COMMENTS OF ATTORNEYS GENERAL OF CALIFORNIA, NEW YORK, WASHINGTON, COLORADO, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, ILLINOIS, MAINE, MARYLAND, COMMONWEALTH OF MASSACHUSETTS, MICHIGAN, MINNESOTA, NEW JERSEY, NEW MEXICO, OREGON, VERMONT, COMMONWEALTH OF VIRGINIA, WASHINGTON, AND WISCONSIN, AND HARRIS COUNTY, TEXAS, AND CITY OF NEW YORK, NEW YORK

November 9, 2026

Via Email to NEPA@usps.gov

Mr. Thomas Shepherd
Environmental Counsel
United States Postal Service
475 L'Enfant Plaza SW, Office 6606
Washington, DC 20260-6201

Re: NEPA Procedures Rulemaking, United States Postal Service; 91 Fed. Reg. 60,827 (September 25, 2026) (Interim Final Rule)

Dear Mr. Shepherd:

The Attorneys General of the States of California, New York, Washington, Colorado, Connecticut, Illinois, Maine, Maryland, Commonwealth of Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, Oregon, Vermont, Commonwealth of Virginia, Washington, and Wisconsin, and Harris County, Texas, and the City of New York, New York (collectively, the "Attorneys General" of "the States") respectfully submit these comments in opposition to the United States Postal Service (USPS or Postal Service)'s interim final rule (Rule) partially rescinding and revising USPS's remaining regulations implementing the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4347, and largely replacing these regulations with non-binding procedures.[1] In addition, the Rule identifies new categorical exclusions from NEPA review, and the Attorneys General object to these vague and overbroad provisions, as well as to several of the Postal Service's other categorical exclusions.

[1] National Environmental Policy Act Implementing Procedures, 91 Fed. Reg. 60,827 (September 25, 2026), Docket ID No. 2026-19720.

NEPA has long supported informed and transparent agency decision-making and allowed for meaningful public participation in developing and reviewing proposed federal actions.[2] Congress enacted NEPA to advance a national policy of environmental protection by requiring federal agencies to conduct thorough and careful review of their actions' environmental impacts.[3] As the Supreme Court has explained, Congress intended NEPA's "action-forcing procedures" to help "[e]nsure that the policies [of NEPA] are implemented."[4]

The States of the Attorneys General have a strong interest in robust NEPA compliance and the opportunities for public participation required by NEPA as a means to protect their residents, property, and natural resources. The States are injured when our residents suffer from the effects of environmental degradation, including effects exacerbated by climate change,[5] and have a quasi-sovereign interest in preventing harm to the health of our natural resources and ecosystem.[6] The States also have a strong interest in the federal agencies' consultation process with state agencies that have jurisdiction or special expertise related to the federal permitting process.

The Rule would harm these State interests by curtailing environmental review and opportunities for public participation in a manner and to an extent not warranted by law. These comments describe how the Rule harms the States and is contrary to NEPA. In sum, the Rule is unlawful. For the reasons stated below, the Attorneys General strongly oppose the Rule and request that it be withdrawn in its entirety.

I. BACKGROUND

Since 1969, NEPA has promoted informed, transparent, and coordinated agency decision making and meaningful public participation in the development of major infrastructure projects. By requiring thorough environmental review ahead of significant federal actions, NEPA has helped regulatory agencies and the American people evaluate and understand how such projects impact the environment and public health.[7] NEPA's procedural safeguards have, among other

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[2] U.S. Gov't Accountability Off., GAO-14-369, National Environmental Policy Act: Little Information Exists On NEPA Analyses, 16 (2014), https://www.gao.gov/products/gao-14-370 ("[a]ccording to studies and agency officials, some of the qualitative benefits of NEPA include its role as a tool for encouraging transparency and public participation and in discovering and addressing the potential effects of a proposal in the early design stages to avoid problems that could end up taking more time and being more costly in the long run.") (last visited July 20, 2026); Implementation of Procedural Provisions: Final Regulations, 43 Fed. Reg. 55,978 (Nov. 29, 1978) (hereinafter the 1978 Final Rule).

[3] 42 U.S.C. §§ 4331, 4332.

[4] *Andrus v. Sierra Club*, 442 U.S. 347, 350 (1979) (quoting S. Rep. No. 91-296, at 19 (1969)); *see also Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989) ("Simply by focusing the agency's attention on the environmental consequences of a proposed project, NEPA ensures that important effects will not be overlooked or underestimated, only to be discovered after resources have been committed or the die otherwise cast.").

