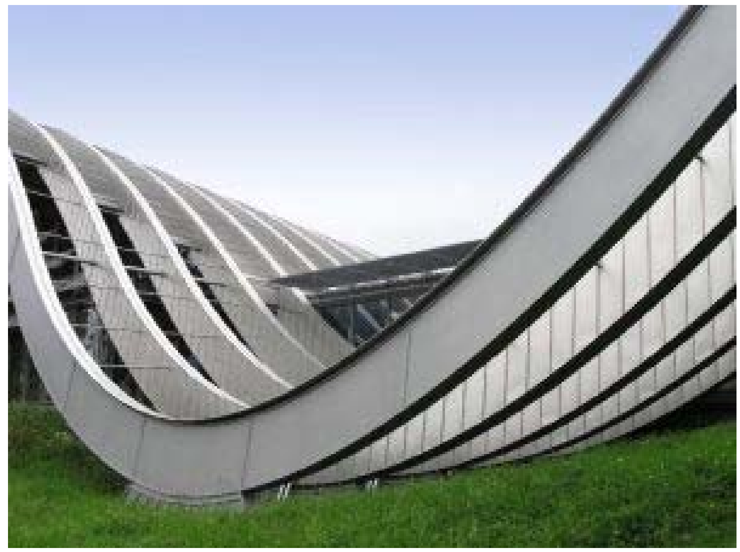
Slip Sliding Away



The Cheney Sliding Scale for Fuel Economy

Public Citizen

AUGUST 2007

ABOUT THIS REPORT

This report was written by Lena Pons and Robert Shull, building on an earlier investigation and material written by Laura MacCleery, Matthew Pelkey, and Asa Tapley. The authors gratefully acknowledge the insights of Angela Bradbery, Laura MacCleery, Rachel Pleatman, Barbara Holzer, and Joan Claybrook in the preparation of this report, as well as the assistance of Collin Baker and Catherine Kauffman.

ABOUT PUBLIC CITIZEN

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ACRONYMS

CAFE ***Corporate Average Fuel Economy*** — The current regulatory program for establishing fuel economy standards. Set to be replaced by the new regulatory scheme developed in secret meetings by the Office of the Vice President, other high-level Bush administration offices, and auto industry executives.

CEA ***Council of Economic Advisors*** — A three-member body established by the Employment Act of 1946 to provide the president with economic analysis and advice on the development and implementation of a wide range of domestic and international economic policy issues.

CEQ ***Council on Environmental Quality*** — The CEQ is a White House office that coordinates federal environmental efforts and works closely with agencies and other White House offices in the development of environmental policies and initiatives.

DOT ***Department of Transportation*** — The Cabinet department which, among other things, is delegated authority by Congress to regulate automobile safety and fuel economy.

EOP ***Executive Office of the President*** — The overall collection of White House offices, including the Office of the Vice President.

NEC ***National Economic Council*** — Established in 1993 as a part of the Executive Office of the President within the Office of Policy Development, the NEC was created for the purpose of advising the President on matters related to U.S. and global economic policy.

NHTSA ***National Highway Traffic Safety Administration*** — The DOT agency with responsibility for developing and enforcing automobile safety and fuel economy standards.

OIRA ***Office of Information and Regulatory Affairs*** — Office within the OMB which implements the Paperwork Reduction Act by reviewing and approving agency information collections; also exercises power by executive orders to interfere in regulations and agency information.

OMB ***Office of Management and Budget*** — White House office which coordinates agency budget submissions, conducts performance assessment of programs, and interferes in regulatory policy.

OPD ***Office of Policy Development*** — In 1970, President Nixon issued an executive order creating the Office of Policy Development, a White House office that currently oversees the National Economic Council and the Domestic Policy Council (which, in turn, oversees major domestic policy areas such as education, health, housing, welfare, justice, federalism, transportation, environment, labor, and veteran's affairs, including the Office of National AIDS Policy (ONAP), the Office of National Drug Control Policy (ONDCP), USA Freedom Corps (USAFC), the Council on Environmental Quality (CEQ) and the Office of Faith-Based and Community Initiatives (OFBCI)).

OVP ***Office of the Vice President*** — Staff which reports to the Vice President.

OSTP ***Office of Science and Technology Policy*** — Congress established OSTP in 1976 with a broad mandate to advise the President and others within the Executive Office of the President on the effects of science and technology on domestic and international affairs.

Introduction

Vice President Dick Cheney is poised to win yet another distortion of public policy that weakens protections for the environment, national security, and consumers. His record of dominating public policy decisions in the Bush administration already includes the Klamath River decision that resulted in "the largest fish kill the West had ever seen"; a significant weakening of the Clean Air Act standards for pollution emissions from aging power plants; and the scale-back of the Clean Air Act's "New Source Review" regulations, which "require older plants that belch millions of tons of smog and soot each year to install modern pollution controls when they are refurbished in a way that increases emissions."[1] Congress could soon hand Cheney another win — and the public another loss — with a dramatic step backward in fuel economy.

The fuel economy program as Congress created it in the 1970s requires the National Highway Traffic Safety Administration (NHTSA) to set the maximum feasible standard for cars and trucks. Each manufacturer retains enormous flexibility to produce a range of types of vehicles, provided only that each manufacturer's car and truck fleets consist of vehicles whose fuel economy performance averages out to meet the NHTSA standard.

Cheney and the Bush administration, however, have waged a campaign to "update" the fuel economy program in ways that will weaken environmental policy and leave consumers holding the bag. In a series of secret backroom meetings headed up by Cheney's staff, the Bush administration developed a dramatic restructuring of fuel economy policy for light trucks that jettisons the corporate average approach and replaces it with a complex sliding scale that ultimately allows manufacturers to set their own fuel economy standards simply by adjusting their fleet mix. Consumer and environmental groups immediately challenged the light truck rule in court, but the Bush administration persisted in calls for Congress to change the law, making the Cheney sliding scale legal, and also applying it to cars.

Now, legislation that passed the Senate in a last-minute deal and is currently pending in the House of Representatives would not simply allow NHTSA to set Cheney scale standards for both cars and trucks — instead, it would actually *mandate* the Cheney scale.

As Cheney wins, consumers lose. Shifting to the Cheney scale will eliminate incentives for manufacturers to produce fuel efficient vehicles in order to balance out gas guzzlers in their fleets and thereby achieve the average. This scheme will merely delay the auto industry from making long-term plans for changing the fleet mix and will also fail to create an incentive to improve fuel economy across all vehicle types. Consumers, meanwhile, will lose under the sliding scale, as manufacturers will produce larger, heavier, and more dangerous vehicles. Extending the sliding scale scheme to passenger cars will only further erode the potential for fuel economy improvements to be made in the near future.

Vice President Cheney's destructive set-backs of public policy have so far taken place in regulations promulgated by regulatory agencies, and the 110th Congress has been outraged. If Congress passes the fuel economy language in the Senate energy bill, however, something even more appalling will take place: Congress itself will be taking a Cheney set-back and writing it into the law.

Creating a Gas-Guzzling Policy Behind Closed Doors

In 2006, the National Highway Traffic Safety Administration (NHTSA) published light truck fuel economy standards for model years 2008-2011. These regulations established a new structure for the light truck fuel economy program, replacing the corporate average with a size-based sliding scale and claiming to "achieve larger fuel savings, while enhancing safety and preventing adverse economic consequences."[2] In reality, the sliding scale does not achieve larger fuel savings, enhance safety, or prevent adverse economic consequences.

The sliding scale approach did not appear out of the blue: it was developed during intense behind-the-scenes discussions with auto industry executives and high-level administration officials, led by the Bush White House — and staff from Vice President Cheney's office.

The Trail of Evidence

When NHTSA first announced its intentions to overhaul the way fuel economy standards are set for light trucks, Public Citizen filed a Freedom of Information Act (FOIA) request, through which we obtained documents detailing attendance at various meetings leading up to the Advanced Notice of Proposed Rulemaking (ANPRM) on the "reformed" CAFE scheme in 2003.[3] The actual substance of any inter- and intra-agency meetings is exempted by law from FOIA disclosure, so Public Citizen sought only evidence that meetings actually took place. Although NHTSA turned over such evidence, primarily in the form of email exchanges mentioning the dates and locations of meetings on fuel economy "reform," the White House vigorously fought any such disclosure, in what has subsequently emerged as an obsession with keeping even the most basic information of its operations secret. The White House refused to release any materials at all until Public Citizen filed a lawsuit demanding the materials, at which point the White House finally capitulated.

Political strong-arming

Although a DOT spokesman claims that the Cheney scale was really NHTSA's own idea, the emails reveal an agency playing a subservient role to White House and vice-presidential higher-ups.

The agency was summoned to present proposals and drafts on timetables other than the agency's own. At times, top officials at NHTSA were left in the dark about even such basic details as when and where meetings were taking place to develop changes to the fuel economy standards.

12/9/01	Internal NHTSA email to senior NHTSA staff: "We are scheduled to meet with CEQ regarding CAFE…. In preparation, I would still like to get together …. We need to have our proposal as well as some options ready to present…"
1/13/03	Email from NHTSA's ex. dir. to chief counsel and administrator: "Is there a CEQ meeting tomorrow at 4:00 on fuel efficiency??? Emil got a call from CEQ indicating this."
1/13/03	Response from chief counsel: "I'm only aware of one on Friday at 3 at CEQ, although we never received a notice. VA mentioned it at the meeting at OMB last week."
6/9/03	Email from OMB sets out agenda for upcoming meeting of CAFE Working Group, including these items: "(4) Discussion of the contents of NHTSA's draft ANPRM" and "(5) Timing for completion."
6/9/03	Follow-up email from same OMB staffer: "John gave me the 'news' … that he wanted us to work on the ANPRM, and he asked that we (NHTSA and OIRA) meet with him late next week to go over it…. Any word yet on getting a draft today?"

Although limited to a series of emails and calendar entries mentioning that meetings took place, the available evidence is still more than enough to reveal significant pressure by senior administration officials, including staff from the Office of the Vice President — certainly more than enough to counter Department of Transportation spokesman Rae Tyson's claim[4] that the Cheney scale was actually NHTSA's own idea.

The meetings began in 2001 and continued in earnest at least through the summer of 2003. At least 45 meetings can be reconstructed from notes and emails exchanged between administration officials. The administration's obsession with secrecy precludes the public from knowing anything more about subsequent meetings.

In and out of the back room meetings

At least 45 high-level meetings took place from 2001 to 2003 to develop the ANPRM in which the Cheney scale was debuted.

In fact, NHTSA appears not to have even been invited to meetings marked in **bold**.

