United States Department of the Interior

Office of the Secretary
Office of Environmental Policy and Compliance
1849 C Street, NW - MS 5538 - MIB
Washington, D.C. 20240

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9042.1

Memorandum

To: Bureau and Office Directors

From: Michaela E. Noble, Director *MCN*
        Office of Environmental Policy and Compliance

Re: Interim Guidance for National Environmental Policy Act Processes – Public Participation and Document Schedules during COVID-19

On March 13, 2020, President Trump declared a National Emergency in response to the coronavirus (COVID-19) pandemic. Due to COVID-19, President Trump has issued guidelines recommending avoiding gatherings of more than ten people and many governors have issued stay at home orders. In order to support the Department of the Interior's (Department's) commitment to providing meaningful public engagement, while ensuring the health and safety of our employees and the people and communities we serve, the Office of Environmental Policy and Compliance (OEPC) provides the following recommendations for the Department's bureaus and offices (bureaus) on public participation—including public meetings, access to documents, and comment periods—relating to National Environmental Policy Act (NEPA) compliance:

Public Meetings:
While agencies must generally provide for public participation in the NEPA process, there is no specific requirement that public participation take the form of in-person meetings. To the extent that bureaus contemplate public meetings, however, in response to the COVID-19 outbreak, bureaus should consider alternatives to in-person meetings, unless they are required by other legal authorities, and after consultation with the Office of the Solicitor. Where appropriate, bureaus may provide virtual public involvement using livestreams, teleconferences, or virtual meeting rooms to encourage public involvement in the NEPA process.

The bureaus should check the Centers for Disease Control and Prevention (CDC) Website for the latest Federal guidance and maintain awareness of the most current guidance from state, local, and tribal public health and governmental officials. The bureaus should also refer to Department guidance and instruction in response to COVID-19. Since many of these guidelines are being updated frequently to respond to changing conditions, the OEPC advises bureaus against

scheduling in-person events during this period of significant uncertainty to avoid any last-minute changes to meeting plans.

When conducting virtual public involvement, bureaus should consider the following:
- When using virtual tools, bureaus should plan meetings to maximize community access to Agency documents (e.g., Administrative Record File) and technology, to the extent practicable.
- For those unable to access document or meeting materials electronically, bureaus should provide the public with the opportunity to receive meeting materials by the U.S. Postal Service mail, an express delivery service, or other physical access that meets the CDC guidelines for social distancing.
- In advance of a livestream or teleconference, the bureau should provide the meeting presentation on the project website. During a livestream and teleconference, presenters should note which slide they are on so that those only able to call in may follow along.
- In advance of a livestream or teleconference, bureaus should notify the public whether comments will be accepted as part of the meeting, with reiteration at the meeting.
- To promote public outreach, bureaus should consider recording the livestream and providing the recording on the project website or local radio stations throughout the scoping or public comment period. The bureaus should note in public meeting materials if the livestreams and teleconferences will be recorded.
- The technology services used to provide virtual public involvement should be approved by Department/bureau IT personnel prior to use.

For projects supported by an Environmental Impact Statement (EIS), bureaus should update communication plans to incorporate virtual technology and ensure accessibility. The bureaus should provide a description of how they are handling public meetings and comments in the briefing materials sent to the Department's Review Team and in the related communication plan for the Stage 2 (NOI); Stage 4(Draft EIS); and Stage 5 (Final EIS, if applicable).

Regarding providing NEPA documents for public review:
The bureaus should make NEPA documents available for public review on-line, and, if needed to ensure universal accessibility, offer to provide a copy of the NEPA document via the U.S. Postal Service mail, an express delivery service, or in another manner that complies with CDC guidelines for social distancing.
Lessons Learned Forum:
An OEPC SharePoint site has been created to provide a forum for bureaus to provide lessons learned or ask questions of other bureaus on public participation or other potential COVID-19 implications for the NEPA process.
COVID-19 Impacts to NEPA compliance schedules:
In most cases COVID-19 should not delay NEPA compliance for bureau proposed actions.

The Federal agencies have set up teleworking procedures during COVID-19 (see Environmental Protection Agency notice) and should be available to work with bureaus on NEPA documents.

The Advisory Council on Historic Preservation (ACHP), has provided information on National Historic Preservation Act Section 106 compliance reviews during COVID-19.

If an EIS schedule is impacted due COVID-19 because of resources or external factors, bureaus should evaluate if the EIS should be placed into pause status in the Department's NEPA and Permit Tracking Database or if a waiver is needed, consistent with the Deputy Secretary Memorandum: *Additional Direction on Implementing Secretary's Order 3355*. When EISs schedule delays require a waiver, bureaus should fill out the approved waiver template.

The EISs should only be placed into pause status if delayed by more than one month. The bureaus have the discretion to place a project or project action in pause status if the reason for the pause meets an external factor in the Database dropdown. The external factors include: local government factors; state government factors; tribal government factors; project sponsor factors; and natural disasters.

If a project or project action is delayed due to non-external factors, bureaus should follow the approved elevation procedures to get approval to place a project or project action in pause status. Once approval is granted, bureaus would note in the status notes why the pause status is being used.