[5] *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Baez*, 458 U.S. 592, 607 (1982); *Maryland v. Louisiana*, 451 U.S. 725, 737–38 (1981).

[6] *Massachusetts v. EPA*, 549 U.S. 497, 519–22 (2007).

[7] *See generally* Comments of Attorneys General of California, Illinois, Maryland, Massachusetts, New Jersey, New York, Oregon, Vermont, and Washington, and the Secretary of the Commonwealth of Pennsylvania Department of

things, protected drinking water from radioactive contamination, protected the public from exposure to harmful air pollutants and pathogens, and alerted agencies to wildfire risk so that damage from those fires could be mitigated.[8] Across the country, Americans have benefited from increased safety, preservation of natural resources, and long-term reductions in costs as a result of NEPA's review process.

A. CEQ Adopted Regulations to Address Inconsistent EPA Practices and Interpretations.

From 1978 to 2025, CEQ's regulations implementing NEPA guided environmental review for agencies across the federal government. This single set of overarching regulations ensured consistency across federal agencies and actions.[9]

CEQ began providing federal agencies with guidelines for consistent application of NEPA across agencies in 1970, soon after NEPA was enacted.[10] After seven years of attempting to implement NEPA across agencies with only guidelines, however, CEQ found that "inconsistent agency practices and interpretation of the law . . . impeded Federal coordination and made it more difficult for those outside government to understand and participate in the environmental review process."[11] To address those difficulties, in an Executive Order issued in May 1977, President Carter directed CEQ to "[i]ssue regulations to Federal agencies for the implementation of the procedural provisions of [NEPA] (42 U.S.C. § 4332(2))."[12] CEQ's regulations would serve to create a "uniform, government-wide" approach to NEPA review;[13] to "make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to

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Environmental Protections on Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 83 Fed. Reg. 28,591, at 2–5 (Aug. 20, 2018) [hereinafter 2018 Multistate Comments], https://www.regulations.gov/comment/CEQ-2018-0001-11812; Comments of Attorneys General of Washington, California, New York, District of Columbia, Connecticut, Delaware, Guam, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, and Vermont on Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 1,684, at 8–12 (Mar. 10, 2020) [hereinafter 2020 Multistate Comments], https://www.regulations.gov/comment/CEQ-2019-0003-172704.

[8] *See* Env't L. Inst., *NEPA Success Stories: Celebrating 40 Years of Transparency and Open Government* (2010), https://ceq.doe.gov/docs/get-involved/NEPA_Success_Stories.pdf; Elly Pepper, Never Eliminate Public Advice: NEPA Success Stories, NRDC (Feb. 1, 2015), https://www.nrdc.org/resources/never-eliminate-public-advice-nepa-success-stories (last visited July 20, 2026).

[9] Implementation of Procedural Provisions: Final Regulations, 43 Fed. Reg. 55,978 (Nov. 29, 1978).

[10] CEQ issued interim guidelines for implementing NEPA to agencies in May 1970, Statements on Proposed Federal Actions Affecting the Environment: Interim Guidelines, 35 Fed. Reg. 7,390, 7,391 (May 12, 1970), pursuant to President Nixon's Executive Order directing CEQ to issue such guidelines, Exec. Order 11,514, 35 Fed. Reg. 4,247, 4,248 (Mar. 7, 1970). CEQ finalized the guidelines in 1971 and revised them in 1973. Statements on Proposed Federal Actions Affecting the Environment: Guidelines, 36 Fed. Reg. 7,724 (Apr. 23, 1971); Preparation of Environmental Impact Statements: Proposed Guidelines, 38 Fed. Reg. 10,856 (May 2, 1973).

[11] 43 Fed. Reg at 55,978.

[12] Exec. Order No. 11,991, 42 Fed. Reg. 26,967 (May 24, 1977).

[13] 43 Fed. Reg at 55,978.

. . . focus on real environmental issues."[14] CEQ issued final NEPA implementing regulations in 1978.[15]

The 1978 regulations were binding on all federal agencies.[16] Agencies conformed their NEPA procedures accordingly: USPS's regulations and those of other agencies referred to and in some cases, explicitly incorporated CEQ's regulations.[17] In addition to promoting uniformity across the federal government, CEQ's regulations aided development of state environmental regulations and facilitated public involvement in the environmental review process. And by providing a unified set of standards for environmental review across dozens of different agencies, CEQ's regulations helped the public to understand the NEPA process and made participation in the process more accessible.

