



# Public Employees for Environmental Responsibility

2000 P Street, NW, Suite 240 • Washington, DC 20036

Phone: (202) 265-PEER • Fax: (202) 265-4192

Email: [info@peer.org](mailto:info@peer.org) • Web: <http://www.peer.org>

July 24, 2018

Mr. Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Avenue, NW  
Washington DC 20460

Dear Acting Administrator Wheeler:

As you well know, EPA's very first Administrator, William Ruckelshaus, famously promised that the agency "would operate in a fishbowl." Rather than a fishbowl, your hyper-secretive predecessor Scott Pruitt turned EPA into an information bunker, where business was conducted behind closed doors sealed with biometric locks. That secrecy fed public mistrust and internal paranoia. It has also unnecessarily hindered EPA from fully accomplishing its mission.

You have an opportunity not just to reverse some of Pruitt's secrecy but to open EPA back up to levels of openness that will both better serve the public and strengthen the agency. Thus, we at Public Employees for Environmental Responsibility (PEER) were happy to hear your statements about the need for transparency at EPA.

Thus far, however, we have only seen cosmetic changes. It is good that your appointment calendars are posted and that reporters are not barred from briefings. Fundamental transparency requires far more. By this letter we suggest that you consider three steps that would increase the flow of information both coming out of and going into the agency.

These steps concern: 1) the ability of EPA scientists and other specialists to publish and make presentations to professional societies in their field; 2) the completeness of the record that EPA produces to explain its decisions; and 3) removal of political screening of presenters at EPA webinars, conferences, and other gatherings. Taking each in turn:

## **1. Publication Protocols**

Unlike other federal agencies, EPA still does not have an agency-wide procedure or rule governing the ability of staff to submit materials for publication in peer reviewed journals or to make poster presentations at scientific conferences. PEER urges you to adopt a clear, simple assurance that such actions are encouraged and do not require agency pre-review or prior approval.

Back in 2013, when EPA adopted its Scientific Integrity Policy, the agency signaled that it would create “an Agency-wide framework for the approval of scientific communications.” In the succeeding years, however, no such framework emerged. This means that scientific and technical publications and presentations by agency staff remain subject to the complete discretion of EPA’s chain-of-command.

Despite assurances by EPA’s Scientific Integrity Policy, there are no protections for EPA employees “who express a differing scientific opinion, from retaliation or other punitive actions.” This lack of a clear path creates a chilling effect in which scientists are forced to take career risks when they disseminate or discuss research results, activities other scientists take for granted.

By contrast, other federal agencies, such as the U.S. Fish & Wildlife Service have clear policies that allow their staff to publish and speak with only to a simple disclaimer that their views do not represent the official stance of the agency. If one federal agency that regularly deals with controversial topics allows open publication by its scientific staff without adverse consequence, why can’t EPA?

In short, PEER urges you to fill in these gaps that your Scientific Integrity Policy highlights need leadership attention.

## **2. Administrative Records**

More than 35 years ago in his May 19, 1983 Fishbowl Memorandum, Administrator Ruckelshaus wrote:

“In either formal or informal rulemaking proceedings under the Administrative Procedures Act, EPA employees must ensure that the basis for the Agency’s decision appears in the record. Therefore, be certain (1) that all written comments received from persons outside the Agency (whether during or after the comment period) are entered in the rulemaking docket, and (2) that a memorandum summarizing any significant new factual information or argument likely to affect the final decision received during a meeting or other conversations is placed in the rulemaking docket.

You are encouraged to reach out as broadly as possible for views to assist you in arriving at final rules. However, you should do so in a manner that ensures, as far as practicable, that final decisions are not taken on the basis of information or arguments which have not been disclosed to members of the public in a timely manner.”

Under succeeding Administrators, and particularly under Mr. Pruitt, administrative records have been edited down to only that material supporting the official talking points undergirding the decision. PEER urges you to make EPA decision-making open and inclusive, in which dissenting views are acknowledged and confronted on the substance.

To that end, we suggest that you emulate Mr. Ruckelshaus and issue a new memorandum

directing that administrative records EPA produces for its regulatory decisions contain all information considered, not just material that supports the decision.

### **3. Political Screening of Speakers and Presenters**

EPA employees have reported to PEER that the Office of Public Affairs routinely screens presenters for agency external webinars and speaking engagements. The OPA has no technical expertise in the subject matter of these presentations and should not overrule the judgment of your specialists.

Further, this apparent political screening of speakers disserves the agency and lessens its credibility. We would request that you end this practice and remove the EPA Office of Public Affairs from any role in screening which agency or outside speakers may appear at conferences, webinars, or other presentations.

In closing, you have an historic opportunity to open a chapter of transparency, candor, and inclusion in an agency that badly misses the benefits of sunlight.

Sincerely,



Jeff Ruch  
Executive Director



Kyla Bennett  
Science Policy Director