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MEMORANDUM

DATE: April 6, 2020
TO: All DTSC Staff
FROM: Ana Mascareñas, Deputy Director and Tribal Liaison
Office of Environmental Equity
SUBJECT: PUBLIC PARTICIPATION GUIDANCE DURING
CORONAVIRUS (COVID-19) RESPONSE

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II. Purpose

This guidance memorandum is being issued to all DTSC staff to promote equitable, inclusive and transparent approaches to participation activities during California’s coronavirus (COVID-19) response efforts. This guidance may be updated or

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superseded. Please consult with your teams and management when following this guidance.

III. Background on COVID-19 Executive Orders and Guidance

In response to the COVID-19 pandemic, DTSC is following [Governor Newsom's Executive Order N-33-20](#), which incorporates the [State Public Health Officer Order](#) issued on March 19, 2020. DTSC provides essential services across California and performs activities designated under the descriptions of federal critical infrastructure sectors. Read more about the State's response and guidance at the following website: <https://covid19.ca.gov/>.

Governor Newsom also issued [Executive Order N-29-20](#) on March 18, 2020, which addresses meetings subject to the Bagley-Keene Act and expands State bodies' ability to hold meetings entirely via remote-meeting technology. While most of DTSC's public meetings are not subject to Bagley-Keene Act legal requirements, DTSC is committed to following best practices, such as those presented in this additional guidance, and maintaining meaningful public participation opportunities. Many DTSC public participation activities are required in the California Health and Safety code, and others are followed as best practices. Meetings and hearings subject to the Bagley-Keene Act should be coordinated with DTSC's Office of Legal Counsel to ensure compliance with the Act and Governor Newsom's executive orders.

IV. Equitable Public Participation and Environmental Justice

This memorandum is being issued to all staff by DTSC's Office of Environmental Equity, which manages three programs in support of DTSC's mission: Environmental Justice, Public Participation, and Tribal Affairs. The office and its programs support meaningful community engagement, promote environmental justice and equity considerations in decision-making, and conduct government-to-government consultation with California Native American Tribes.

An environmental equity approach recognizes disparities in the distribution of environmental benefits and burdens within and across communities, and seeks to meet individual and community needs. In order to promote environmental justice, DTSC must address existing disparities and challenge the decision-making processes that keep historic injustices and present-day barriers in place.

In times of crisis, such as the COVID-19 emergency response, disparities and vulnerabilities across communities are felt even more deeply. DTSC recognizes that

many individuals, families, and communities are experiencing extreme hardships related to COVID-19. Business and school closures, unemployment, and the need to care for family members means that many peoples' primary attention is focused on meeting critical everyday needs at this time. Our goal is to remain mindful of what people are experiencing during these challenging times, and seriously consider these factors when evaluating options and actions we take to achieve our mission.

V. General Approach to Public Participation During COVID-19 Response

DTSC is committed to protecting California's people and environment from the harmful effects of toxic substances, and will continue to provide essential services during the COVID-19 outbreak. We also remain committed to protecting public processes in activities and decision-making during this time. DTSC strives to conduct all public participation activities in an equitable, inclusive, and transparent way.

As the COVID-19 situation is rapidly changing, DTSC teams should consider any newly issued State guidance and project specific circumstances. Many government agencies are using technology based forums, commonly referred to as meetings that are remote, virtual, online, videoconference, web and/or audio conference, or webinars. Whether DTSC is hosting a public participation opportunity in-person or using a technology based forum, requirements and considerations related to language needs, accessibility, outreach, facilitation, interactive opportunities, and community engagement best practices, all still apply. However, some communities lack internet access and cannot fully participate in technology based forums. Even when internet and phone connectivity are available, some may lack the hardware, software, notification methods, or knowledge to fully access and participate in virtual meetings. Please also keep in mind that DTSC may have limited technical staff available to provide support for virtual meetings.

When considering specific actions, DTSC recommends conferring with the Public Participation Program, who can advise on effectively reaching out to communities, and organizations that community-based, and focused on equity and environmental justice. This outreach can help determine whether it may be appropriate to postpone or adapt DTSC processes, decisions, or activities in support of equitable public participation.