B. CEQ rescinded its NEPA regulations in 2025.

CEQ's 1978 regulations were remarkably durable, with only a few minor revisions made over the following four decades.[18] Then, in 2017, after nearly 40 years of stable NEPA implementation, President Trump issued Executive Order (E.O.) 13807 directing CEQ to revise its regulations.[19] In July 2020, CEQ finalized a rule that improperly narrowed environmental review under NEPA, threatened meaningful public participation, and impermissibly restricted judicial review of agency actions ("2020 Rule").[20] Many of the Attorneys General and numerous public interest organizations filed lawsuits challenging the unlawful 2020 Rule.[21]

The lawsuits were dismissed after CEQ, under the Biden Administration, issued revised NEPA regulations in 2022 and 2024 (2022 Rule and 2024 Rule, respectively) which reversed many provisions of the 2020 Rule and restored key provisions of the 1978 regulations.[22] Among these, the 2022 Rule required analysis of all reasonably foreseeable effects of a major federal

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[14] Exec. Order No. 11,991, 42 Fed. Reg. at 26,967.
[15] 43 Fed. Reg at 55,978.
[16] *Id*.
[17] *See, e.g.,* former 39 C.F.R. § 775.1 (stating the USPS procedures implement the NEPA regulations issued by the CEQ); 40 C.F.R. § 6.100(b) (". . . adopts the CEQ Regulations (40 CFR Parts 1500 through 1508) implementing NEPA . . . Subparts A through C supplement, and are to be used in conjunction with, the CEQ Regulations") (EPA); 36 C.F.R. § 220.4(e)(2) ("Scoping shall be carried out in accordance with the requirements of 40 C.F.R. § 1501.7.") (Forest Service); 23 C.F.R. § 771.107 ("The definitions contained in the CEQ regulations . . . are applicable.") (Federal Highway Administration); 43 C.F.R. § 46.20 ("This part supplements, and is to be used in conjunction with, the CEQ regulations . . . .") (Interior); 33 C.F.R. § 230.13(b) ("A supplement to the draft or final EIS should be prepared whenever required as discussed in 40 C.F.R. § 1502.09(c).") (Army Corps).
[18] U.S. Dep't of Energy, History of CEQ NEPA Regulations and Guidance, https://www.energy.gov/nepa/history-ceq-nepa-regulations-and-guidance (last visited Jul. 8, 2026).
[19] Exec. Order No. 13807, 82 Fed. Reg. 40,463 (August 24, 2017).
[20] Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020).
[21] *E.g.*, *California v. Council on Env't Quality*, No. 3:20-cv-06057 (N.D. Cal. August 28, 2020).
[22] Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis, 86 Fed. Reg. 7,037 (Jan. 25, 2021); *see also* Deadline for Agencies to Propose Updates to National Environmental Policy Act Procedures, 86 Fed. Reg. 34,154 (June 29, 2021).

action.[23] The 2024 Rule restored most of the remaining provisions of the 1978 regulations, strengthened participation, strengthened analysis of climate change and human health impacts including environmental justice concerns, and implemented amendments to the NEPA statute enacted in the 2023 Fiscal Responsibility Act (FRA).[24]

In 2024, a group of states led by Iowa filed a lawsuit—*Iowa v. Council on Environmental Quality*—in federal district court, seeking to vacate the 2024 Rule and reinstate the 2020 Rule.[25] In February 2025, the *Iowa* court vacated the 2024 Rule.[26] However, the Eighth Circuit subsequently vacated the *Iowa* court's judgment on July 29, 2025.[27]

In January 2025, President Trump signed E.O. 14154, the "Unleashing American Energy" order.[28] E.O. 14154 revoked President Carter's original 1977 order directing CEQ to issue regulations and directed CEQ to propose to rescind its NEPA regulations.[29] In February 2025, CEQ issued an interim final rule rescinding its NEPA implementing regulations (CEQ Repeal Rule).[30] In place of the regulations, CEQ issued a guidance memorandum to heads of federal agencies recommending that agencies "revise . . . their NEPA implementing procedures (or establish such procedures if they do not yet have any) to expedite permitting approvals" (CEQ Guidance).[31] Like the 2020 Rule, the CEQ Guidance improperly limited environmental review. Among other things, it suggested that the scope of effects that agencies are required to analyze should be narrowed[32] and directed agencies to omit environmental justice analysis from NEPA documents.[33]

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[23] *See* National Environmental Policy Act Implementing Regulations Revisions, 87 Fed. Reg. 23,453 (Apr. 20, 2022) (2022 Rule).

