

To: Environmental Planning, Office of Safety and Environment, Management Directorate, Department of Homeland Security, Washington, D.C. 20528

Mr. David Reese, Office of Safety and Environment, Department of Homeland Security

Faxed: (202) 772-9749, July 12th, 2004

Subject: Department of Homeland Security draft directive containing policy and procedures for implementing the National Environmental Policy Act of 1969 (NEPA), as amended, Executive Order 11514, as amended, Executive Order 12114, and Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508).

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We request to be contacted with further notices regarding this issue.

If finalized, this proposal would carve a major loophole in the 34-year-old law which is the keystone of much modern environmental law — the National Environmental Policy Act. NEPA required that the federal government publicly disclose the environmental impacts of major federal actions before they are taken.

The DHS initiative was published as a "proposed directive" in the Federal Register of June 14, 2004 (pages 33043-33066). The proposal is currently open for public comment; the deadline for submitting comments is July 14, 2004.

The directive applies only to DHS actions, but these actually cover a broad array of topics that environmental reporters might cover. DHS jurisdiction includes things ranging from oil spills (Coast Guard); hazmat and hazardous transportation; flood plain designation (FEMA); and chemical plant security; to standards for cleanup after a nuclear accident.

The directive would restrict access to part or all of some Environmental Impact Statements (and Assessments). It includes provisions for segregating the portions DHS does not want to publish and publishing the rest. It also would allow DHS to redact (black out) the whole document if it chooses.

The above proposed directive should NOT be implemented and Department of Homeland Security should not interfere or change the way NEPA presently works.

Sometimes the documents that support the conclusions and findings in an EIS are as important as the EIS itself. The directive would apply to them, too. Without them, it is often impossible for journalists or public to challenge effectively the findings in an EIS.