Congressional ban and has objected to addressing this issue in statute.

Q. Was public funding used to support this research?

A. No. The human stem cell research discussed at today's Senate hearing was privately funded.