1/4/01 Jackson Room, White House Conf. Center
8/14/01 unknown
8/24/01 Room 231
10/1/01 unknown
12/10/01 CEQ Headquarters
12/20/01 unknown
1/4/02 White House Conference Center
3/19/02 unknown
3/21/02 Room 262
4/1/02 White House Conference Center
5/10/02 unknown
6/6/02 Room 10103
6/7/02 White House
6/26/02 CEQ Headquarters
7/15/02 unknown
7/16/02 CEQ Headquarters
8/12/02 CEQ Headquarters
8/13/02 CEQ Headquarters*
8/27/02 unknown
8/28/02 unknown
8/30/02 NHTSA LCR
8/30/02 Room 262
9/6/02 11:00 - unknown
9/6/02 3:00 - unknown
9/10/02 unknown
9/10/02 OMB
9/11/02 Room 262
10/5/02 Room 10222
11/4/02 Room 262
11/7/02 CEQ Headquarters
11/22/02 Room 248
12/4/02 CEQ Headquarters
12/4/02 Room 248
1/2/03 unknown
1/8/03 Room 248
1/14/03 unknown
1/17/03 White House
3/28/03 Room 248
6/9/03 Room 248
6/9/03 Jackson Room, WH Conference Center
6/12/03 John's Office
6/26/03 Room 248

** DOT but not NHTSA invited.*

In fact, the calendars and emails reveal a Department of Transportation that was playing a subservient role to White House and vice-presidential higher-ups, which compelled agency staff to present proposals and drafts on timetables other than the agency's own[5] and appeared to leave the agency in the dark about the larger political process sweeping CAFE down the sliding scale. Some meetings appear to have taken place without NHTSA staff being invited at all, and one message refers to NHTSA staff as being on a list of "people from the 'outside.'"[6]

Who Was in the Room?

Participants in these meetings — a series of overlapping groupings that met under separate rubrics of the "CAFE Working Group," "EOP (Executive Office of the President) CAFE Task Force," and "Sr. Policy Meeting[s] on Transportation/Energy Issues" — included, as would be expected, NHTSA's then-Administrator Jeffrey Runge, other high-level staff from NHTSA, and staff from the Department of Energy and the Environmental Protection Agency. Auto industry executives attended at least one meeting. No consumer or environmental groups were invited. The meetings also included significant representation from the White House, with staff from several high-level offices:

- the Office of Management and Budget (OMB), chiefly then-administrator of OMB's Office of Information and Regulatory Affairs (OIRA), John Graham;
- the Council of Economic Advisors (CEA);
- the Council on Environmental Quality (CEQ);
- the National Economic Council (NEC);
- the Office of Policy Development; and
- the Office of Science and Technology Policy (OSTP).

Throughout the process was also the heavy hand of Vice President Cheney, through members of the staff of the Office of the Vice President (OVP).

Where there is a trail of smoke, there is usually a smoke-filled room — and, in this case, there is plenty of smoke. The presence of such high-level White House and OVP staff in the drafting stage of any rule is highly unusual, particularly for a technical rule such as CAFE. Moreover, the meetings apparently took place primarily in White House offices rather than the Department of Transportation,[7] again underscoring the leading role that the administration played in developing the rulemaking that would ultimately produce the Cheney scale. Additionally, former White House regulatory czar John Graham apparently co-chaired at least the inauguration of the "CAFE Working Group,"[8] appears to have hosted at least two of its meetings,[9] and used his staff to announce meeting agendas[10] and pester NHTSA to produce a draft ANPRM on his timetable[11] — and, of course, Graham's intellectual fingerprints are all over the rulemaking concepts.[12]

Although Graham is one of the central figures in the meetings to develop the Cheney scale, Graham himself has revealed that the whole endeavor was launched by unnamed but higher-ranked officials. Graham writes in a recent paper, "I was asked by the White House to lead an interagency team charged with reforming CAFE administratively."[13]

The deep involvement of the Bush White House, and particularly the Office of the Vice President is abundantly clear. Although Cheney infamously declines to disclose even the names of his staff,[14] at least five members of his staff were invited to the first CAFE "reform" meeting, and their names recur throughout the available evidence of meetings. Cheney's staff chaired at least one of the CAFE discussions, which took place at a meeting of the infamous Cheney energy task force on "National Energy Policy." In fact, even when the Department of Transportation was not invited to meetings, Cheney's staff was.

The public is still only beginning to learn the full scope of Cheney's role in weakening, delaying, distorting, and eliminating protections of the environment, public health, and safety. The Cheney vice presidency has brought an unprecedented amount of secrecy to the executive branch. Even the most basic information about the Cheney-led task force for developing the National Energy Policy has been kept tightly under wraps, with the administration vigorously fighting to exclude the public from learning even the names of participants in the task force. A former Bush administration speechwriter has described Cheney's influence as being "like — you know that experiment where you pass a magnet under the table and you see the iron filings on the top of the table move? You know there's a magnet there because of what you see happening, but you never see the magnet."[15]

Even when the DOT was not invited to meetings, Cheney's staff was.

Some details are finally escaping the black hole of secrecy. In decisions ranging from the establishment of military commissions to the Klamath River dispute, Cheney's involvement has typically overridden the prerogatives of even the most senior administration officials charged by law or policy with making that decision. But Cheney's office has striven to keep its involvement, at every turn, a secret.[16]

The light truck final rule specifically cites the influence of the 2001 National Energy Policy.[17] The National Energy Policy was not a product of scientific expertise; instead, it was tightly overseen by Cheney and heavily influenced by representatives from industry. The full extent of that industry influence is still only slowly being revealed,[18] although the GAO pieced this much together in a 2003 report on the National Energy Policy Development Group (NEPDG):

> [T]he *National Energy Policy* report was the product of a centralized, top-down, short-term, and labor-intensive process that involved the effort of several hundred federal employees. . .[T]he Principals (the Vice President, selected cabinet-level and other senior administration officials) and their support staff (Support Group) controlled most facets of the report's development. . . .
>
> In developing the *National Energy Policy* report, the NEPDG Principals, Support Group, and participating agency officials and staff met with, solicited input from, or received information and advice from nonfederal energy stakeholders, principally petroleum, coal, nuclear, natural gas, and electricity industry representatives and lobbyists.[19]

The heavy industry influence in development of the *National Energy Policy* report resulted in development of recommendations that "read like a wish list for energy companies."[20]

The *National Energy Policy Report* makes the right noises about energy policy for the transportation sector — and then promptly fails to suggest the policy reforms, such as fuel economy, which are necessary to secure the nation's energy security. The report observes, appropriately enough, that "if energy production increases at the same rate as during the last decade our projected energy need will far outstrip expected levels of production. This imbalance, if allowed to continue, will inevitably undermine our economy, our standard of living, and our national security."[21] However, the recommendations for the transportation sector expose complete indifference to the goals of protecting the economy, standard of living, or national security. Instead of recommending stringent improvements in fuel economy, the NEPDG recommends congestion mitigation strategies, tax credits for fuel-efficient (and eventually fuel cell) vehicles, and basing future fuel economy standards on the empty, deceptive Bush shibboleth "sound science."[22]

As bland as this recommendation is on its face, administration officials understood it to be code for something more involved. John Graham, at least, interpreted the Cheney task force recommendation as calling for a restructuring of CAFE standards. "Recognizing that cars and light trucks accounted for the majority of oil use in the U.S. transportation sector," Graham writes, "the Vice President's energy task force [recommended that] DOT should reexamine the Corporate Average Fuel Economy program (CAFE), which sets mileage rules for new vehicles, to determine *whether CAFE should be reformed or replaced with a more market-based approach to oil savings*."[23]

The common threads in both the energy task force and the Cheney scale for fuel economy are the secret but powerful top-down influence from the Vice President's office, secret meetings with industry, and a regulatory scheme distorted to serve industry instead of the public. Rather than develop a regulatory scheme that comprehensively accounts for the benefits of improved fuel economy standards, the administration adopted a scheme expertly designed to further delay the kinds of changes in fuel economy that the nation needs and the auto industry is already twenty years behind in implementing.

About the Cheney Scale

Cheney's Non-Answer to the Problem of Oil Dependence

Although the details changed somewhat during the rulemaking process, the Cheney scale in essence replaces the fleetwide minimum corporate average standard with a free-floating range of standards that differ depending on the vehicle.

The Cheney scale is a series of different fuel economy standards, plotted on a sliding scale, that differ for the size of the vehicle. The size is measured in terms of a "footprint," which is, in essence, the product of the track width (the distance between the center points of the tires) times the wheelbase (the distance between the center points of the axles). Each footprint value is assigned a different fuel economy standard.

NHTSA sets the standard for each footprint based on the Volpe Model, a computer model that takes the manufacturers' product plans as the baseline and analyzes the incremental costs and benefits of adding fuel-saving technology and raising the fuel economy standard above the baseline fuel economy performance of vehicles in that footprint. NHTSA uses the model to set the standard at the point at which marginal costs of demanding better fuel economy would begin to exceed the marginal (quantified and monetized) benefits.

The Cheney scale was first announced in a 2003 Advance Notice of Proposed Rulemaking,[24] followed by a 2005 proposed rule,[25] although it was originally conceived as a weight-based instead of size-based approach in which a few standards applied to discrete ranges of weight classes. The 2006 final rule shifted to the size-based continuous function approach.[26] Consumer and environmental groups (including Public Citizen) immediately filed suit against the Department of Transportation, arguing that the Cheney scale approach violates the dictates of the law that created the fuel economy program; litigation is currently still pending.[27]

The 2006 rule applies the Cheney scale only to light trucks, not the entire vehicle fleet, and went into effect August 4, 2006. During a transitional period of model years 2008-2010, auto manufacturers may choose to comply either with standards under Reformed CAFE or Unreformed CAFE. Starting with model year 2011, all manufacturers will have light truck standards set using the Cheney scale.

Since it issued the light truck rule, the Bush administration has called repeatedly for the express legal authority to apply the Cheney scale to all vehicles. Several bills to raise fuel economy standards which would give the administration *permission* to implement a Cheney scale for all vehicles have circulated in the 110th Congress, although they have usually come with firm targets and/or "backstops," fallback measures that would kick in if a sliding scale approach failed to advance overall fleet fuel economy. The Senate recently passed an energy bill with a surprise amendment, drafted at the eleventh hour, which would go even further and *mandate* the elimination of the corporate average in favor of the Cheney scale — with no backstop, and no firm fuel economy standard to be achieved by any date certain.[28]

Problems with the Cheney Scale

Touted as an "updating" of the corporate average approach that magically thinks of everything — safety, consumer choices, industry flexibility, and oil savings — in one elegant package, the Cheney scale is actually a complex free-for-all that would shield automakers from making any real improvement in fuel economy while undermining the public policy goals of the original fuel economy law. The Cheney scale is deeply problematic:

- It gets consumer choice all wrong: the Cheney scale apparently expects individual consumers buying vehicles to shoulder the entire responsibility of reducing the nation's dependence on foreign oil, even while it removes the policy incentives that would reliably give consumers the choice to buy vehicles with greater fuel economy.

- It takes the simple, fair, across-the-board standards of the original Corporate Average Fuel Economy program and replaces it with an unadministrable mess that will fail to deliver meaningful oil savings.

- It will make the public less safe on the nation's roads as it entrenches problems of incompatibility and aggressivity, given its incentives to manufacturers to continue making larger vehicles.

- It ditches the statutory demand for the best fuel economy standards, basing public policy not on public need but, instead, on biased cost-benefit bean-counting.