A. Considerations for Equitable Public Participation

In determining whether to postpone or adapt activities to maintain equitable public participation under this guidance, please consider the following questions:

1. Have you reached out to community-based, equity, and environmental justice organizations to solicit a better understanding of communities' current experiences and their relationship to the matter(s) being considered? Confer with the Public Participation Program to assess available community information and advise on outreach to communities.
2. If you decide on using a technology based forum, have you considered the five "A"s?:
 - a. Availability: To whom is the technology is available or not available? Do you have a back-up phone conference line built in and a way for phone participants to participate?
 - b. Affordability: To whom is the technology affordable or not affordable?
 - c. Awareness: Who is aware or not aware of the technology? Did you do a "dry-run" with a focus group to test content and technology?
 - d. Abilities: Who has the digital skills to use the technology? Will a pre-session help advance these skills?
 - e. Agency: Who is motivated to use the technology? Did you choose a user-friendly technology?
3. How are you notifying people about the public participation opportunity?
4. Are you providing approachable ways for people to reach you and be heard?
5. Are you providing multilingual and other accessibility resources to meet community needs? See [DTSC's Language Access Policy](#).
6. Are you asking for an appropriate amount of time from community members? Have you provided relevant materials with enough advance notice?
7. Has your process and content remained transparent to affected communities?

B. Tribal Engagement

While the practices contained in this document may inform approaches to engaging with California Native American Tribes, please note that public participation legal requirements and mandates are separate from those related to engaging tribes. Adherence to [DTSC's Tribal Consultation Policy](#) and [CalEPA's Tribal Consultation Protocol](#), along with statutory, legal, and program requirements related to tribal engagement will continue during this time. If you have questions about tribal engagement, please contact TribalAffairs@DTSC.CA.GOV.

VI. In-Person Interactions

In-person public participation activities include public meetings and hearings, community interviews, site visits, attending community meetings, and other activities. DTSC's public participation activities that normally involve in-person interactions should either be postponed until a later time, or adapted to support equitable public participation. When in-person public participation activities are required for essential response actions to occur, all activities must comply with public health and safety guidelines.

Please do two things when considering postponing or adapting public participation activities that are normally conducted in-person:

1. Determine if it is legally prohibited;
2. Determine whether adapted activities support equitable public participation. See Section V (A) on considerations for equitable public participation.

VII. Public Comment Periods

DTSC is proactively postponing or extending many public comment periods to promote fair access to information and decision-making processes. Open and planned public comment periods and related information are available on [DTSC's website](#).

While information related to participating in public comment periods may be available online, DTSC recognizes that some people do not have internet access and may not be able to access the information posted on websites. DTSC understands that we must also continue to provide vital information in printed formats, whether at information repositories or through mailings, and will consider how to safely meet these obligations by postponing certain activities or adapting activities on a case-by-case basis.

Please do two things when considering postponing or adapting public participation activities related to public comment periods:

1. Determine if it is legally prohibited;
2. Determine whether adapted activities support equitable public participation. See Section V(A) on considerations for equitable public participation.

VIII. Considerations for Remote Public Meetings

The remainder of the text in this subsection is adapted from guidance that was provided by the Administration related to Executive Order N-29-20. While most of DTSC's are not

subject to the Bagley-Keene Act, DTSC should consider the following guidance when planning virtual meetings.

A. What is the right technology for my virtual meeting?

If you simply need to share information without receiving feedback or viewing presentations, conference calling is a good solution.

If you need to make presentations, hold discussions in public view, and/or allow participants to ask questions and make comments, a video conferencing tool is a good solution.

Some departments use a combination of live streaming via social media (e.g. YouTube, Twitter or Facebook) and a phone conference line that allows listeners to hear a meeting and be put into a queue if they want to make a comment or ask a question.

B. Do I have the right resources to host my virtual meeting?

When considering hosting public meetings, ensure you have the right technical staff to support your meetings. Please take into consideration the time of day, number of practice runs, subject matter experts to support the technology and hosting needs.

The Office of Environmental Information Management has limited capacity to support multiple meetings and programs during this time. Programs should work to identify staff within each unit who can also take on technology support roles for virtual meetings.

