

March 19, 2020

Russell T. Vought  
Acting Director  
U.S. Office of Management and Budget  
725 17th Street, NW  
Washington, D.C. 20503

Re: **Extension of Public Comments Amid COVID-19 Pandemic**

Dear Acting Director Vought:

We are a diverse group of 170 public interest, labor, and grassroots organizations representing millions of Americans. We write now to call upon you to require all executive branch agencies to hold open all active comment periods for their pending rulemakings as long as President Donald Trump's March 13, 2020 Declaration of a National Emergency concerning the COVID-19 pandemic remains in effect. We also call upon you to recommend that any independent agencies similarly hold open their active comment periods for their pending rulemakings. Furthermore, all affected comment periods should be extended for a reasonable period after the March 13, 2020 Declaration of a National Emergency concerning the COVID-19 pandemic has been lifted, which in no case should be less than 30 days. If an agency elects to commence a public comment period while the Declaration of National Emergency remains in effect, that period should be similarly be held open.

During this period, the normal Administrative Procedure Act (APA) exceptions from the notice-and-comment process for emergency rulemakings should still apply where appropriate (especially with regard to regulatory measures meant to address the COVID-19 pandemic). In addition, agencies should still proceed expeditiously on a pending rulemaking if it is subject to a legal deadline or whenever the agency deems that a delay would result in harm to public health or safety.

As you are aware, public participation is a central hallmark of the U.S. regulatory system, and the notice and comment process has become the primary vehicle by which the public has been afforded an opportunity to make their views on new rulemakings known to agency decision-makers. Indeed, Section 553 of the APA enshrines this process by requiring agencies to "give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments." Without this opportunity for public participation, we risk lower-quality rules as well as a rulemaking process that lacks sufficient public accountability and legitimacy.

The arrival of the COVID-19 pandemic, however, threatens to deprive members of the public of this opportunity to meaningfully participate in open rulemakings. Increasingly, a wide range of stakeholders in these rulemakings – such as businesses and civil society organizations – are being forced to close their doors to protect their workers against the risk of exposure to COVID-19. As such, their ability to continue to monitor open rulemakings and develop useful comments for agency decision-makers is being hindered, if not blocked outright. Holding open active

public comment periods until these stakeholders are able to resume normal operations will ensure that they are able to meaningfully participate in those rulemakings consistent with the letter and spirit of the APA.

Holding open active comment public comment periods will benefit federal agencies, as well. It will ensure they are able to gather better public feedback on their active rulemakings, leading to better substantive outcomes. Likewise, it will reduce the need for public servants to work in agency offices where they would be unnecessarily exposed to COVID-19.

This blanket approach to holding open public comment periods is especially important in the case of rulemakings for which an agency expects to, or should in the public interest, conduct public hearings in conjunction with the notice-and-comment process. It goes without saying that such public hearings should be postponed until pandemic conditions have cleared. Such postponements would only make sense, however, if the accompanying public comment period likewise remains open.

The arrival of the COVID-19 pandemic in the United States requires that we all do our part to protect ourselves and our fellow citizens against unnecessary risks of exposure to this deadly disease. As Acting Director of the Office of Management and Budget (OMB), you can do your part by ensuring that our opportunities for participatory governance remain properly balanced against the critical demands we now face to protect public health.

We appreciate your attention to these requests.

Sincerely,

Alaska Community Action on Toxics  
Allegheny-Blue Ridge Alliance  
American Atheists  
American Booksellers Association  
American Friends Service Committee  
American Immigration Lawyers Association  
Amnesty International USA  
Anacostia Riverkeeper  
Arundel Rivers Federation, Inc.  
Assateague Coastal Trust  
Atchafalaya Basinkeeper  
Athlete Ally  
Audubon Naturalist Society  
Baltimore Green Space  
Bayou City Waterkeeper  
Beneficial State Foundation  
Black Warrior Riverkeeper  
Breast Cancer Prevention Partners  
Calusa Waterkeeper  
Catawba Riverkeeper Foundation