CONSUMERS LOSE CHOICE

Protecting consumers is an important policy objective of the CAFE program, but the Cheney scale invokes consumers to justify a program that will actually harm them. Proponents of the Cheney scale claim that its genius lies in making fuel economy policy more "market-based" and, accordingly, more consumer-oriented. What the Cheney scale would actually do, however, is take a program that benefits consumers while serving larger goals and replace it with a scheme that expects unmediated individual consumer purchase decisions to reduce the nation's dependence on foreign oil, even while it removes the policy incentives that reliably give consumers the choice to buy vehicles with greater fuel economy.

The corporate average approach gives automakers enormous flexibility while securing consumers' ability to choose fuel-efficient vehicles. Under the original law, CAFE standards require that manufacturers meet a sales-weighted average over their individual fleets of vehicles. The corporate average is enormously flexible while also effective at establishing fuel economy performance: it allows automakers to produce whatever kinds of vehicles they want, even gigantic gas guzzlers, while the corporate average forces them to achieve an average fuel economy performance across their fleets. Consumers win under the corporate average, because automakers must offset any gas guzzlers by building fuel-efficient vehicles.

NHTSA has suggested that the sliding scale scheme is designed to protect consumer choice, by "making room" for the growing segment of light trucks.[29] However, the result under the Cheney scale is that automakers will have their own individual fuel economy standards based on their existing product mix; absent the corporate average, there is no incentive to offset gas guzzlers with more fuel efficient models. The sliding scale scheme has no "backstop" — that is, no policy to ensure that all manufacturers continue to achieve a guaranteed minimum level of fuel economy performance. The consequence is that there is nothing in the Cheney scale to prevent automakers from shifting their production to represent only the largest, heaviest, least fuel efficient models.

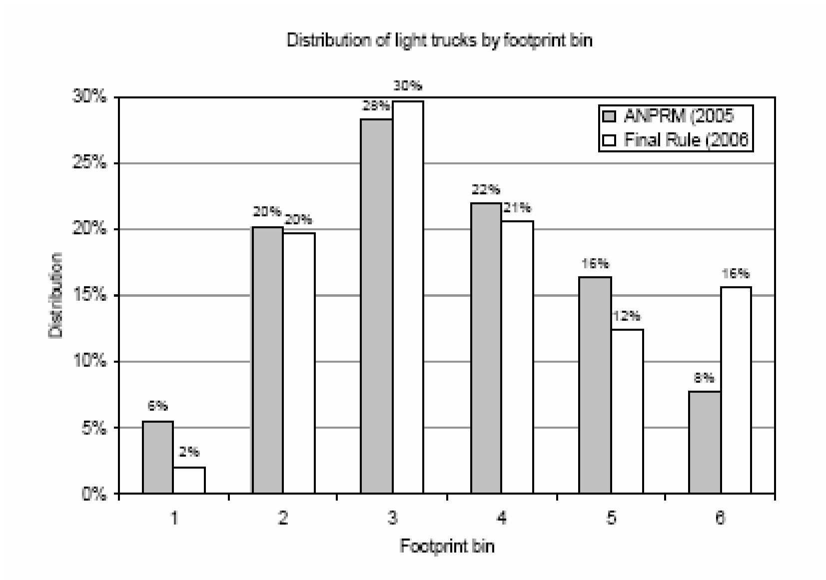
The influence of the Bush administration and Vice President Cheney's anti-regulatory fervor can be felt in the irrational appeals to developing a "market-based" regulatory scheme for CAFE. NHTSA's final rule for the light truck Cheney scale fails to adequately explain how such a scheme will result in better fuel economy. For example, in the 2005 Notice of Proposed Rulemaking (NPRM) on light truck fuel economy, NHTSA states that "market forces or fuel price increases will restrain consumer demand for large trucks with low fuel economy, unless the need for utility justifies the expense to manufacturers of providing and to the consumers of operating large vehicles."[30] In other words, NHTSA's only answer is a free market fairy tale that still guarantees no happy ending.

It is a rationale that does not support the regulatory need. The CAFE program was established precisely because the market without any fuel economy requirement left the nation dangerously dependent on foreign oil. In fact, as CAFE standards have been allowed to stagnate for the last 20 years, that problem has duplicated itself: manufacturers have chewed up fuel *efficiency* gains with larger engines, increased vehicle weight, and many extras that could have been used to increase fuel *economy.* The problem being addressed by the CAFE program is simply much too big to be left up to the individual purchasing decisions of isolated consumers, many of whom live in parts of the country in which they have no choice but to drive every day in order to execute the basic functions of life.

Moreover, NHTSA's free market fairy-tale land does not exist in reality. Consumers make a long-term commitment to a vehicle, but not necessarily with long-term projections about fuel costs in mind. A recent study found "no household that analyzed [its] fuel costs in a systematic way in their automobile or gasoline purchases";[31] this finding suggests that relying on price pressure from high fuel prices to motivate consumers to purchase more fuel efficient vehicles is not a plausible approach to crafting effective national policy. Even less plausible is the notion that market forces will encourage auto manufacturers to balance the "need for utility" with the expense of building such vehicles. U.S. auto manufacturers have focused a much larger fraction of their production on the light truck sector than the Japanese and European manufacturers and have recently extended a long-standing practice of giving consumers discounts, rebates, and preferential loan rates in exchange for buying vehicles whose utility exceeds their needs.[32]

Even if consumers should be expected to buy vehicles with the national oil-reduction policy in mind, oil prices are subject to considerable volatility, which can lead to poor decisions about the long-term consequences of choosing a particular vehicle. The long-term trajectory of oil prices is uncertain; however, the most recent projections by the International Energy Agency suggest that there will be increased competition for resources, and a 2007 report by the agency concludes, "It is possible that the supply crunch could be deferred — but not by much."[33] Oil prices jumped 18 percent between 2003 and 2004, and increased by 45 percent by 2005 and 65 percent by 2006.[34] One could easily imagine a consumer going to buy a new vehicle in 2003 and choosing an SUV with poor fuel economy, seduced into doing so by manufacturer incentives, advertising claims touting the safety of SUVs, and the low price of gasoline. Considering that the average loan term for an auto loan is now at 61 months,[35] this hypothetical consumer is faced with a dilemma: less than halfway through the loan term, this consumer is paying more than twice as much for gas than when he bought the vehicle. If the consumer then wants to trade in his SUV for a more fuel efficient vehicle, he is unlikely to recoup the entire balance of what he owes on the SUV. This consumer would find himself in a situation in which he either loses money on the vehicle he bought or is increasingly squeezed by the cost of fueling his vehicle.

Casting the fuel economy regulation as a market-based regulation also poses difficulties in achieving an effective regulatory framework. The assumption is that the motor vehicle market is not subject to a great deal of modulation; however, in reality, the market for light trucks and SUVs is skewed by heavy manufacturer incentives in the form of on-the-spot rebates, cash, and preferential loans. In 2003, SUVs were subsidized by about $3,800, and GM just this month doubled incentives on light trucks from $1,000 to $2,000.[36] The manufacturers' aggressive push for SUVs and fluctuating oil prices are factors that confound the simplistic fantasy of free markets that magically wind up reducing oil consumption. Instead of encouraging automakers to innovate ways to provide consumers with the functionality that they need while also improving fuel economy, NHTSA has chosen to give the industry another ten-year pass from innovating.



Sizing up

The Cheney scale raises serious concerns that oil savings will disappear over time because manufacturers will make bigger vehicles to qualify for less stringent standards.

The Cheney scale could not come at a worse time. Considering that the most recent projections of global oil demand suggest that there will be increasing competition for limited oil resources, the need for reduced oil consumption is clear. Now is not the time to implement a radical change to fuel economy policy that will rob consumers of the choices they need and will keep the nation as dependent as ever on foreign oil.

FROM A CLEAR STANDARD TO AN OILY FREE-FOR-ALL

The Cheney scale is the end of real, enforceable fuel economy standards. With an attribute-based system such as the footprint-based sliding scale in the light truck CAFE scheme, automakers can easily manipulate their fleet mix to effectively set their own standard. Instead of a government set standard to achieve maximum feasibly fuel economy, automakers in essence set their own fuel economy standards by changing their fleet mix.

This kind of free-for-all raises serious concerns that oil savings will erode, or even evaporate, over time because manufacturers will up-size vehicles to qualify for less stringent standards. The graph above examines manufacturers' product plans, as submitted to NHTSA, for the light truck fleet at the time the light truck fuel economy standard was proposed and compares them with manufacturers' plans at the time the final rule was issued. The chart shows a significant reduction in the number of vehicles with the smallest footprint classification, or Bin 1 in the chart, and a significant increase in the number of vehicles with the largest footprint classification in just the brief period of time between the issuance of the notice of proposed rulemaking (NPRM) on August 30, 2005, and issuance of the final rule on April 6, 2006. This rapid change in the relative proportions of vehicle sizes in the manufacturers' vehicle mixes shows that automakers will, as they confessed to *Automotive News*,[37] alter product plans and the footprint of vehicles in response to fuel economy-related incentives from NHTSA.

Applying the Cheney scale scheme across the board to all vehicles would incentivize manufacturers to shift production away from smaller, more fuel efficient cars, because there is no incentive in the absence of the balancing effect of the corporate average requirement for recalcitrant automakers to build more fuel efficient cars.

MOTORISTS WILL BE LESS SAFE

The Bush administration claims that the Cheney scale is a needed measure to keep motorists safe while fuel economy standards are increased. Undergirding this claim is a distortion of the basic facts about the relationship between fuel economy and safety. The unfortunate truth of the Cheney scale is that it will do the opposite of what the Bush administration promises: motorists will actually end up less safe under the Cheney scale.

At the core of the administration's argument is a fundamentally mistaken argument that fuel economy compromises safety. Automakers have promoted the mistaken belief that fuel economy improvements result in down-weighting — leaving consumers in vehicles much lighter than before a standard — and that motorists will necessarily be less safe as a result. In actuality, fuel economy can be improved without sacrificing safety.

There was never, as this theory would predict, any down-weighting of the lightest end of the vehicle fleet or any explosion of tiny cars in the aftermath of fuel economy increases. Historically, manufacturers have relied primarily on fuel-saving technologies, not changes in weight, to improve vehicle fuel economy. In fact, after the passenger car CAFE standard were issued in 1977, according to the Department of Energy, 85 percent of fuel economy gains came from gas-saving technologies and not from reducing vehicle weight. For the other 15 percent, automakers decreased the weight of only the heaviest vehicles, as investing in redesign of those vehicles paid the largest dividends in fuel savings.

Further fuel economy increases are similarly not likely to result in weight reductions in the smallest vehicles. For lighter vehicles, the payoff for removing weight is minimal and requires an expensive vehicle redesign. It is not, as some have wrongly asserted, cheap to accomplish. Therefore, weight changes are reserved as a fuel economy tool for only the heaviest vehicles in a manufacturer's fleet.

Shifting to the Cheney scale will leave the public less safe.

