

ADMIN-SE

From: S. McCarthy [smccarth@dcn.org]
Sent: Tuesday, July 13, 2004 11:58 AM
To: ADMIN-S&E
Subject: Comments regarding DHS proposed changes to NEPA

Stop UCD Biolab Now
129 C Street, Suite 2
Davis, CA 95616

July 13, 2004

Mr. David Reese,
Office of Safety and Environment
Management Directorate
Department of Homeland Security
Washington, D.C. 20528

Re: Department of Homeland Security Draft Directive for implementing the
National Environmental Policy Act

Dear Mr. Reese:

I was told that you would accept, include in the administrative record, and acknowledge public comments on the proposed DHS changes to NEPA via email. Please include the below comments in the administrative record and send me an acknowledgement of receipt of my comments to this email address: smccarth@dcn.org. If these comments are not to be accepted via email, please alert me so that I can Fax them in for inclusion in the public record.

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 requires 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 directive applies only to DHS actions, but these actually cover a broad array of topics that environmental impact statements 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. The primary purpose of NEPA is to inform the public and decision makers of the potentially significant environmental impacts of a proposed. Any restrictions on the public disclosure of potential environmental impacts of a federal action would serve to defeat the very purpose of NEPA and environmental impact statements. Without the public disclosure and public review, there is little or no purpose to NEPA.

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. Finally, there is no legal basis for the proposed regulation/directive as it violates NEPA.

Very truly yours,

Samantha McCarthy