Center for American Progress  
Center for Auto Safety  
Center for Biological Diversity  
Center for Constitutional Rights  
Center for Digital Democracy  
Center for Environmental Health  
Center for Law and Social Policy (CLASP)  
Center for Progressive Reform  
Center for Reproductive Rights  
Center for Victims of Torture  
CenterLink: The Community of LGBT Centers  
Chattahoochee Riverkeeper, Inc.  
Chesapeake Climate Action Network  
Citizens for Pennsylvania's Future (PennFuture)  
Citizens for Responsibility and Ethics in Washington (CREW)  
Clean Water Action  
Coalition for Humane Immigrant Rights  
Coastal Carolina Riverwatch  
Communications Workers of America (CWA)  
Conservation Law Foundation  
Constitutional Alliance  
Consumer Action  
Consumer Federation of America  
Coosa River Basin Initiative/Upper Coosa Riverkeeper  
Crystal Coast Waterkeeper  
Demand Progress  
DHS Watch, a project of America's Voice  
Disability Rights Education & Defense Fund  
Dr. Yolanda Whyte Pediatrics  
Earthworks  
Education Law Center - PA  
Endangered Species Coalition  
Environmental Integrity Project  
Environmental Protection Network  
Environmental Stewardship  
Equality California  
Equality North Carolina  
Farmworker Association of Florida  
First Focus on Children  
FOGH (Friends of Grays Harbor)  
FORGE, Inc.  
Free Government Information  
Freedom Overground  
FreedomWorks  
Friends of Buckingham County, Virginia  
Friends of the Chemung River Watershed

Friends of the Earth  
Global Witness  
GLSEN  
Government Accountability Project  
Government Information Watch  
Grand Riverkeeper, LEAD Agency, Inc.  
Greenpeace USA  
Gwinnett SToPP  
Haw River Assembly  
HIV Medicine Association  
Humboldt Baykeeper  
In The Public Interest  
Interfaith Alliance  
IWJ San Diego  
Justice in Aging  
Kids in Need of Defense (KIND)  
Kissimmee Waterkeeper  
Lake Erie Waterkeeper  
Legal Aid Justice Center  
Los Angeles LGBT Center  
Maryland League of Conservation Voters  
Massachusetts Coalition for Occupational Health and Safety  
Mazzoni Center  
MediaJustice  
Miami Waterkeeper  
Milwaukee Riverkeeper  
Missouri Confluence Waterkeeper  
Mobile Baykeeper Inc.  
MountainTrue  
Movement Advancement Project  
NALEO Educational Fund  
National Center for Lesbian Rights  
National Center for Transgender Equality  
National Center for Youth Law  
National Coalition Against Censorship  
National Consumer Law Center (on behalf of its low income clients)  
National Equality Action Team  
National Family Farm Coalition  
National Hispanic Media Coalition  
National Immigration Law Center  
National Juvenile Defender Center  
National LGBT Cancer Network  
National LGBTQ Task Force  
National Nurses United  
National WIC Association  
National Women's Health Network

National Women's Law Center  
Northwest Atlantic Marine Alliance  
NY/NJ Baykeeper  
Oasis Legal Services  
Oil Change International  
One Colorado  
Open the Government  
Patuxent Riverkeeper  
Peconic Baykeeper  
Pennsylvania Council of Churches  
Planned Parenthood Federation of America  
Positive Women's Network-USA  
Potomac Riverkeeper Network  
Preserve Montgomery County VA  
Protect All Children's Environment  
Public Citizen  
Publish What You Pay-US  
Rappahannock League for Environmental Protection  
Reinvestment Partners  
Rio Grande Waterkeeper (WildEarth Guardians)  
Russian Riverkeeper  
San Francisco Baykeeper  
Save The Sound  
Sciencecorps  
Service Employees International Union (SEIU)  
ShoreRivers  
Sierra Club  
Silver State Equality-Nevada  
Society of Professional Journalists  
Southern Environmental Law Center  
Southern Maryland Audubon Society  
Southern Poverty Law Center  
The Mountain Pact  
The ONE Campaign  
The Piedmont Environmental Council  
The Rachel Carson Council  
The Solidarity Group  
The Watershed Center Grand Traverse Bay  
Toxic Free NC  
Transgender Legal Defense and Education Fund  
Tualatin Riverkeepers  
Twin Harbors Waterkeeper  
Tzedek DC  
U.S. PIRG  
UnidosUS  
Union for Reform Judaism

United Steelworkers  
United We Dream  
Virginia Citizens Consumer Council  
Virginia Interfaith Power & Light  
Virginia League of Conservation Voters  
Watauga Riverkeeper  
Waterkeeper Alliance  
Waterkeepers Chesapeake  
White Oak-New Riverkeeper Alliance  
Whitman-Walker Health  
Woodstock Institute  
Yellow Dog Watershed Preserve