As fuel economy standards have been allowed to stagnate in the last 20 years, however, weight has been unproductively added back into the vehicle fleet. In addition, since 1985, when the 1977 fuel economy standard fully took effect at 27.5 mpg, auto companies have vastly increased the weight and engine power of automobiles, using fuel-saving technologies not to improve fuel economy, but to offset the increases in vehicle weight and engine power and maintain compliance with the 1985 standard. Data from the Environmental Protection Agency show that automakers experience, on average, fuel efficiency gains of 1.9 mpg in each model year. But such gains have been used to make vehicles bigger and faster, not to improve fuel economy. Significant fuel economy savings could be easily achieved through installation of sensible engines and some accompanying down-weighting in the largest and heaviest vehicles — not in the vehicles which are already the lightest in the fleet.

In sum, given the current availability of fuel-saving technologies, any weight reductions in response to a more stringent fuel economy standard would, as in the 1970s, be concentrated for economic reasons in the heaviest part of the car fleet. Reducing weight in this segment of the vehicle fleet is both productive for fuel economy and beneficial in terms of safety for others on the road. Although NHTSA claims, in an infamous analysis by Charles

Kahane, that fuel economy standards cause an across-the-board reduction in vehicle weights of 100 lbs. removed from each vehicle, no such across-the-board 100-lbs. reduction in vehicle weight happened after the CAFE standards were issued in 1977. It is clear that no such reduction will ever happen in the future for the cost-effectiveness reasons explained above.

Whereas the corporate average actually improved safety during the early years of rapidly rising fuel economy standards in the 1970s, shifting to the Cheney scale will leave the public less safe. Without the leveling incentives of the corporate average, manufacturers under the Cheney scale would be able to preserve their current mix of vehicle types and, thereby, lock in and exacerbate the problems of incompatibility and aggressivity. "Compatibility" refers to how well one vehicle matches with another in a crash, and "aggressivity" roughly describes how harmful a vehicle is to occupants of a struck vehicle in a two-vehicle crash.[38]

As fuel economy standards have stagnated over the past 20 years while the market share of heavier trucks and SUVs has climbed, the safety benefits of the early CAFE standards have eroded. Instead, vehicle weight has diverged dramatically across the fleet, with the dangerous result that incompatibility and aggressivity have become serious safety hazards:

- In frontal collisions between a car and SUV, the car driver is 4.3 times more likely to die than the SUV driver. SUVs are also more than twice as lethal as cars in side-impact crashes with cars.

- SUVs are nearly three times as likely as cars are to cause a driver fatality in the other vehicle in a two-vehicle collision.[39]

- In a front-to-side collision, the driver of the hit car is 6.6 times more likely to die than the driver in the striking car. When an SUV hits a car, the driver in the struck car is 30 times more likely to die than the driver of the SUV.[40]

- Because of vehicle incompatibility in crashes, the design of light trucks (pickup trucks, SUVs and minivans) has caused approximately 2,000 unnecessary deaths a year.[41]

- The problem of SUV incompatibility is one of design, not merely weight. For every million registered cars weighing between 3,500 and 3,900 pounds, 45 deaths occur in vehicles struck by SUVs. For every million registered utility vehicle in the same weight class, 76 deaths occur in vehicles struck by the SUV.[42]

These problems will only be exacerbated by a shift to the Cheney scale. While the agency claims that the restructured CAFE scheme will improve safety by "eliminating the regulatory incentive to downsize vehicles,"[43] it ignores the safety benefit that would accrue under a corporate average by incentivizing the elimination of the largest, heaviest vehicles from the vehicle fleet — benefits that would include decreased problems of incompatibility. NHTSA supported its Cheney scale light truck rule by arguing that "by raising the light truck standards. . . there is no regulatory incentive from the CAFE program to design small vehicles as light trucks instead of passenger cars," conveniently ignoring that the new light truck CAFE scheme actually does exactly that, by setting lower standards for larger vehicles, and eliminating the leveling effect of the corporate average.[44]

Some legislative proposals to allow the Cheney scale would counteract, in part, this perverse incentive by requiring NHTSA to develop standards for compatibility and aggressivity. The Senate bill which would mandate the Cheney scale across the board for both trucks and cars would require a compatibility standard, but the eleventh-hour amendment took out references to aggressivity. The same vehicles which are dangerously incompatible are also highly aggressive, with stiff front-end structures that refuse to absorb sufficient crash forces and elements like bull bars which provide no protection in crashes but are fatal to occupants of other vehicles. Any step in the direction of the Cheney scale must, at a minimum, be accompanied by comprehensive standards for compatibility and aggressivity.

BASES STANDARDS ON INDUSTRY-BIASED ECONOMIC ANALYSIS

Built into the very structure of the Cheney scale is a flaw that biases standards in favor of the automakers and away from the best fuel economy standards: it sets the standard for each vehicle "footprint" size by using cost-benefit analysis.

The current law requires that NHTSA set the fuel economy standards at the "maximum feasible" level, which requires that the level be the highest that is technologically feasible and economically practicable.[45] The current law does not, notably, allow NHTSA to base CAFE standards on industry-funded junk economics. This was a major achievement of the 1975 law. There are economically-oriented terms in the current law — the tests of "economic practicability" and "technological feasibility" — but these are actually quite demanding terms, as the case law has defined them. They allow the application of economic considerations only at the outer extremes, such as avoidance of widespread bankruptcies.[46] They are, essentially, reasonableness factors that balance technology-forcing statutes just enough to keep such laws from demanding more than our society can bear.

The Cheney scale, however, would allow NHTSA to demand much less than the best for fuel economy. The Cheney scale for light trucks uses the Volpe Model, a computer model that takes the manufacturers' product plans as the baseline and analyzes the incremental costs and benefits of adding fuel-saving technology and raising the fuel economy standard above the baseline fuel economy performance of vehicles in that footprint. NHTSA uses the model to set the standard at the point at which marginal costs of demanding better fuel economy would begin to exceed the marginal (quantified and monetized) benefits.

> Instead of basing public policy on public need, the Cheney scale sets standards on biased cost-benefit bean-counting.

Instead of basing public policy on public need, this approach bases standards on biased cost-benefit bean-counting. The decision criterion of costs equaling benefits is a one-way ratchet that will *lower* standards if the costs exceed benefits but will never require *more stringent* standards when costs are lower than estimated benefits.[47] Framed as an optimization criterion, it may be neutral between more or less stringent standards — because, technically, whether costs exceed benefits or vice-versa, this approach still demands movement up or down to the point of costs equaling benefits — but it still can leave the public without the best fuel economy standard. "A regulation that sets costs equal to benefits allows some serious harms to continue unabated. Whenever the cost of reducing a portion of the regulated harm exceeded the monetary value assigned that harm (the benefit of the regulation), the optimality requirement would require that the regulator allow the harm to continue."[48]

Cost-benefit analysis is riddled with deficiencies making it highly inappropriate for use as the basis for setting standards to protect the public. Costs are wildly over-inflated. Cost estimates are typically supplied by the industry, which has every incentive to inflate them — especially where, as here, the cost estimates would directly affect the standard that industry will be forced to comply with.[49] NHTSA lacks the capacity to assess those industry estimates critically. The staffing of the fuel economy program is nowhere close to size it was when NHTSA set the first fuel economy standards in the 1970s, and the Paperwork Reduction Act (which requires OMB review and approval of most information collections) is a barrier to information collection that did not exist then. Moreover, absent active efforts by the agency to verify industry-supplied estimates, the auto industry is "not likely to volunteer the sort of financial information necessary to verify industry cost predictions, and [it] will cite trade secrecy concerns to justify that reluctance."[50] Agencies such as NHTSA also typically magnify costs by double counting costs of compliance with other federal or state mandates, picking cost figures at the upper end of possible ranges rather than the mean compliance cost, using static assumptions that fail to assume evolving compliance methods, and ignoring the off-setting benefits such as improved efficiencies of operations discovered through compliance with the regulation.[51] Stringent standards can induce industry to innovate in order to comply at a much lower-than-predicted cost,[52] but *ex ante* regulatory cost estimates ignore this effect.

Benefits, meanwhile, tend to be understated. In a cost-benefit analysis, projected costs and anticipated benefits must be converted to common units — typically, into dollars. For benefits such as national security and environmental protection, which have no market, the agency must either zero them out or set a price using such dubious methods as conducting surveys in shopping malls of people's willingness to pay for those benefits or finding the most remote of proxies for which some price is available.[53] Many of the benefits of increased fuel economy are difficult to quantify, much less turn into dollars: reduced greenhouse gas emissions, less air pollution, and preventing adverse foreign policy and national security consequences as a result of reduced dependence on foreign sources of oil. Because benefits data are so difficult to collect, to quantify, and to monetize, they are likely to be undervalued or even omitted in the benefits calculation. In the case of the light truck fuel economy rule, greenhouse gas emissions reductions were valued as having zero benefit.[54]

Plugging these inflated costs and understated benefits into the cost-versus-benefit comparison has the usual consequences of garbage in, garbage out. Moreover, the very comparison comes with its own built-in distortions that further stack the deck against the public interest. Benefits that are realized in the future (such as benefits from almost any change in vehicle design, because it takes on average 10 years before vehicle fleets turn over and changes are fully realized on the road) are typically treated the same as *money* allotted in the future and are thus discounted to the present value. These benefits are instantly diminished when compared against the costs, because those are typically realized immediately and thus are not subjected to discounting. Further, the comparison treats benefits and costs as though they were fungible dollars of equal worth, even though the benefits (such as national security and environmental improvement) are of a higher order than many of the costs, in particular the costs to industry of finally doing what it long should have done as a responsible corporate citizen.

For these very reasons, Congress opted to proceed not with a cost-benefit statute but instead a demand for the best achievable fuel economy when it created the CAFE program. The technology-forcing standards of the late 1970s and early 1980s achieved significant fuel economy gains, with fleetwide average fuel economy increasing 68 percent from 1975 to 1987 (the year that fleetwide fuel economy reached its peak).[55] Political factors since then, most notoriously appropriations riders from 1995 to 2002 prohibiting NHTSA from spending any taxpayer dollars on efforts to raise CAFE standards, have blocked the program from continuing to provide these benefits. The Cheney scale would abandon this strong technology-forcing approach and would allow NHTSA to demand much less than the best for fuel economy.

Promises, Promises

In 1993 the Clinton administration started the Partnership for a New Generation of Vehicles (PNGV), through which the auto industry promised to develop a car that would get 80 mpg by 2004. In 2002, the PNGV was disbanded by President Bush and was replaced by the FreedomCAR project, which had no requirements to actually produce a prototype vehicle. The FreedomCAR and Hydrogen Fuels Initiative aim to create an affordable vehicle that runs on hydrogen, to the tune of about $1.7 billion in taxpayer money through 2008.[56] These programs have consumed significant resources and produced nothing that has resulted in higher fuel economy for consumers. Over the eight years of the PNGV, taxpayers spent $1.5 billion, and consumers are still choosing from cars getting the same fuel economy that they were getting in 1987.[57] In the meantime, NHTSA's fuel economy program budget in these years ranged from zero to a few million dollars.