[24] *See* National Environmental Policy Act Implementing Regulations Revisions Phase 2, 89 Fed. Reg. 35,442 (May 1, 2024) (2024 Rule); Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, 137 Stat.10.

[25] Complaint, *Iowa v. Council on Env't Quality*, No. 1:24-cv-00089-DMT-CRH (D.N.D. May 21, 2024), ECF No. 1. However, many of the States also defended the 2024 Rule in the *Iowa* litigation. *See* Proposed Intervenor-Defendant States' Cross Mot. for Partial Sum. J., *Iowa v. CEQ*, No 1:24-cv-00089-DMT-CRH (D.N.D. Aug. 30, 2024), ECF No. 83.

[26] *See* Order Regarding All Mots. for Summ. J. & Partial Summ. J. 23, *Iowa v. CEQ*, No. 1:24-cv-00089-DMT-CRH (D.N.D. Feb. 3, 2025), ECF No. 145. The *Iowa* court also reviewed plaintiffs' claims that the Phase 2 Rule was arbitrary and capricious, granting some and rejecting others. *Id.* at 32–36.

[27] *Iowa v. Council on Env't Quality*, Case No. 25-1641, Entry ID 5542514 (July 29, 2025).

[28] Exec. Order No. 14,154, 90 Fed. Reg. 8,353 (Jan. 20, 2025).

[29] *Id.* at 8,355.

[30] Removal of National Environmental Policy Act Implementing Regulations, 90 Fed Reg. 10,610 (Feb. 25, 2025), *as corrected by* Removal of National Environmental Policy Act Implementing Regulations, 90 Fed Reg. 11,221 (Mar. 5, 2025).

[31] Council on Env't Quality, Memorandum for Heads of Federal Departments and Agencies (Feb. 19, 2025) [hereinafter CEQ Guidance], *available at* https://nepa.gov/sites/default/files/documents/CEQ%20Memo-Implementation%20of%20NEPA%2002.19.2025.pdf (last visited July 20, 2026).

[32] *Id.* at 5.

[33] *Id*.

C. USPS's Rule and Non-Binding NEPA Procedures

As a result of the CEQ Repeal Rule, uniform and binding NEPA regulations were eliminated. Without CEQ's regulations, agencies are under greater pressure to adopt agency-specific regulations that provide stability, transparency, and consistency in compliance with NEPA. Many USPS actions, including the construction and operation of new mail facilities, route change plans, and the acquisition of substantial numbers of new vehicles, require comprehensive NEPA review that would benefit from robust NEPA regulations.

In responding to this challenge, USPS's Rule chooses to eliminate almost the entirety of the agency's NEPA implementing regulations from the Code of Federal Regulations, leaving only limited provisions such as definitions, categorical exclusions, and emergency procedures.[34] Concomitant with this Rule, USPS also issued limited guidance, entitled "National Environmental Policy Act (NEPA) Standard Operating Procedures" (NEPA Procedures), which are meant to substitute for USPS's rescinded implementing regulations. The Rule states that the NEPA Procedures "are intended to be non-binding guidance."[35] As described below, the Rule and the NEPA Procedures have the potential to sanction non-compliance with NEPA by allowing USPS to evade NEPA review even when undertaking activities that may harm the environment.

First, the NEPA Procedures fail to direct USPS to analyze all of the indirect and cumulative effects of a major federal action, contrary to the statutory text and NEPA case law. This is a significant change from USPS's prior NEPA regulations, which required analysis of the direct, indirect, and cumulative impacts of a major federal action.[36]

Second, USPS eliminated its requirement to include mitigation measures in its consideration of alternatives. As USPS recognizes, NEPA requires federal agencies to consider mitigation.[37] The Rule and NEPA Procedures, however, discuss mitigation only briefly and in a vacuum, failing to provide any useful context for how USPS will consider mitigation measures when weighing alternatives. For example, the NEPA Procedures state that USPS will describe "any means identified to mitigate adverse environmental effects of the proposed action,"[38] but does not identify any objective standard or metrics that would be used to identify when and how mitigation will be evaluated.

