

HENRY'S DATES: MEDICARE PART D

One of the reasons it was so unwise for Tony Fratto to open his big fat mouth today regarding the White House habit of losing emails is because it offered Waxman an excuse to make previously unreleased information publicly available—an excuse Waxman was not about to turn down. Waxman released a chunk of dates for which offices in the White House have no archived email (note, this list does not appear to include all of the dates for which there is no email, nor does it include dates for which the email volume is smaller than it should be).

For the White House Office: December 17, 2003, December 20, 2003, December 21, 2003, January 9, 2004, January 10, 2004, January 11, 2004, January 29, 2004, February 1, 2004, February 2, 2004, February 3, 2004, February 7, 2004, and February 8, 2004.

For the Office of the Vice President: September 12, 2003, October 1, 2003, October 2, 2003, October 3, 2003, October 5, 2003, January 29, 2004, January 30, 2004, January 31, 2004, February 7, 2004, February 8, 2004, February 15, 2005, February 16, 2005, February 17, 2005, May 21, 2005, May 22, 2005, May 23, 2005.

For the Council on Environmental Quality: 81 days, including the entire period between November 1, 2003 through January 11, 2004.

For the Council of Economic Advisers: 103 days, including the entire period between November 2, 2003 through January 11, 2004.

For the Office of Management and Budget: 59 days, including the entire period between November 1, 2003 through

December 9, 2003.

For the U.S. Trade Representative: 73 days, including the entire period between February 11, 2004 through April 18, 2004.

And as a good weedy blogger, I thought this a wonderful opportunity to try to figure out any significance for the dates.

I'm going to go back and look out how the dates for the WH and OVP correlate with the Plame investigation. But for now, I'd like to raise one red flag regarding the dates as it pertains to the missing email: All the emails from OMB for the period covering the lead-up to and immediate aftermath of the passage of Medicare Part D are gone.

You'll recall that the final version the Medicare bill passed the House on November 22, 2003 and the Senate on November 25. Passage in the House was particularly contentious, with the vote taking place at 3 AM and one Republican Congressman—Nick Smith—alleging that Tom DeLay offered him a bribe to vote in favor of the bill (he did not).

GOP leaders held the vote open for nearly three hours. House Speaker Dennis Hastert, who customarily leaves partisan arm-twisting to others, was actively involved. So was Tommy Thompson, President Bush's secretary of Health and Human Services, even though Cabinet members seldom enter the House or Senate chambers.

Media reports have alleged that an undisclosed Republican told Rep. Nick Smith, R-Mich., that if he voted for the bill, business interests would contribute \$100,000 to help his son, Brad, succeed him. Smith is not seeking re-election in 2004. His son is one of several Republican candidates running for the seat.

"Not only was this bribe offered to a member of Congress, it was offered on the floor of the House of Representatives by another member of Congress," McAuliffe wrote Ashcroft.

Chief among the objections for people like Smith was the cost of the program, then predicted to be around \$400 billion. Less than two months after the passage of the bill, on January 29, the White House revealed that the cost of the legislation was actually much higher than it had forecast publicly.

Bush administration officials had indications for months that the new Medicare prescription drug law might cost considerably more than the \$400 billion advertised by the White House and Congress, according to internal documents and sources familiar with the issue.

The president's top health advisers gathered such evidence and shared it with select lawmakers, congressional and other sources said, long before the White House disclosed Thursday that it believes the program will cost \$534 billion over the next decade – one-third more than the estimate widely used when Congress enacted the measure in November.

The higher forecast, coming less than two months after President Bush signed the landmark bill into law, has fueled conservative criticism of White House spending policies and prompted accusations that the administration deliberately withheld financial information as it pushed the bill through a divided Congress.

Bush, addressing the controversy yesterday, said aides first gave him a complete budget estimate for the

Medicare law two weeks ago. "The Medicare reform we did is a good reform, fulfills a long-standing promise to our seniors," he said of the law, which will offer elderly Americans help in paying for medicine and encourage them to join private health plans.

Sources familiar with the issue agreed that the White House did not finish its fiscal assessment of the law until this month.

[snip]

The White House's new cost estimate, disclosed Thursday by Budget Director Joshua B. Bolten at a briefing for GOP lawmakers, drew escalating complaints yesterday from some Democrats and conservative Republicans who had opposed the law.

"The question is what did they know and when did they know it?" said Rep. Fortney "Pete" Stark (D-Calif.). [my emphasis]

Now, the really incendiary communications about the bill took place much earlier, in June, when the Medicare actuary, Richard Foster, first calculated the true cost of the program. But Foster was threatened with termination if he revealed those higher costs.

Medicare chief actuary Richard Foster told lawmakers Wednesday he had shared his higher estimate of the cost of the Medicare prescription drug bill with White House, Health and Human Services and Office of Management and Budget officials, but Democrats angered by the administration's suppression of that higher price tag did not find the "smoking gun" they were seeking in the controversy.

In testimony before the House Ways and

Means Committee, Foster for the first time discussed publicly how Thomas Scully, the former director of the Centers for Medicare and Medicaid Services (CMS), threatened to fire him if he responded to requests by members of Congress seeking cost estimates of the Medicare bill that Congress passed last year.

The Congressional Budget Office had estimated the new law would cost \$395 billion, while Foster's tally was \$534 billion. Many conservatives resisted the bill, and others were only convinced to support it by promises that it would not top \$400 billion.

The several investigations regarding the cost of the program (including one launched by Waxman as the minority leader of House Oversight) have focused on this earlier period. But one big question remains—whether, in the development of its budget during the last months of 2003, the Bush Administration finalized its cost for the program, and if so, whether they did so before Bush signed the bill on December 8. At least last year, the Office of the Administration said there were no OMB emails archived from the beginning of November until the day after Bush signed the Medicare bill, December 9, 2003. So if we're going to pinpoint whether Bush knew he had lied about the cost of the Medicare before it became law, we're going to have a difficult time doing so by using OMB email.