The Cheney fuel economy scheme effectively lets the automakers do what they've been doing for two decades — promising "leap-ahead" fuel economy technologies in exchange for lax regulations on fuel economy. The sliding scale is touted as a "market-based" regulation, suggesting that given the appropriate regulatory flexibility, automakers will have the "free" research and development dollars needed to provide consumers with vehicles that balance their needs. What the sliding scale actually achieves is a regulation that biases in favor of large, aggressive vehicles, producing no incentive to manufacture an alternative to these behemoths, and providing the consumer with no promise of advancement in fuel economy technology.

Instead of proposing further CAFE increases through the 1990s, the automakers squandered more than a billion dollars, aggressively marketed trucks and SUVs, and claimed that increased CAFE standards would force the industry to divert research and development funding that could go into building the car of the future. Meanwhile, the industry has made a number of impressive technological advances in the past twenty years, which have made cars more powerful, larger, heavier, with greater towing capacity, and an ever-increasing array of interior amenities such as powerful stereos, heated seats, lighted cupholders, and air-conditioned glove boxes — all of which exploit improvements in engine efficiency. The automakers can produce vehicles with much greater fuel economy to achieve societal goals the public supports and wants. The Cheney scale allows them to get off the hook and provide us instead with more empty promises.

Slip Sliding Away from Fuel Economy

The Cheney sliding scale fails to promote improved fuel economy. This scheme will merely delay the auto industry from making needed long-term plans for changing the fleet to give the nation the fuel economy it needs.

Considering that the industry has had twenty years to make the kinds of long-term plans needed to allow for them to provide consumers with the variety of vehicles they want and the fuel economy that is needed for a comprehensive national energy policy, the need for stringent regulation is clear. Perhaps what is even more frightening than the specter of catastrophic effects of global warming are the gross abuses of executive power exemplified by the manner in which the light truck fuel economy standards were developed.

The Cheney scale was cooked up in backroom meetings led by senior White House officials and the heavy hand of the Office of the Vice President. Cheney-led policy changes have been overwhelmingly bad for the country, and the Cheney scale for fuel economy is no exception.

Unfortunately, the Cheney scale could soon become law. The House and Senate will conference soon to reconcile their competing versions of an energy bill – including a Senate-passed amendment which would actually write the Cheney scale into law and *mandate* it as a replacement to the corporate average approach. If Cheney racks up another win, consumers will and the country will lose for decades to come.

Appendices

APPENDIX I

A Who's Who of the names mentioned in emails and calendar entries submitted in response to the Public Citizen FOIA request.

APPENDIX II

A summary of emails and calendar entries revealing meetings that were scheduled to develop the Cheney scale, as well as other details about the nature of those meetings.

Appendix I

PEOPLE MENTIONED IN DOCUMENTS SENT IN RESPONSE TO PUBLIC CITIZEN'S FOIA REQUEST

The emails and calendar entries that Public Citizen received in response to its FOIA request mention many people, most notably the following. Affiliations and titles at the time of the meetings are listed below, where it was possible to locate that information. Some of the people listed have subsequently changed affiliation or title. (For example, Jacqueline Glassman was NHTSA's Chief Counsel at the time of the meetings leading up to the ANPRM; she was subsequently named Acting Administrator, and she later left NHTSA for the private sector. Likewise, Marcus Peacock left OMB for EPA.)

Titles and Department, Agency, or Organization are as accurate as allowed given the limitations of our research, which employed publicly available directories and the Internet, and given the amount of mobility characteristic of government employees, particularly in the amount of time these FOIA documents cover.

Name, Title, and Department, Agency, or Organization at time of meetings

- **Bailey, Kameran L.** — Special Assistant to the Chairman, Council on Environmental Quality
- **Bailey, Vickie** — Assistant Secretary on International and Domestic Policy, Department of Energy
- **Barfield, Tiffany L.** — administrative assistant, Office of Policy Development
- **Bolton, Josh** —Director of the Office of Management and Budget
- **Bowie, Noble** — Director of Office of Planning and Consumer Standards, National Highway Traffic Safety
- *Bowie, Victoria — wife of Noble Bowie and employee of Huhtamaki Americas, a specialty packaging organization. Noble used her email account from home, hence the reference.*
- **Branch, Lisa D.** — Executive Assistant to Chairman, Council of Economic Advisors
- **Calamas, Mary Anne** — Confidential Assistant, Office of Management and Budget
- **Chuckerel, Mary M.** — administrative assistant, Office of Management and Budget
- **Claybrook, Joan** — President, Public Citizen
- **Connaughton, James** — Chair, Council on Environmental Quality
- **Divelbiss, Linda** — Director, Executive Correspondence, National Highway Traffic Safety Administration
- **Dougherty, Elizabeth S.** — Special Assistant to the President for Domestic Policy, Office of Policy Development
- **Dorn, Nancy P.** — Deputy Director, Office of Management and Budget
- **Ellison, Kimberley** —Executive Assistant, White House

- **Feather, Peter M.** — (Former Senior Economist, Council of Economic Advisors) Department of Agriculture, Economic Research Service
- **Fisher, Linda** — (Former Deputy Administrator, Environmental Protection Agency. Resigned June 26, 2003)
- **Frankel, Emil** — Assistant Secretary for Transportation Policy, National Highway Traffic Safety Administration
- **Garman, David** — Assistant Secretary for Energy Efficiency and Renewable Energy, Department of Energy
- **Glassman, Jacqueline** — Chief Counsel, National Highway Traffic Safety Administration
- **Graham, John** — Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget
- **Hakim, Danny** — Reporter, *The New York Times*
- **Holmstead, Jeffrey** — Assistant Administrator on Air and Radiation, Environmental Protection Agency
- **Howard, John W.** — Chairman of the Special Panel on Appeals (discrimination)
- **Hunt, Alexander** — Policy Assistant, Office of Management and Budget
- **Hunt, Lorraine** — Administrative Assistant, Office of Management and Budget
- **Hurst, Kevin** — Senior Policy Analyst, Technology Division, Office of Science and Technology Policy
- **Jackson, Barry** — Deputy Assistant to the President and Deputy to the Senior Advisor, White House
- **Jackson, Michael** — Deputy Administrator, Department of Transportation
- **Jones, Lisa** — Administrative Assistant, Office of Management and Budget
- **Jones, Paul** – Senior Advisor to NHTSA Administrator
- **Kaplan, Joel D.** — Deputy Director, Office of Management and Budget
- **Kirk, Matthew** — Special Assistants to the President for Legislative Affairs (Senate)
- **Knutson, Karen Y.** — Deputy Assistant to the Vice President for Domestic Policy
- **Kolevar, Kevin** — Senior Policy Advisor to the Secretary, Department of Energy
- **Kratzke, Stephen R.** — Associate Administrator for Rulemaking, National Highway Traffic Safety Administration
- **Kroszner, Randy** — Senior Economist, Council of Economic Advisors
- **Lawson, Linda** — Acting Assistant Secretary for Policy, Department of Transportation
- **Lindsey, Larry** — (Former Director of the National Economic Council. Resigned Dec. 6, 2002.)
- **Lundquist, Andrew D.** — Executive Director for National Energy Policy Development, Office of the Vice President
- **Martin, Catherine J.** — Assistant to the Vice President for Public Affairs, Office of the Vice President
- **McNally, Robert C.** — Special Assistant to the President for Economic Policy, Office of Policy Development
- **McSlarrow, Kyle** — Deputy Secretary, Department of Energy

- **Noe, Paul** — Counselor to the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget
- **O'Hollaren, Sean** — Assistant Secretary for Governmental Affairs, Department of Transportation
- **Peacock, Marcus** — Associate Director for Natural Resources, Energy and Science; Office of Management and Budget
- **Pizer, William A.** — (Former Senior Economist, Council of Economic Advisors) Part-time Senior Economist, National Commission on Energy Policy; Fellow, Resources for the Future
- **Portney, Paul** — (Former Chair, National Academy of Sciences committee on CAFE) President, Resources for the Future
- **Power, Stephen** — Reporter, *Wall Street Journal*
- **Ruhlen, Stephen S.** — (Former Deputy Assistant for Legislative Affairs, Office of the Vice President) Head of JPMorgan Chase's Washington office
- **Runge, Jeffrey** — Administrator, National Highway Traffic Safety Administration
- **Russell, Richard M.** — Associate Director, Office of Science and Technology Policy
- **Sandberg, Annette** — Acting Administrator, Federal Motor Carrier Safety Administration
- **Sandori, Robert** — Program Examiner, Energy Branch, Office of Management and Budget
- **Shane, Jeffrey** — Under Secretary for Policy, Department of Transportation
- **Shelton, Bob** — Executive Director, National Highway Traffic Safety Administration
- **Stephens, Virginia A.** — Director, White House Task Force on Energy Project Streamlining; and Associate Director of Energy & Transportation, Council on Environmental Quality
- **Szabat, Joel** — Deputy Assistant Secretary for Policy, Department of Transportation
- **Theroux, Richard P.** — Senior Economist, Office of Information and Regulatory Affairs, Office of Management and Budget
- **Toy, Edmond** — Policy Analyst, Natural Resources Branch, Office of Information of Regulatory Affairs, Office of Management and Budget
- **White, Sharron R.** — Administrative Assistant, Office of Management and Budget
- **Whitmer, Martin** — Deputy Chief of Staff, Department of Transportation
- **Wolff, Candida P.** — Assistant to the Vice President for Legislative Affairs, Office of the Vice President

Title could not be identified

- **Brown, Yvonne** – Environmental Protection Agency
- **Collender, Robert** — Council of Economic Advisors
- **Conde, Roberta** – Counsel on Environmental Quality
- **Huttoo, F. Chase** — Department of Energy

- **Jackson, Barry** — White House, Deputy Assistant to the President and Deputy to the Senior Advisor
- **Loper, Brett S.** — Office of Management and Budget
- **Marriott, Caroline** — Office of Management and Budget
- **Pemberton, John** — Environmental Protection Agency
- **Poche, Michelle** — Office of Science and Technology
- **Rice, Quesean** — Council on Environmental Quality
- **Russell, Jean M.** — Office of Policy Development
- **Sharp, Jess** — Office of Policy Development
- **Stewart, Angela R.** — Council on Environmental Quality
- **Towcimak, Natalie** — Council on Environmental Quality
- **Vargas, Veronica** — Office of Management and Budget
- **White, Rhonda** — Environmental Protection Agency

Title and Department, Agency, or Organization could not be identified

- **Aschmann, Adam**
- **Boecker, Caroline**
- **List, John**
- **Litterst, Roland N.**

Appendix II

MEETINGS AND PLANNING ACTIVITY CITED IN DOCUMENTS SENT IN RESPONSE TO PUBLIC CITIZEN'S FOIA REQUEST

The full emails and calendar entries are available online at www.citizen.org/cheneyscafe.