Third, USPS's NEPA Procedures overtly limit public participation. The NEPA Procedures anticipate soliciting public comment only through scoping, and require USPS to solicit comments only from certain federal agencies and "[a]ppropriate State, Tribal, and local agencies" on a draft environmental impact statement (EIS). While USPS may voluntarily seek comments from the public and from other State, Tribal, or local governments "that may be

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[34] 91 Fed. Reg. at 60,829.
[35] *Id*. at 60,828.
[36] 39 C.F.R. § 39.775.11(a)(2)(iii).
[37] 91 Fed. Reg. at 60,840.
[38] *Id*. at 60,838.

affected by the proposed action" on a draft EIS, the NEPA Procedures no longer require USPS to do so—to the detriment of government entities and the public who often have an interest in reviewing and commenting on major federal actions. Finally, the NEPA Procedures provide that USPS will address only "substantive comments" in an EIS,[39] which gives USPS unfettered discretion to unilaterally determine what is "substantive." By contrast, USPS's prior NEPA regulations implemented CEQ's NEPA regulations, emphasized making "the NEPA process useful to Postal Service decision makers and the public,"[40] and included public participation throughout all stages of the process and responses to public comments or an explanation, citing supporting sources, authorities, or reasons, why a comment does not warrant a direct response.[41]

II. THE RULE WOULD ADVERSELY IMPACT THE UNIQUE INTERESTS OF STATES, TERRITORIES, AND LOCAL GOVERNMENTS IN HAVING ROBUST NEPA REGULATIONS.

NEPA is an example of cooperative federalism, envisioning a strong role for states, territories, and local governments in environmental reviews. Indeed, when enacting NEPA, Congress declared that it was the policy of the federal government to act "in cooperation with States and local governments" in a manner calculated to foster and promote the general welfare so that humans and nature can exist in productive harmony so that each person should enjoy a healthful environment in fulfillment of NEPA's purposes.[42] Indeed, NEPA's success has led to the enactment of similar statutes in many states. USPS's rescission and revision of its NEPA regulations threatens the interests of the States in protecting our residents and environmental resources through public participation and robust, informed decision-making processes for major federal actions.

A. The Rule Would Harm State Sovereign and Proprietary Interests.

NEPA regulations protect state sovereign and proprietary interests in at least two fundamental ways: (1) by enabling States to participate meaningfully to assess the impacts of federal actions on state natural resources and public health; and (2) by lessening the strain on state resources of shouldering the regulatory burden of those reviews. The Rule would adversely impact both interests.

1. The Rule Would Impair the Ability of States to Meaningfully Participate in the NEPA Process.

NEPA contains provisions directly incorporating states, territories, and local governments into federal decision making.[43] The Congressional declaration of policy underlying NEPA also

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[39] *Id.*
[40] Former 39 C.F.R. § 775.2(b).
[41] *See, e.g.*, Former 39 C.F.R. §§ 39.775.11(b)(1)(ii), (e), (f)(2).
[42] 42 U.S.C. § 4331(a), (c).
[43] Specifically, Section 102(2)(C) is premised on the solicitation of "the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards," in

recognizes the continuing policy of the federal government, "in cooperation with State and local governments," to use all practicable means and measures in a manner calculated to preserve and enhance the environment.[44] Since NEPA's enactment, States have relied on the opportunity to participate in the NEPA process to protect their proprietary and sovereign interests in their natural resources by, *inter alia*, identifying harms from federal actions to their resources, including to air, water, public lands, cultural resources, wildlife, and the public health and welfare of their residents that agencies might otherwise ignore.[45] Participation also allows the States to thoroughly weigh in on the environmental impacts of an action, such as the long-term effects of climate change, the reduction of scarce water resources, and discrete impacts on environmentally burdened communities. And for certain federal projects where state environmental review may be limited or even preempted, a robust NEPA process is critical to protecting state interests, resources, and residents from harmful environmental effects, which may otherwise evade review. For this reason, State agencies regularly engage in the federal NEPA process as cooperating and commenting agencies, or as agencies with special expertise, to ensure the federal NEPA process considers potential effects to each State's natural resources and public health.

USPS's NEPA regulations served a critical function in ensuring that USPS acts in cooperation with State and local governments when analyzing the potential environmental impacts of its actions. For decades, USPS's regulations had required the agency to solicit comments from federal, state, and local agencies and the affected public on draft EISs, with a 45-day minimum comment period.[46] USPS's regulations also applied this notice and comment requirement to supplemental EISs.[47] USPS's regulations additionally required the agency to respond to comments on the draft EIS, and discuss and respond to any "responsible opposing view which was not adequately discussed in the draft statement," in the final EIS.[48]

The Rule also impairs public participation in the NEPA process and thereby reduces or eliminates the expected benefits it provides. USPS's longstanding regulations set forth the agency's policy under NEPA to "[e]ncourage and facilitate public involvement in decisions

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requiring that these comments and views be made available to the public and "accompany the proposal through the existing agency review process" for an environmental impact statement. 42 U.S.C. § 4332(2)(C).

