



Secrecy in the Bush Administration Obstructs Communities' Right-to-Know

The Bush Administration is reducing Americans' access to public information that protects our health and our environment. The administration has removed public information from agency websites, issued executive orders that empower agencies to withhold public information, and drafted legislation that allows companies to hide basic health and safety information. These changes go well beyond the classification procedures that for years have protected legitimate government secrets. Below is a partial accounting of Bush Administration actions that obstruct communities' environmental right-to-know.

Secrecy In Cyberspace

In recent decades, a broad public movement has sought better public right-to-know about the actions of government and industry that affect pollution and health. In response, affected industries and their politicians have advanced roadblocks to disclosure. The attacks of 9-11 accelerated secrecy, as government agencies removed public information from websites. Agencies have already removed more than six thousand public documents, according to the Center for American Progress. As a result, the public is now less able to hold government and industry accountable, and less able to make informed decisions affecting lives, families and communities. OMB Watch documents the following examples:



- The Environmental Protection Agency removed previously public portions of Risk Management Plans from its website, which communities use to identify chemical hazards where they live;
- The Department of Transportation took down most of the national pipeline mapping system that enables communities to identify hazardous pipeline routes;
- The U.S. Geological Survey instructed all government libraries to destroy copies of a CD-ROM describing public water supplies, used by communities to protect source water;
- The Department of Energy removed environmental impact statements that alerted local communities to potential dangers from

nearby nuclear energy plants, as well as information on the transportation of hazardous materials.

Other federal entities that have removed public information from web sites include:

- Toxic Substances and Disease Registry
- Federal Energy Regulatory Commission
- Bureau of Transportation Statistics
- Federal Aviation Administration
- Internal Revenue Service
- National Archives and Records Administration
- Nuclear Safety Center
- National Imagery and Mapping Agency
- NASA Glenn Research Center
- Nuclear Regulatory Commission.

Secrecy Memos

In October 2001, US Attorney General John Ashcroft issued a memo encouraging government agencies, where defensible, to deny Freedom of Information Act (FOIA) requests. In his own words, "When you carefully consider FOIA requests and decide to withhold records, in whole or in part, you can be assured that the Department of Justice will defend your decisions unless they lack a sound legal basis..."

In March 2002, White House Chief of Staff Andrew Card issued a memo calling for creation of a new "sensitive but unclassified" designation for information and urging agencies to be more careful in what they made available to the public.

Secrecy Executive Orders

President Bush has signed several executive orders granting agencies new authority to classify information. These executive orders grant the Secretary of Health and Human Services, Secretary of Agriculture and Administrator of the Environmental Protection Agency "original classification authority." In addition, in March 2003 Bush signed an executive order that amended a 1995 order by former president Bill Clinton, greatly strengthening government officials' powers to classify information.

Secrecy Legislation

Homeland Security Act

In November 2002, Congress passed the Homeland Security Act. This law allows businesses to secretly communicate "critical infrastructure vulnerabilities" to the Department of Homeland Security. These voluntary communications are exempt from the Freedom of Information Act and unavailable to regulators to enforce public safety protections.

The Sensitive But Unclassified (SBU) provision of the Homeland Security Act establishes a new category of semi-secret "sensitive but unclassified" information. Interpreted broadly, this provision allows the President to restrict almost any governmental information with little or no review, including information already made public under other laws. The procedures for restricting information will burden state and local officials, including health professionals, with secrecy agreements that prevent them from informing the public and receiving public pressure to fix problems.

Data Quality Act

In December 2000, the Data Quality Act passed without congressional debate as a last minute addition to an unrelated spending bill. The Act lets stakeholders challenge the quality of data that agencies use to write reports warning of public health hazards, or that underlie protective regulations. Each challenge must be met with an agency response, causing burdens that could delay protective rules or prevent information from reaching the public.

OMB-Watch has documented dozens of unwarranted and exaggerated data quality challenges from industries. For example, the Salt Institute challenged information from the Department of Health and Human Services that suggests lower salt intake can help reduce high blood pressure. Visit www.ombwatch.org/article/articleview/1419/ to see more data quality challenges.

White House Secrecy Guidelines

In April 2003 the White House proposed its most recent ‘Bulletin on Peer Review and Information Quality’ that adds more layers of review to existing peer review guidelines for scientific studies that support government policies. The guidance allows flagrant industry conflicts of interest on peer review panels that involve “highly influential scientific information.” As a result, industries will have more opportunities to hold up public health protections by challenging supporting scientific information. The White House backed away from requiring agencies to seek its approval before warning the public about emergencies such as mad cow disease, drug reactions, or imminent health hazards, but only after strong objections from the scientific community.

Secrecy Hits Home

Stories of secrecy affecting peoples’ basic right-to-know about environmental and health concerns are emerging from across the country as Bush administration secrecy policies trickle down into state and government disclosure decisions. For example:

- Floyd County, Va. resident Joseph McCormick discovered plans to run a high-volume natural gas pipeline through his community. The Federal Energy Regulatory Commission denied him previously public information on the proposed pipeline route that he needed to educate and organize his neighbors. At least 213 people have been killed and 837 injured in more than two thousand natural gas pipeline incidents in the United States in the past 10 years, according to U.S. News and World Report.
- A water utility in Fairfax County, Va. denied maps and contamination inventories included in ‘Source Water Assessments’ (SWAs) to local government officials in neighboring Loudon County, who were seeking the information to develop a water resources protection plan for their county. While states and utilities must consider security issues when dealing with sensitive information, SWAs are critical to drinking water protection. SWAs enable communities to understand sources of pollution, to make the case for better source water protection, and to participate effectively at watershed planning meetings.
- A citizen's group in Aberdeen, Md. had to resort to the courts to regain access to maps held by the Army that detail the location of water contamination in neighborhood drinking water wells. The conflict came after Deputy Defense Secretary Paul Wolfowitz, issued a memo instructing DOD employees to protect "sensitive but unclassified information" that could be "compiled to reveal sensitive conclusions." These new DOD restrictions are colliding with citizens’ right-to-know about environmental contamination.
- The Department of Justice has denied citizens access to information on chemical plant safety by failing to set up appointments for citizens that wish review chemical accident data. The data informs communities whether they are in harms way from potential chemical plants accidents. Hiding this information reduces the pressure that the public can bring to bear on facilities to make plant operations safer.