

United States Senate

WASHINGTON, DC 20510

April 8, 2020

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

Dear Mr. Vought:

As you know, our nation is in the midst of a global pandemic and a worsening public health crisis, and the necessary emergency response is causing a major disruption to economic activity and millions of jobs. While Congress and the executive branch have taken steps to protect the health and welfare of the American people and our economy, more must be done to protect citizens' fundamental right to participate in the operations of their government.

Specifically, we request you take two broad steps:

1. Instruct all federal agencies to indefinitely extend all open or announced upcoming public comment periods for rulemakings and administrative actions not related to the COVID-19 pandemic response; and,
2. Pause any new Administrative rulemaking actions, unless those actions are explicitly required for the COVID-19 response and recovery. If anything, agencies should be focused on how they can redeploy their existing resources to contributing to the federal government's response to this crisis.

The reasons for these requests are abundant. Across our country, schools, libraries, and community centers are closing. Businesses are cutting back or closing temporarily, leaving millions and millions of Americans worrying about their economic security and facing enormous new challenges such as adjusting to new working conditions or finding alternative means of childcare. These challenges are unprecedented during the time since Congress enacted the two foundational laws aimed at guaranteeing Americans the right to have their voice heard in how federal policies are implemented: the Administrative Procedures Act in 1946 and the National Environmental Policy Act in 1970.

Americans are worried about whether they and their loved ones have contracted COVID-19, whether tests are available, how to care for high-risk populations and when to self-quarantine --and whether they have a paycheck to feed and house themselves and their families. Small business owners are concerned about their employees' health and making ends meet as people are increasingly taking precautions by stocking up and staying home. Healthcare workers are working overtime, risking their own health, devoting their full time and energy to saving the lives of their fellow Americans.

Necessary federal, state, Tribal and local government actions to stop the spread of COVID-19, such as cancellation of public meetings and stay-at-home orders, are currently denying access to government for millions of low-income and rural Americans, along with Indian Tribes with whom the government is obligated by law to consult. It is not enough to direct individuals to online rulemaking portals. Many communities lack reliable broadband access to participate in online comment processes when libraries, community centers, and other places that people rely on for online access are restricting their public hours or are closed to the public altogether.

The American public is not only legally entitled to a meaningful opportunity to participate in these important proceedings; their participation is crucial to ensuring that agencies' work is carried out effectively. The public is an invaluable source of expertise for agency decision-makers, and their ability to weigh in on agency decisions advances the good government goals of accountability. Yet, such meaningful participation is an impossibility for tens of millions of Americans during this pandemic emergency period. We cannot reasonably expect the public to redirect attention from protecting themselves and families to comment on federal agency rules and proceedings that while important, are not related to the crisis at hand or its response.

Once this crisis is resolved, and we all believe the resilience of the American people coupled with timely government action will see us through this difficult time, these comment periods should remain open for a reasonable period after the crisis has lifted, and any postponed hearings should likewise be rescheduled to allow members of the public ample time to prepare.

To be clear, we are not calling for this Administration to abandon activities that are essential to the COVID-19 response, that are subject to unalterable legal deadlines, or for which delays would cause foreseeable harm to public health, safety, consumer protections, or financial stability. Instead, this is an important part of a broader call for this Administration to recalibrate its existing responsibilities with the urgent need of responding to the COVID-19 pandemic.

These actions are necessary to preserve fundamental aspects of our democratic process in a time of national emergency. Thank you for your attention to our requests.

Sincerely,

Tom Udall
United States Senator

Angus King
United States Senator

Sheldon Whitehouse
United States Senator

Jacky Rosen
United States Senator

Ron Wyden
United States Senator

Chris Van Hollen
United States Senator

Dianne Feinstein
United States Senator

Kamala D. Harris
United States Senator

Ed Markey
United States Senator

Brian Schatz
United States Senator

Elizabeth Warren
United States Senator

Jeffrey A. Merkley
United States Senator

Amy Klobuchar
United States Senator

Tammy Baldwin
United States Senator

Martin Heinrich
United States Senator

Jack Reed
United States Senator

Michael F. Bennet
United States Senator

Tina Smith
United States Senator

Mazie Hirono
United States Senator

Maria Cantwell
United States Senator

Sherrod Brown
United States Senator

Cory Booker
United States Senator