Calendar Entries

Some calendar entries were difficult to transcribe because of poor copy quality, bad handwriting, or partial omission of the word. Attempts at deciphering are indicated in bold and in brackets. Quotation marks signify our best guess; words without quotation marks signify the correct spelling of a word.

calendar of Paul Jones

Date and time	*Subject*	*Locations*
8/14/2001 at 12pm.	White House CAFE Bfg. w/Paul Portney	
10/1/2001 at 4:30pm	Dr. John Graham – Rm.262 OEOB	
12/10/2001 at 4pm	CEQ/CAFE w/Whitmer, Shelton, Bowie	CEQ
5/10/2002 at 2pm	Frankel/Shane/Lawson/w/David Garman (DO…	
7/15/2002 at 1pm	Briefing for CEQ Meeting w/Jackie/Noble/Bob	
7/16/2002 at 9am	CEQ – 722 Jackson Place – w/Jackie	CEQ
8/12/2002 at 4:30pm	CAFE w/Glassman/Bowie – 722 Jackson Pl.	CEQ
8/30/2002 at 10:30am	Graham/Glassman – CAFE – 262 OEOB	NHTSA LCR
1/8/2003 at 5pm	Fuel Economy Working Group Mgt w/John Gr…**[“Graham”]** Contact: Mary 395- 4852	EEOB Room 248
1/17/2003 at 4pm	CEQ Meeting w/Glassman/Noble	White House
6/9/2003 at 11am	John Graham – CAFE Reform w/Glassman/Pe…**[“Peacock”?]**	Room 248

calendar of Anonymous NHTSA Staff

Date	*Subject*	*Location*
12/10/2001 at 4pm	CEQ/CAFE, 726 Jackson Pl. w/Skelton, Bowie	CEQ
4/1/2002 at 10am	CAFE Reform – Jackson Rm. WH Conf. Center	White House Conference Center
21/2/2003 at 1pm	John Claybrook CAFE Reform Kretzke	

3/19/2002 at 3:30pm	John Graham / drop-by Re: CAFE	
10/5/2002 at 2pm	Frankel/Shane/Lawson w/David Bowie (DOE) – CAFE (Rm. 10222 – Yvonne 64540 Shelton	Room 10222
6/9/2003 at 11am	John Graham-CAFE Reform Jackie G/Jeff **["Pemberthen"?]**/Kenvin Colevar **[Kolevar]** (Mary – 395-4852) Room 248	Room 248
6/26/2002 at 4pm	**["Dr."?]** Policy Meeting in Transp. Energy Issues 722 Jackson Place w/Emil	722 Jackson Place
9/10/2002 at 3pm	CEQ Mtg w/John Connaughton (5-2 email) Either JR and or/Jackie 730 Jackson Place	CEQ
9/11/2002 at 7:15am	A-1 WH **["News"?]** breakfast w/Graham Jeff Homstead (EPA) Re diesels – Rm 262 **["First"?]** **["Drive"?]** to D8T	Room 262
7/16/2002 at 9am	CEQ/CAFE 722 Jackson Place **["(Glassman)"?]**	CEQ
8/12/2002 at 4:15pm	P-1	
8/12/2002 at 4:30pm	CAFE Mtg w/Glassman 722 Jackson Place Bowie	CEQ
8/30/2002 at 10:10am	P-1	
8/30/2002 at 10:30am	John Graham/**["Krozner"?]** CAFE Rm 262 OEOB	Room 262
11/4/2002 at 10am	John Graham Jackie Glassman CAFE Working Group Rm 262 (Mary)	Room 262
11/22/2002 at 3pm	Graham/Glassman Bowie – CAFE Room 248 EEOB (Mary 395-4852)	Room 248
1/8/2002 at 5pm	Fuel Economy Working Group w/John Graham EEOB Rm 248 (Mary 395-4852)	Room 248
1/17/2002 at 4pm	Council of Economic Quality **[sic]** w/Glassman/Noble (whats **["head"?]**)	

calendar of Jacqueline Glassman

Date	*Subject*	*Place*
8/27/2002 at 4pm	OMB w/Jeff	
8/28/2002 at 4:30pm	CAFE briefing	

9/6/2002 at 11am	Cafe meeting
9/6/2002 at 3pm	CEA meeting
9/6/2002 at 3pm	CEA meeting
9/10/2002 at 8am	CAFE w/Runge
9/10/2002 at 3pm	CEQ
11/7/2002 at 4pm	CEQ
6/9/2003 at 11am	CAFE Reform Mtg. (OMB)
6/26/2003 at 4pm	OMB re CAFE Reform

calendar of Noble Bowie

Date	*Subject*	*Location*
6/7/2002 at 10am	CAFE	White House
11/4/2002 at 10am	CAFE Policy	OMB
11/22/2002 at 3pm	CAFE Policy	OMB
1/8/2003 at 5pm	CAFE Policy Group	OMB
1/17/2003 at 3pm	CAFE Reform Policy	CEQ
6/9/2003 at 11am	CAFE Policy	OMB
6/26/2003 at 4pm	CAFE Reform	OMB

Email Mentions of Meetings

Names are marked to designate some key affiliations at the time of the meetings:

Names in bold are staff of the Office of the Vice President.
Names in italics are staff of the Office of Management and Budget.
Names in bold italics are auto industry representatives.
Unformatted names are DOT/NHTSA unless otherwise indicated:

1 – Special Assistant to the President for Domestic Policy, Office of Policy Development
2 – Council of Economic Advisors
3 – National Economic Council
4 – Office of Science and Technology Policy
5 – Special Panel on Appeals (discrimination)
6 – Affiliation could not be identified

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
8/24/2001 at 11:15am	Subject: from Domestic Policy Council Forwarded email, from Tiffany Barfield: Please join Liz Dougherty for a CAFE Reform Meeting	Room 231	Michelle Poche Forwarded email from Tiffany Barfield[1]	Jeffrey Runge Forwarded email recipients: *John Graham*, **Andrew Lundquist, Karen Knutson**, William Pizer[2], *Marcus Peacock*,	8/15/2001

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
				Michelle Poche, Kameran Bailey, John Howard[5], **Catherine Martin**, Robert McNally[1], James Connaughton, *Brett Loper*, Richard Russell[4], *Nancy Dorn*, **Candida Wolff, Stephen Ruhlen** Cc on Forwarded email: Angela Stewart, Elizabeth Dougherty[1]	
8/24/2001 at 11:15am	Forwarded email: I can make the meeting re: Subject: CAFE… I will check with you about travel to OEOB that morning	Room 231	Emil Frankel	Jeffrey Runge Forwarded email recipients: Michelle Poche, Jeffrey Runge, Bob Shelton Cc: Yvonne Brown[7]	8/22/2001
12/10/2001 at 4pm	We are scheduled to meet with CEQ regarding CAFE… I would like to get together on Monday to discuss our ideas…	722 Jackson Place	Martin Whitmer	Jeffrey Runge, Bob Shelton, Noble Bowie	12/6/2001
12/10/2001 at 4pm	Subject: CAFE MEETINGS We are scheduled to meet with CEQ regarding CAFE… In preparation, I would still like to get together at 11:30 Monday morning. We need to have our proposal as well as some options ready to present…	722 Jackson Place	Martin Whitmer	Jeffrey Runge, Bob Shelton, Noble Bowie	12/9/2001

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
12/20/2001	I attended the National Energy Policy (NEP) meeting yesterday with Emil Frankel and Linda Lawson. The meeting was led by **Andrew Lundquist** and **Karen Knutson** of the Vice President's Office. Other agencies in attendance included EPA, DOE, State, and Agriculture. Each Agency gave a short summary of their progress in implementing the NEP recommendations. I gave a short overview of the current status of CAFE and our plans for initiating rulemaking and examining CAFE reforms [WITHHELD (b)(5)] …Emil said that once he is confirmed, he would like you and him to meet with DOE's David Garman…		Noble Bowie	Jeffrey Runge Cc: Bob Shelton	12/21/2001
1/4/2002 at 10am	FYI, I received a call from Rich Theroux, a staffer at OMB, indicating that John Graham is interested in meeting with us on January 4 to discuss CAFE reform. I think it might be fairly "nut and bolts,"…	Jackson Room, White House Conference Center	Bob Shelton	Jeffrey Runge Cc: Noble Bowie	12/20/2001
	Subject: CAFE Attached please find a briefing handout on CAFE Reforms that I prepared for the 10am meeting tomorrow with OMB & others. The document incorporates comments I have received from Bob Shelton.		Victoria Bowie	Jeffrey Runge Cc: Noble Bowie	1/3/2002

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	Subject: CAFE Reforms – Pros and Cons Paper Attached for your use is a paper that presents the pros and cons of various CAFE reforms. This is essentially what I presented last Friday morning when we met with OMB, but it provides greater detail.		Noble Bowie	Adam Aschmann[10], Martin Whitmer Cc: Bob Shelton, Jeffrey Runge	1/11/2002
3/21/2002	Subject: EOP CAFE Task force meeting has been scheduled for 3/21 at 3 p.m. in rm 262	Room 262	*Mary Chuckerel*	Robert McNally[1] John Howard[5] Virginia Stephens Peter Feather[9] *Robert Sandoli* *Caroline Marriott* *Richard Theroux*	3/20/2002
	Subject: EOP CAFE Task Force meetings. . . . I've been asked to schedule regular weekly meetings for this group on the above subject. Will Thursdays at 3 p.m. work for everyone????		*Mary Chuckerel*	Robert McNally[1] John Howard[5] Virginia Stephens Peter Feather[9] *Robert Sandoli* *Caroline Marriott* *Richard Theroux* **Karen Knutson** Elizabeth Dougherty[1]	3/22/2002
5/2/2002	Subject: EOP CAFE Task Force meeting, Scheduled for Thursday, May 2 at 3:00 pm is CANCELLED. We'll be in touch to reschedule.		*Mary Chuckerel*	Robert McNally[1] John Howard[5] Peter Feather[9] *Robert Sandoli* *Caroline Marriott* *Richard Theroux*	5/1/2002
	Looks like we will need to delay another week on CAFE Task Force. Jeff called from Florida and wants to chat. Will keep in touch.		*John Graham*	*Richard Theroux*	5/14/2002
	Subject: CAFE write-up		Bob Shelton	Jeff Runge	5/20/2002

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	Attached was a draft memo, excerpted below: Memorandum for: Jeffrey Shane, Vickie Bailey, Jeffery Holmstead, Randy Krosner, V. A. Stephens, Robert McNally, Elizabeth Dougherty, Matthew Kirk From: Dr. Jeffrey Runge and John D. Graham Subject: Corporate Average Fuel Economy Working Group . . . Given the cross-cutting impacts that future CAFE standards will have on our nation's energy, safety, economic, and environmental policies, we would like to begin a prompt, rigorous and sustained interagency discussion of these matters. . . . We believe an interagency dialogue will enhance the rulemaking process. We would like to meet on a regular basis. . . to discuss particular issues of concern in the immediate rulemaking, as well as broader policy issues of interest to the group. Such issues may include fuel saving technologies, energy security, CAFE reform and market based incentives, environmental issues and analytic structures.				

