

EPA

Seeing 'chilling effect,' unions push back on ethics memo

Kevin Bogardus, E&E News reporter

Published: Tuesday, May 9, 2017



U.S. EPA union workers march during the People's Climate March. Union officials and public interest groups are taking aim at the agency's ethics guidance. Photo by Emily Holden.

Several unions representing U.S. EPA employees are asking the agency to rework ethics guidance they believe could silence their members.

Union leaders based in the agency's Region 9 office wrote in a [letter](#) obtained by E&E News that the agency should clarify a recent ethics memo, a portion of which they believe "sets inappropriate limits on the First Amendment rights of EPA employees."

At issue is a Feb. 3 [email](#), sent out by EPA's Office of General Counsel, that said agency workers are free to speak their minds but warned them not to forget federal ethics rules when doing so ([Greenwire](#), Feb. 9).

In their March 24 letter, the union officials honed in on a portion of the guidance that said EPA employees should not give "undue prominence" to their work position or title.

"The implication of EPA's February 3rd Ethics Reminder is that not only should EPA employees should [sic] avoid referencing their EPA position or title but that even after

an appropriate disclaimer, it is unacceptable to discuss EPA experience and expertise because it would give 'undue prominence' to their EPA affiliation," said the letter.

The union leaders asked EPA to reject that interpretation and instead find that as long as agency employees say they are speaking in their personal capacity, they're free to reference their job positions and titles at EPA.

"Well, I'm human, and I breathe air, and I work at EPA. Are those enough disclaimers for you?" said Mark Sims, one of the union officials who signed the letter. "It has a chilling effect on EPA employees from speaking out."

Sims is president of the EPA unit of International Federation of Professional and Technical Engineers Local 20.

"As long as we make clear that we were speaking in our own capacity and not representing the views of the agency, we should be free to speak," Sims said.

Other union officials agreed with Sims' assessment of the ethics memo.

"The Feb. 3 guidance is not clear enough so that we feel our members can wind up inadvertently violating the ethics rules, or self-censoring for fear of violating the ethics rules," said Thelma Estrada, president of American Federation of Government Employees Local 1236, who also signed the letter.

"In other words, the ambiguity of that guidance can have a chilling effect on the EPA employee's First Amendment right to speak as a public citizen."

As of yesterday, the union officials said they hadn't heard back yet from EPA in response to their letter.

Jahan Wilcox, an EPA spokesman, said the agency does plan to address the concerns.

"The EPA will respond to the union through the labor relations process," Wilcox said.

"The ethics rules remain the same as always and have not changed because we have a new administration. This memo was just a reminder that employees should make clear when they are expressing a personal opinion."

The dispute over the ethics memo comes during a tense time at EPA.

President Trump has proposed massive budget cuts for the agency and has begun the rollback of several environmental rules. Some EPA staffers have been up in arms, joining protests against the Trump administration, including at the People's Climate March last month.

Jeff Ruch, executive director of **Public Employees for Environmental Responsibility**, called the ethics memo a "soft gag" on EPA employees wanting to speak out during difficult times at the agency.

"If you're an EPA climate scientist speaking on that topic, what other details could you possibly add to detract from the prominence of you being an expert? No one is going to care if you're blonde or short," Ruch said.

He said the memo carries "the threat of disciplinary action" against employees for speaking their minds.

"We will defend any EPA employee who gets in trouble for expressing their views, but that's not a good position for anyone to be in," Ruch said.

Want to read more stories like this?

[Click here](#) to start a free trial to E&E -- the best way to track policy and markets.

ABOUT GREENWIRE – THE LEADER IN ENERGY AND ENVIRONMENT NEWS

Greenwire is written and produced by the staff of E&E News. The one-stop source for those who need to stay on top of all of today's major energy and environmental action with an average of more than 20 stories a day, Greenwire covers the complete spectrum, from electricity industry restructuring to Clean Air Act litigation to public lands management. Greenwire publishes daily at 1 p.m.

The logo for E&E News, featuring the letters 'E&E' in a bold, blue, sans-serif font, followed by 'NEWS' in a lighter blue, sans-serif font.

E&E News
122 C Street NW 7th Floor Washington, DC 20001
Phone: 202-628-6500 Fax: 202-737-5299
www.eenews.net

All content is copyrighted and may not be reproduced or retransmitted without the express consent of Environment & Energy Publishing, LLC.
[Click here](#) to view our privacy policy.