C. Best practices and considerations for running a virtual meeting

1. Pick the right technology

- a. Understand the licensing restrictions, particularly on the number of attendees.
- b. Ideally, the public should not have to download an application to participate. If software is necessary, ensure that it is free for the public to use and otherwise easily available and accessible to members of the public.
- c. Always offer a phone dial-in. Most video conferencing tools provide dial-in numbers so attendees can choose to participate by video or phone.
- d. For web conferencing, you should verify if members participating remotely have webcams and microphones, and if not, you may need to provide them for members who will be participating remotely.

2. Prepare & test

- a. Make sure staff has downloaded and installed any potentially needed software and configured devices ahead of time.
- b. Run a test with all staff.
- c. Give public notice that includes full details on how to participate remotely, including instructions for downloading software and a call-in number.
- d. Make sure your tool allows the meeting administrator to mute public participants.

3. Publish agendas and key materials ahead of time

- a. Follow advance notice requirements for the time of each public meeting, and post the agenda for each meeting according to the ordinary meeting requirements.
- b. When you notice the meeting time or post the meeting agenda, remember to include the required information about how the public may participate remotely in the meeting, as well as the required information about accessibility.
- c. Review accessibility requirements and best practices, and otherwise follow State accessibility guidelines.
- d. Whenever possible, for longer meetings you should add estimated times and speakers to agendas so that members of the public can join for only the sections that are relevant to them.

4. Provide opportunities for feedback before, during and after the meeting

- a. For general questions, provide an option for the public to submit questions or comments. Consider an email inbox, web form, phone comment queue or other methods to allow people to submit questions or comments ahead of time and as follow-ups.

5. Structure the meeting for valuable participation

- a. Create and communicate the process for unmuting and asking questions or commenting.
- b. Create a queue to manage questions and comments by asking people to raise their hand or submit their question or comment, via messaging, the moderator, or a telephone queuing system.
- c. Have one person responsible for managing the queue of questions and comments.

- d. Make sure the host knows how to mute all other participants. At the same time, provide instructions on how to unmute when others need to participate.
6. **Ensure accessibility**
- a. Offer multiple means of access to address the needs of various audiences wherever possible. Ensure that the tool or combination of tools you use is sufficient to make the meeting accessible to everyone.
 - b. Use tools such as automatic transcriptions, captioning or real-time text to accompany audio. Consider allowing public comment via e-mail (which should be read aloud at the meeting to ensure parity with other public comment) to accommodate hearing- or speech-impaired individuals.
 - c. Ensure you have established a process to receive and swiftly resolve individual requests for reasonable modifications or accommodations to ensure accessibility. This process should be as user-friendly and accessible as possible.

IX. DTSC-Supported Tools for Hosting Virtual Meetings

While many different tools are available to support virtual meetings, DTSC currently supports the following tools.

A. BlueJeans Meetings and Events

- i. Supports full videoconference functions, including screen sharing, and includes a phone conference call-in option.
- ii. BlueJeans Meetings allow up to 25 attendees. All participants can easily interact with each other through online and audio features.
- iii. BlueJeans Events allow up to 1,000 participants. Participants can interact through online features and can listen to audio through their device or a phone conference call-in option. Participants cannot easily submit verbal comments or questions.

B. Verizon Operator-Assisted Phone Conference

- i. Provides a third-party operator assistant to moderate a verbal comment queue through a phone conference line.

C. Microsoft Teams Meetings and Events

- i. This tool is primarily used for internal staff collaboration, but can be adapted for public and other types of meetings. Further guidance is in development.

Other tools may be available from partner government agencies or organizations and can be considered if conducting collaborative meetings. However, if you are hosting a publicly accessible meeting on behalf of DTSC, please use the tools that are supported by the Office of Environmental Information Management so that we can maintain important meeting accessibility features.

For more information on accessing or using any of the above DTSC-supported tools, please see [DTSC's intranet](#).

X. Questions and More Information

If you have questions or would like more information about the topics presented in this memorandum, please contact DTSC's Office of Environmental Equity, Public Participation Program, at PublicParticipation@DTSC.CA.GOV.