

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