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	Subject: CAFE group memo I talked to Rich Theroux this morning about getting the memo finalized announcing the meetings for the interagency CAFE group. He said that John Graham was supposed to talk to Josh Bolton (White House Chief of Staff's office) to determine whether CEQ would co-sponsor the group, along with NHTSA and OMB. Rich said that he had not heard back from John, but would try to talk to him late this morning.		Bob Shelton	Jeff Runge, Noble Bowie	6/4/2002
6/6/2002 3.pm	Your june 6 cafe working group will meet in room 10103 from 3 until 5.	Room 10103	*Lorraine D. Hunt*	*Richard Theroux*	5/13/2002
6/26/2002 at 4pm	Subject: Sr. Policy Meeting on Transportation/Energy Issues Jim Connaughton has scheduled a meeting re: the above for June 26, 2002 at 4:00 p.m., CEQ offices, 722 Jackson Place. Principles [*sic*] only. If you have any further questions regarding this meeting, please contact VA Stephens at 395-0801. Please confirm attendance. Thank you. Invitees: Richard Russell[4], Randy Kroszner[2], **Liz Dougherty** Larry Lindsey[3], *Dr. Graham*, **Karen Knutson**, *Marcus Peacock*, *Joel Kaplan*, Linda Fisher[7], Jeff Holmstead[7], Michael Jackson, Jeff Runge, Emil Frankel, Kyle McSlarrow[6],	<u>CEQ offices, 722 Jackson Place</u>	<u>Roberta Conde</u>	Richard Russell[4], Lisa Branch[2], Elizabeth Dougherty, Jean Russell[3], *Mary Chuckerel*, **Karen Knutson**, *Sharron White*, *Joel Kaplan*, <u>Virginia Stephens</u>	6/13/2002

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	David Barman, VA Stephens				
7/15/2002 at 2:30pm & 7/16/2002	Subject: Fwd: RE: Next CAFE Briefing for Emil Forwarded email, Noble Bowie to Yvonne Brown[7]: I would like to give Emil a briefing on CAFE reform alternatives. Forwarded email, Yvonne Brown[7] to Noble Bowie: Availability: July 15 – 10:00-4:30… Forwarded email, Noble Bowie to Yvonne Brown[7]: Please schedule us for the 15th at 2:30 for 1 hour. Forwarded email, Emil Frankel to Noble Bowie: …I now will be out of the office on Monday, the 15th, as well as on the 16th…I would like to suggest that you proceed with the briefing on the 15th, but make it a briefing on CAFE for Joel [Szabat]…and that Joel then accompany Jeff Runge to the CEQ meeting on the 16th, as a substitute for me. V.A. Stephens called me this morning about the CAFE meeting on the 16th…		Jacqueline Glassman Forwarded emails from Emil Frankel, Yvonne Brown7, Noble Bowie, Jacqueline Glassman	Jeffrey Runge Forwarded email recipients: Emil Frankel, Yvonne Brown7, Jacqueline Glassman, Linda Lawson	7/15/2002
7/16/2002 a 9am	Subject: Sr. Policy Meeting on Transportation Fuel Economy Jim Connaughton has scheduled a meeting re: the above for July 16 at 9:00 a.m.,	CEQ offices, 722 Jackson Place	Roberta Conde	Rhonda White[7] *Joel Kaplan* **Karen Knutson** Jean Russell[1] Lisa Branch[2] Caroline Boeckel[10] Virginia	

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	CEQ offices, 722 Jackson Place. Invitees: Jim Connaughton Richard Russell[4] Randy Kroszner[2] Liz Dougherty[1] Larry Lindsey[3] *Dr. Graham* Robert McNally[1] **Karen Knutson** *Marcus Peacock* *Joel Kaplan* Linda Fisher[7] Jeff Holmstead[7] Michael Jackson Jeff Runge Emil Frankel Kyle McSlarrow[6] David Garman[6] VA Stephens			Stephens *Sherron White* *Mary Chuckerel* Elizabeth Dougherty[1] Richard Russell[4]	
7/16/2002 at 1pm	Mon 1:00 w/Jeffrey CAFE …meeting Tuesday morning at CEQ and we thought we should meet with you before that.	CEQ	Jacqueline Glassman	Bob Shelton, Noble Bowie Cc: Jeffrey Runge, Linda Divelbiss	7/12/2002
8/13/2002 3:45pm	Jim Connaughton has requested a Transportation Fuel Economy meeting for today at 3:45 p.m. . . .Please see below for a list of invitees and let me know if you will be able to attend. . .: Invitees: Jim Connaughton ***Jo Cooper – Auto Alliance*** ***Tim McBride – DaimlerChrysler*** ***Janet Grissom – Ford*** ***Mark Kemmer – GM***	CEQ, 722 Jackson Place	Natalie Towcimak	**Candida Wolff** Roland Litterst[8] **Karen Knutson** *Veronica Vargas* *Paul Noe*	8/13/2002

Meeting Date & Time	Email Content	Meeting Location	Email Author	Email Recipient(s)	Email Date
	Nelson Litterst[8] *Paul Noe* *Veronica Vargas* **Karen Knutson** **Candi Wolff** Sean O'Hollaren, Department of Transportation				
	Subject: DoE – Possible Detail I finally spoke to David Garman this morning [NON-RESPONSIVE] I reminded David Garman that we were going to "institutionalize" and make regular our DOT/Policy and NHTSA – DoE meetings, so that we could discuss issues of common interest in doing this and said that "the ball was in his court." I think that we should persist and arrange another meeting. Let's discuss and decide who takes the initiative for DOT. Finally, anything new on CAFE? Should we discuss again? Anything we should be doing to support your efforts, either on the pending energy legislation or, more generally, on CAFE reform?		Emil Frankel	Noble Bowie Cc: Jeffrey Runge	8/13/2002
9/10/2002 at 3pm	I don't think you need to attend the CEQ meeting today at 3. The only significant issue on the agenda is Congressman Dingell's apparent intent to introduce pro-diesel legislation. Otherwise, the intent is to receive updates on the various activities surrounding the Energy Bill and NHTSA's activities. We will inform the		Jacqueline Glassman	Emil Frankel Cc: Jeffrey Runge	9/10/2002

Meeting Date & Time	Email Content	Meeting Location	Email Author	Email Recipient(s)	Email Date
	group that we cannot yet reveal the specifics of the light truck rulemaking, but expect it to be ready for publication in early to mid November, and provide a brief overview of the size & safety study. I will attend for Jeff and I expect that Martin and/or Joel will attend also.				
11/4/2002 or 11/5/2002	Would you please schedule the first meeting of the CAFE working group for next Monday or Tuesday? This is a high priority and John should bump something else if necessary. The meeting should include VA Stephens, Jeff Runge and Jackie Glassman (NHTSA), Kevin Hurst (OSTP), and Kevin Kolevar (DOE 586-8567)		*Veronica Vargas*	*Mary Chuckerel*	10/30/2002
11/22/2002 at 3pm	Forwarded email, Noble Bowie to Jacqueline Glassman: …I am on the hook to give a presentation on CAFE reform at the CAFE policy meeting this Friday. Attached is a draft PowerPoint presentation I prepared….Once I incorporate your comments, should I forward it to Scott, Jesse, Sean, and Martin? Forwarded email, Jacqueline Glassman to Noble Bowie: I'll copy Jeff on this so he can see what we propose to discuss at OMB on Friday afternoon (at 3 pm). I don't think we need to forward it to the whole group upstairs. In general, I think we should limit the number of copies of documents floating	*OMB*	Noble Bowie Forwarded emails from Noble Bowie, Jacqueline Glassman	Jeffrey Runge Forwarded email recipients: Noble Bowie, Jacqueline Glassman Cc on Forwarded email: Jeffrey Runge	11/20/2002

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	around. After Friday's meeting, if the working group decides to follow the path outlined, we can send it to Martin to keep him up to speed on the direction that's being taken.				
12/4/2002 at 3pm	Subject: Follow Up Meeting to 11/22 Fuel Economy Meeting We've scheduled a follow-up to last week's Fuel Economy meeting for Dec. 4th at 3:00 p.m. in rm 248 of the EEOB. Hope this works for everyone… ***Everyone from the "outside"*** has been notified….	Room 248 of EEOB	*Mary Chuckerel*	Kevin Hurst[4] Virginia Stephens Robert McNally[1] *Edmond Toy* Robert Collender[2] **Karen Knutson** Caroline Boeckel[1]	11/25/2002
12/4/2002 at 3pm	Subject: CAFE Meeting… A CAFE meeting has been scheduled for December 4, at 3:00 p.m., CEQ offices, 722 Jackson Place. . . . Invitees: *John Graham* Robert McNally[1] **Karen Knutson** **Candi Wolff** Matthew Kirk *Joel Kaplan* Jess Sharp[1] Randall Kroszner[2] Richard Russell[4] Barry Jackson[8] Agency: Jeffrey Runge (DOT) Jacqueline Glassman (DOT) Sean O'Hallaren (DOT) Kevin Kolevar (DOE) F. Chase Huttoo (DOE)	CEQ Offices, 722 Jackson Place	Roberta Conde	Quesean Rice	12/27/2002

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	David Garman (DOE) Jeff Holmstead (EPA) John Pemberton (EPA)				
12/4/2002 at 3pm	Subject: Re: Senior Policy CAFE Meeting, 12/4, 3pm… This meeting appears to conflict with another on the CAFE rulemaking scheduled by OMB in room 248. Does it replace the OMB meeting?	CEQ Offices, 722 Jackson Place	Robert Collender[2]	*Mary Chuckerel* Roberta Conde Lisa Branch[2]	12/2/2002
12/4/2002 at 3pm and 4pm	Subject: Re: CAFE working group mtg I just called Mary Chuckerel, but she's out today. Apparently, she emailed someone at CEQ (Bobbi?) and is trying to reschedule the sr policy meeting to 4pm. Don't know the outcome of that. So the short answer is that I don't know what the status is (but John apparently is aware of the sr policy mtg).	CEQ Offices, 722 Jackson Place and Room 248	*Edmond Toy*	Virginia Stephens	12/2/2002
12/4/2002 at 3pm and 4pm	I think this is the list for the CAFE/fuel economy working group . . .I think people from the "outside" include three people from NHTSA (Natl Highway Traffic Safety Administration) Noble Bowie Dr. Runge (NHTSA Administrator) Jackie Glassman	CEQ Offices, 722 Jackson Place and Room 248	*Edmond Toy*	*Mary Chuckerel*	12/2/2002
1/8/2003	Subject: Next Fuel Economy	Room 248 of	*Mary*	Kevin Hurst[4]	12/23/2002

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
at 4pm	Working Group meeting is scheduled for January 8th at 4 p.m. in rm 248 of the EEOB. Please mark your calendars.	EEOB	*Chuckerel*	*Edmond Toy* **Karen Knutson** Virginia Stephens Robert Collender[2] Robert McNally[1]	
	Subject: Re: CAFE Reform ANPRM Briefing Slides		Jacqueline Glassman	Noble Bowie Cc: Jeffrey Runge	1/8/2003
	Subject: CAFEREFROMANPRM2.ppt		Jacqueline Glassman	Jeffrey Runge	1/8/2003
1/14/2003 at 4pm	Is there a CEQ meeting tomorrow at 4:00 on fuel efficiency??? Emil got a call from CEQ indicting this.		Martin Whitmer	Jacqueline Glassman, Jeffrey Runge	1/13/2003
1/17/2003 at 3pm	I'm only aware of one on Friday at 3 at CEQ, although we never received a notice. VA mentioned it at the meeting at OMB last week.		Jacqueline Glassman	Jeffrey Runge	1/13/2003
3/28/2003 at 11am	*John Graham* has requested a meeting for the CAFE working group. I don't know if you have a list of who is in this working group, but here is what I have: From NHTSA: Noble Bowie Dr. Runge Jackie Glassman From DOE: Kevin Kolevar From EPA: John Pemberton	Room 248, EEOB	*Edmond Toy*	*Mary Chuckerel*	3/25/2003

