

United States Senate

WASHINGTON, DC 20510

February 1, 2019

VIA ELECTRONIC DELIVERY

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Acting Administrator Wheeler:

We are writing to request that the U.S. Environmental Protection Agency (EPA) reopen public comment periods for proposed regulations that closed during the shutdown, extend the comment period for all regulations that were open during the shutdown and reschedule all public hearings that were canceled as a result of the shutdown. Specifically, we request EPA extend these comment periods by no less than 35 days.

As you know, the majority of EPA's workforce was furloughed on December 29, 2018, limiting the services the Agency was capable of providing. During the government shutdown, Regulations.gov posted a message that the website was functionally unreliable and on January 17, 2019 the website was unavailable for 24 hours with a message stating that Regulations.gov was "not operational due to a lapse in funding, and will remain unavailable for the duration of the government shutdown."¹

Further, the Federal Register's website, the Nation's clearinghouse of all Federal actions, maintained a banner during the shutdown stating the website was operating in a limited capacity. One of those limitations included public comments not being posted to the website. This prevented the normal practice of allowing the public to see or comment on other public comments. As is clear, the shutdown of the Federal Government impaired the public's access to the regulatory process causing tangible, serious and harmful effects.²

According to past precedent and EPA's own public health mission, a government shutdown cannot be allowed to obstruct public participation in our regulatory process. In 2013, the 16-day Federal Government shutdown similarly impacted EPA's ability to process its regulations. In an uncoordinated effort, agencies across the Federal Government, including EPA, extended and reopened comment periods and rescheduled public hearings. For instance, EPA rescheduled public

¹ Wermund, B. (2019, January 17). Federal rulemaking site goes dark. Retrieved from <https://www.politico.com/story/2019/01/17/federal-website-down-shutdown-1108416>

² Heikkinen, N. (2019, January 14). EPA shutdown silences public inquiry over Ind. lead cleanup. GreenWire. Retrieved from <https://www.eenews.net/greenwire/2019/01/14/stories/1060112797>

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meetings and reopened public comments for toxic chemical reviews of Antimony Trioxide³ and dichloromethane and N-Methylpyrrolidone.⁴

As of January 25, 2019, Regulations.gov had identified dozens of rules with comment periods, which were active or closed during the shutdown, including high profile rules such as EPA's proposed amendment to the wood heater rule. Now that EPA has reopened and employees are resuming their efforts to process regulations, we urge you to reopen all closed rules, reschedule all public hearings and extend all public comment periods so that everyday Americans are able to continue participating in our democratic processes. Thank you for your attention to this important matter.

Sincerely,



Tammy Duckworth
United States Senator



Thomas R. Carper
United States Senator



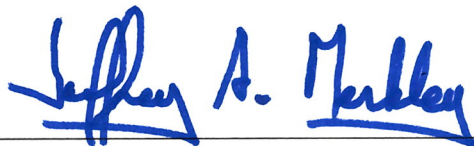
Sheldon Whitehouse
United States Senator



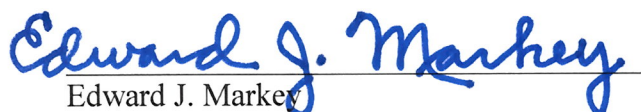
Cory A. Booker
United States Senator




Benjamin L. Cardin
United States Senator



Jeffrey A. Merkley
United States Senator



Edward J. Markey
United States Senator



Chris Van Hollen
United States Senator

³ Antimony Trioxide (ATO) TSCA Chemical Risk Assessment; Notice of Public Meetings and Opportunity To Comment, 78 FR 67141 (November 8, 2013) <https://www.federalregister.gov/documents/2013/11/08/2013-26846/antimony-trioxide-ato-tsca-chemical-risk-assessment-notice-of-public-meetings-and-opportunity-to>

⁴ Dichloromethane and N-Methylpyrrolidone TSCA Chemical Risk Assessment; Notice of Rescheduled Public Meetings and Extension of Opportunity To Comment, 78 FR 64936, (October 30, 2013) <https://www.federalregister.gov/documents/2013/10/30/2013-25737/dichloromethane-and-n-methylpyrrolidone-tsca-chemical-risk-assessment-notice-of-rescheduled-public>

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Kirsten Gillibrand
United States Senator



Bernard Sanders
United States Senator