



Dear Colleagues,

In 1983, Administrator William D. Ruckelshaus testified before Congress and committed EPA to operating “in a fishbowl.” In February, when I appeared before Congress, I pledged transparency at EPA and I am asking each one of you to help me ensure the agency operates in full compliance with this principle.

Under President Biden’s leadership, EPA will take on the climate crisis, advance environmental justice, restore the role of science, protect public health, and rebuild stronger than before. To achieve these significant goals, we must earn the public’s confidence.

From Ruckelshaus’s first fishbowl memo to the one I’m sharing with you today, one thing has remained consistent – public trust requires transparency. Earning the public’s trust is no easy task, especially in an era where that trust feels more fractured than ever. As we emerge from a painful pandemic, restoring the public’s confidence is critical to meeting our mission to protect human health and the environment. With a dedication to open communication, fairness, and transparent engagement with the public, I’m confident we will succeed.

This memo follows in a long tradition of fishbowl memos at EPA and lays out guidance for EPA employees on transparency and contacts with persons outside the agency.

### **General Principles**

In all its programs, EPA will provide for the fullest possible public participation in decision-making. This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions. This includes communities of color; Native Americans; rural communities; low-income communities; small businesses; local governments, Tribes, and states; and those who have been historically underrepresented in EPA decision-making. Consistent with the goals laid out by President Biden in E.O. 13985, EPA will also continually assess whether, and to what extent, our approach to public transparency perpetuates barriers to opportunities and benefits to people of color and other underserved groups, with a goal of delivering resources, benefits, and opportunities equitably to all. EPA will not accord privileged status to any special interest, nor will it accept any recommendation or proposal without careful, critical, and independent examination.

### **Appointment Calendars**

To keep the public fully informed of my contacts with interested persons, I have directed that a simplified copy of my appointment calendar, showing meetings with members of the public, be made available to the public on the EPA website on an ongoing basis. I also direct other senior agency officials, including the Deputy Administrator, the Assistant Administrators, and the Regional Administrators, to make their appointment calendars available to the public in a similar fashion.

### **Freedom of Information Act Policy**

The Freedom of Information Act should be administered with a clear presumption that openness prevails. The Freedom of Information Act (FOIA) Federal Advisory Committee chartered by the National Archives and Records Administration (NARA) recommended, in its [July 2020 Final Report and Recommendations](#) from the 2018-2020 Committee Term, that federal agency “leadership annually issue a memorandum reminding the workforce of its responsibilities and obligations under FOIA.” Following this recommendation, I will issue a separate memorandum specifically addressing FOIA implementation as a key tool for promoting transparency, and I will do so annually.

### **Rulemaking Proceedings**

Much of EPA’s business is conducted through rulemaking. It is crucial that we apply the principles of transparency and openness to the rulemaking process. This can only occur if EPA clearly explains the basis for its decisions and the information considered by the agency appears in the rulemaking record. Therefore, each EPA employee should ensure that all written comments regarding a proposed rule received from members of the public, including regulated entities and interested parties, are entered into the rulemaking docket.

Robust dialogue with the public enhances the quality of our decisions. EPA offices conducting rulemaking are therefore encouraged to reach out as broadly as possible for the views of interested parties. However, while EPA may and often should meet with groups and individuals, we should attempt, to the maximum extent practicable, to provide all interested persons with equal access to EPA. In addition, it is essential to ensure that the public receives timely notice, as far as practicable, of information or views that have influenced EPA’s decisions. This means that EPA employees must summarize in writing and place in the rulemaking docket any oral communication during a meeting or telephone discussion with a member of the public or an interested group that contains significant new factual information regarding a proposed rule.

Questions about how to handle comments and other communications regarding a proposed rule should be directed to the appropriate program office personnel, attorneys in the Office of General Counsel, or regional staff working on the specific rulemaking.

I am committed to making use of tools and technology to increase outreach and interaction with the public and Tribes. In President Biden’s Presidential Memo on Tribal Consultation and Strengthening Nation-to-Nation Relationships, he states, “My Administration is committed to honoring Tribal sovereignty and including Tribal voices in policy deliberation that affects Tribal

communities. The Federal Government has much to learn from Tribal Nations and strong communication is fundamental to a constructive relationship.”

Public participation in agency rulemaking proceedings may take a variety of forms, including public hearings and meetings, workshops, forums, focus groups, surveys, roundtables, consultation, Federal Register notice-and-comment procedures, advisory committee meetings, informal meetings with interested parties, internet-based dialogues, and other opportunities for informal dialogue, consistent with applicable legal requirements. Consistent with President Biden’s direction in E.O. 13985, EPA will continuously evaluate opportunities, consistent with applicable law, to increase coordination, communication, and engagement with community-based organizations, civil rights organizations, and other communities or groups that have been historically underserved by, under-represented in, or subjected to discrimination by the federal government. I encourage staff to be creative and innovative in the tools we use to engage the public in our decision-making.

### **Litigation and Formal Adjudication**

EPA is engaged in a wide range of litigation. The conduct of litigation by the agency should reflect the principles of fairness and openness that apply to other EPA activities. However, we must also protect privileged litigation and enforcement-sensitive information from unauthorized disclosure. Communication with parties involved in litigation with EPA about that litigation should be through an attorney representing EPA in the case. Program personnel who receive inquiries about pending litigation from persons who are not parties to the litigation should consult with an attorney representing EPA in the case before responding. If you do not know which attorneys are representing EPA in a specific case, contact knowledgeable EPA lawyers, including the Office of General Counsel, the Office of Enforcement and Compliance Assurance, or an Office of Regional Counsel, as appropriate.

Formal adjudications (including certain administrative penalty proceedings and pesticide cancellation proceedings) are also governed by specific requirements that limit communications between EPA staff and interested parties. These limitations appear in the various EPA rules governing those proceedings. Information about these rules is available from the Office of General Counsel and on the EPA Intranet.

### **Contacts with Congress and the Press**

EPA often receives requests for records or information from Congress, including leadership of the House and the Senate, and the Chair of a Committee or Subcommittee with jurisdiction over EPA. It also receives informal requests from individual members of Congress and their staffs. I recognize the importance of Congressional oversight and encourage our programs to provide Congress with the information necessary to satisfy its oversight and legislative interests to the extent possible and consistent with our Constitutional and statutory obligations. Information requests from Congress should be handled in consultation with managers of the affected EPA programs and our legislative affairs staff in the Office of Congressional and Intergovernmental Relations.

EPA also should be accessible to the press, which performs a vital role in informing the public about EPA's actions. As we respond to press inquiries, the EPA staff should respect our internal deliberative processes and strive for accuracy and integrity in our communications. This will ultimately enhance public trust in the agency. When interacting with the press in the performance of your official duties, please coordinate with the managers of your program and media relations experts in the Office of Public Affairs.

Nothing contained in this memorandum interferes with your right to petition or to furnish information to Congress or a Member of Congress, as provided under applicable law, or to engage in protected whistleblowing activities.

## **Conclusion**

I look forward to working with you to restore public confidence in our agency and our mission. Fostering an open dialogue, rooted in fairness, respect, and transparency, will help us achieve the ambitious goals President Biden has laid before us and ensure EPA's credibility now and long into the future.

Please know that this memo is only the beginning of this conversation. I encourage you to share your ideas for how EPA can honor its commitment to ensuring public trust, leading with transparency, and operating in a "fishbowl" once again.

Michael S. Regan  
Administrator