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	From EOP: Bob Collender (CEA) Bob McNally (NEC) Kevin Hurst (OSTP) **Karen Knutson (OVP)** *Rich Theroux* *[Edmond Toy]*				
6/9/2003	Agenda CAFE Working Group June 9, 2003 1. Update on CAFE legislative discussions. 2. Update on stakeholder discussions regarding CAFE reform 3. [(b)(5)] 4. Discussion of the contents of NHTSA's draft ANPRM 5. Timing for completion		*Edmond Toy*	Noble Bowie Cc: *Richard Theroux*	6/9/2003
6/9/2003 at 1pm	Subject: Working group meeting… *John* gave me the "news" yesterday that he wanted us to work on the ANPRM, and he asked that we (NHTSA and OIRA) meet with him late next week to go over it… Any word yet on getting a draft today?	Jackson Room, White House Conference Center	*Edmond Toy*	Noble Bowie Cc: *Richard Theroux*	6/6/2003
6/12/2003	Subject: Meeting Thursday We're schedule to meet in	*John's office*	*Edmond Toy*	Noble Bowie Cc: *Richard Theroux*	6/6/2003

Meeting Date & Time	*Email Content*	*Meeting Location*	*Email Author*	*Email Recipient(s)*	*Email Date*
	John's office next Thursday at 2pm.				

Notes

[1] *See* Jo Becker & Barton Gellman, *Leaving No Tracks*, Wash. Post, June 27, 2007, at A1. *See also generally* Washington Post, *Angler: The Cheney Vice Presidency*, *available at* <http://blog.washingtonpost.com/cheney>.

[2] 71 Fed. Reg. 17.566 (April 6, 2006).

[3] *See* Public Citizen, Comments on Reforming the Automobile Fuel Economy Standards (ANPRM), May 14, 2004, at 25-27, 33-43, *available at* <http://www.citizen.org/documents/ACF938B.pdf>.

[4] *See* Cindy Skrzycki, *Consumer Group Says OMB Is Meddling With Fuel Efficiency*, WASH. POST, July 13, 2004, at E1.

[5] The emails and calendar entries are summarized in Appendix II, and the full text of them is available online at www.citizen.org/cheneyscafe.

[6] *See* Email from Edmond Toy, Dec. 2, 2002, summarized in Appendix II and available online at www.citizen.org/cheneyscafe.

[7] The emails and calendar entries reveal meetings taking place frequently at the offices of the Council on Environmental Quality at 722 Jackson Place NW, Washington, D.C., with others taking place primarily in White House Conference Center and OMB. Quite a few appear to have taken place in OMB offices, although they are unclear: one in "John's office" (possibly the office of John Graham, then-administrator of the OMB Office of Information and Regulatory Affairs), with others taking place in locations identified only by room number, possibly the OMB offices in the second and tenth floors of the New Executive Office Building.

[8] *See* Appendix II (summarizing email of May 20, 2002, incorporating a memo co-signed by Graham and Runge announcing the establishment of the working group).

[9] *See id.* (reflecting Nov. 20, 2002 meeting that took place at OMB and June 6, 2003 meeting that took place in "John's office").

[10] *See id.* (summarizing June 9, 2003 email from OIRA staff Edmond Toy announcing the agenda of the next CAFE Working Group meeting).

[11] *See id.* (summarizing Edmond Toy emails of June 9, 2003 (adding "[d]iscussion of the contents of NHTSA's draft ANPRM" and "[t]iming for completion" as agenda topics," and following up with, "John gave me the 'news' yesterday that he wanted us to work on the ANPRM, and he asked that we (NHTSA and OIRA) meet with him late next week to go over it . . . . Any word yet on getting a draft today?")).

[12] Public Citizen documented the parallels between the concepts in papers written by John Graham before he was named OIRA administrator and the concepts in the light truck rule in its comments to the light truck rule docket (number 2003-16128), available online at <http://www.citizen.org/documents/CAFE_structure_comments.pdf>.

[13] John D. Graham, *The Evolving Role of the U.S. Office of Management and Budget in Regulatory Policy* 10 (AEI-Brookings Joint Ctr. on Reg. Pol. Working Paper No. 07-04, Feb. 2007), *available at* <http://aei.brookings.edu/admin/authorpdfs/page.php?id=1364>.

[14] *See* Barton Gellman & Jo Becker, '*A Different Understanding With the President*,' WASH. POST, June 24, 2007, at A1, *available at* <http://blog.washingtonpost.com/cheney/chapters/chapter_1/>.

[15] Jo Becker & Barton Gellman, *A Strong Push from Backstage*, WASH. POST, June 26, 2007, at A1.

[16] *See* Gellman & Becker, *supra* note 14.

[17] 71 Fed. Reg. 17,566, 17,572.

[18] *See* Michael Abramowitz & Steven Mufson, *Papers Detail Industry's Role in Cheney's Energy Report*, WASH. POST, July 18, 2007, at A1.

[19] U. S. General Accounting Office, "Energy Task Force: Process Used to Develop the National Energy Policy," Report No. GAO-03-894, Aug. 2003.

[20] Natural Resources Defense Council, "Data Shows Industry had Extensive Access to Cheney's Energy Task Force," Press Release, May 21, 2002.

[21] *National Energy Policy*, Report of the National Energy Policy Development Group, May 2001, at viii.

[22] *Id.* at 4-9-10.

[23] Graham, *supra* note 13, at 9 (emphasis added).

[24] 68 Fed. Reg. 74,908 (Dec. 29, 2003).

[25] 70 Fed. Reg. 51,414 (Aug. 30, 2005).

[26] 71 Fed. Reg. 17,566 (Apr. 6, 2006).

[27] *See* Ctr. for Biol. Diversity v. Nat'l Highway Traffic Safety Admin., Docket Nos. 06-71891, 06-72317, 06-72694, 06-73807 & 06-73826 (9th Cir.).

[28] Although touted as raising fuel economy standards for cars and trucks combined to 35 mpg, the fuel economy language in the Senate energy bill actually sets only a *target* of 35 mpg, with the option for the administration to go *below* 35 mpg if it justifies doing so with a cost-benefit analysis.

[29] 71 Fed. Reg. at 17,570.

[30] 70 Fed. Reg. at 51,442.

[31] Thomas S. Turrentine & Kenneth S. Kurani, *Car buyers and fuel economy?*, 35 ENERGY POLICY 1213 (2007).

[32]DaimlerChrysler was the most highly dependent on truck sales with 72 percent of their 2005 sales volume coming from light trucks, Ford was 58 percent and, GM was 55 percent. Japanese auto manufacturers were around 40 percent, with Toyota at 41, Honda at 40 percent and Nissan selling 42 percent light trucks. BMW had 28 percent of its sales volume in trucks, and Volkswagen was at just 8 percent. (Sales volume data from October 2006 Summary of Fuel Economy Performance published by the National Highway Traffic Safety Administration)

[33] Alex Lawler, *IEA Sees Oil Supply Crunch Looming*, Reuters, July 9, 2007.

[34] U.S. Energy Information Administration. "U.S. Regular All Formulations Retail Gasoline Prices (Cents per Gallon)." Updated as of 7/9/2007. available at: http://tonto.eia.doe.gov/dnav/pet/hist/mg_rt_usA.htm

[35] Rick Popely, *Long-Term Car Loans Discouraging New Sales*, THE PROVIDENCE JOURNAL, July 15, 2007, available at <http://www.projo.com/projocars/content/ca_longloandebt_07-15-07_SC5S53O.cb7c68.html>.

[36] *See* Edmunds.com, "Edmunds.com Reports Automakers' True Cost of Incentives: Large SUVs are the Most Subsidized Vehicles in the Industry," Press Release, Jul. 29, 2003; Richard Truett, *GM Doubles Some Light Truck Incentives*, AUTOMOTIVE NEWS, Jul. 9, 2007.

[37] *See* Harry Stoffer, *New CAFE Rules Could Backfire*, AUTO. NEWS, Apr. 3, 2006.

[38] Stephen Summers, Aloke Prasad & William Hollowell, "NHTSA's Research Program for Vehicle Aggressivity and Fleet Compatibility," Proceedings of the Seventeenth Annual International Conference on Enhanced Safety of Vehicles, Paper No. 249, June 2001.

[39] KEITH BRADHSER, HIGH AND MIGHTY 188 (2002).

[40] *Id.*

[41] *Id.*

[42] *Id.* at 198.

[43] 71 Fed. Reg. at 17,568.

[44] *Ibid*.

[45] 49 U.S.C. § 32902(f).

[46] For more, including ways to incorporate feasibility as an alternative to cost-benefit analysis, see David M. Driesen, *The Feasibility Principle* (CPR White Paper No. 407, Dec. 2004), *available at* <http://progressiveregulation.org/articles/Feasibility_407.pdf>.

[47] *See* David M. Driesen, *Is Cost-Benefit Analysis Neutral?: An Analysis of the Bush Administration's Approach to Environmental, Health, and Safety Protection* 60 (Feb. 2005), *available at* <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=663602>.

[48] *Id.* at 58-59.

[49] *See* Public Citizen, *Not Too Costly, After All: An Examination of the Inflated Cost-Estimates of Health, Safety and Environmental Protections* 2-8 (Feb. 2004), *available at* <http://www.citizen.org/documents/ACF187.pdf>.

[50] *See* Thomas O. McGarity & Ruth Ruttenberg, *Counting the Cost of Health, Safety, and Environmental Regulation*, 80 TEX. L. REV. 1997, 2045 (2002).

[51] *See* Public Citizen, *Not Too Costly*, *supra* note 49, at 10-50.

[52] *See* Michael E. Porter & Claas van der Linde, *Toward a New Conception of the Environment-Competitiveness Relationship*, 9 J. ECON. PERSPECTIVES 97 (1995). *See also* OMB Watch, *The Going-Out-of-Business Myth* (July 2005),

available at <http://www.ombwatch.org/regs/cba/outofbusinessmyth.pdf> (summarizing the case against industry's claims of unbearable burden from regulation and the case for innovation offsets).

[53] *See generally* LISA HEINZERLING & FRANK ACKERMAN, PRICING THE PRICELESS: COST-BENEFIT ANALYSIS OF ENVIRONMENTAL PROTECTION (Geo'town Entl. L. & Pol. Inst. 2002).

[54] 70 Fed. Reg. 51,455. Aug. 30, 2005.

[55] Robert Heavenrich, *Light Duty Automobile Technology and Fuel Economy Trends: 1975 through 2006*, EPA420-S-05-0001 (July 2005).

[56] *Id.*

[57] John Sununu, *Hydrogen Cars as Snake Oil*, THE HILL, June 20, 2005.