[44] 42 U.S.C. § 4331(a), (c)

[45] The States have discussed the importance of NEPA and its role in protecting the States' proprietary and sovereign interests in their natural resources in multiple comments on CEQ's NEPA rulemakings since 2018. *See* Comments of Attorneys General of the States of Washington, *et al* on the Proposed Phase 2 Rule, 88 Fed. Reg. 49924 (July 31, 2023), https://www.regulations.gov/comment/CEQ-2023-0003-35189 (last visited July 23, 2026); Comments of Attorneys General of Washington, et al., on Notice of Proposed Rulemaking 86 Fed. Reg. 55757 (Nov. 22, 2021) https://www.regulations.gov/comment/CEQ-2021-0002-33769(last visited July 23, 2026); 2020 Multistate Comments; 2018 Multistate Comments.

[46] Former 39 C.F.R. § 775.11(d) (as redesignated and amended on Aug. 27, 1998); 39 C.F.R. § 775.12(d) (Nov. 5, 1979, as redesignated on Aug. 27, 1998).

[47] Former 39 C.F.R. § 775.11(f)(2) (as redesignated and amended on Aug. 27, 1998).

[48] *Id*. at § 775.11(b)(1)(ii).

which affect the quality of the human environment."[49] Public comment on draft and supplemental EISs, and the requirement that USPS respond to those comments, provides the means whereby USPS can ensure that public input about environmental impacts of proposed actions, including on vulnerable populations and communities, are considered and addressed in final environmental documents. Public comment on draft NEPA documents is necessary to effectuate NEPA's "twin aims" of requiring that federal agencies "consider every significant aspect of the environmental impact of a proposed action" and ensuring the agency "inform[s] the public that it has indeed considered environmental concerns in its decision-making process."[50]

In contrast, the Rule replaces these regulations with non-binding procedures that would require solicitation of public comment only on the notice of intent (NOI) to prepare an EIS, the minimum required under the NEPA statute, and would require solicitation of comments on draft EISs only from certain federal agencies and "[a]ppropriate State, Tribal, and local agencies that are authorized to develop and enforce environmental standards."[51] These procedures provide that USPS *may*, but is not required to, take comments from "State, Tribal, or local governments that may be affected by the proposed action," interested agencies, or the public.[52] Providing for public comment only at the early stage of publishing an NOI is not sufficient to meet USPS's responsibilities under NEPA because the information available to the public at that early stage is minimal, providing no analysis of potential impacts to environment. Furthermore, while USPS's regulations required publication of supplemental EISs, the Rule and non-binding procedures do not appear to require publication of supplemental EISs, allowing USPS to make changes to its environmental review in response to significant changes in circumstances without any public notification.[53] Additionally, the Rule omits the requirement that USPS inform federal, state, and local agencies, and the public, of its progress in implementing mitigation measures upon request.[54] Each of these changes would impair public participation in the NEPA process and thereby reduce or eliminate the benefits it provides to USPS, the States, and the public.

2. The Rule Would Place an Increased Burden on States to Evaluate the Impacts of Federal Actions.

Many States have their own state environmental policy statutes and regulations modeled on NEPA. These include the California Environmental Quality Act (CEQA),[55] Washington's State Environmental Policy Act,[56] New York's State Environmental Quality Review Act, [57]

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[49] Former 39 C.F.R. § 775.2(d).
[50] *Kern v. U.S. Bureau of Land Management*, 284 F.3d 1062, 1066 (9th Cir. 2002) (citing *Baltimore Gas & Elec. Co. v. Natural Res. Def. Council, Inc.*, 462 U.S. 87, 97 (1983)).
[51] 91 Fed. Reg. at 60,837.
[52] *Id.*.
[53] *Id.* at 60,839.
[54] *See* former 39 C.F.R. § 775.9(a)(7).
[55] Cal. Pub. Res. Code § 21000–21189.57.
[56] Wash. Rev. Code. ch. 43.21C.
[57] N.Y. Envtl. Conserv. Law art. 8; N.Y. Comp. Codes R. & Regs. tit. 6, pt. 617.

Connecticut's Environmental Policy Act,[58] New Jersey's Executive Order 215,[59] the Massachusetts Environmental Policy Act,[60] and the District of Columbia's Environmental Policy Act.[61] Where an action subject to state environmental review also requires NEPA review—such as development of USPS property that would require local rezoning[62]—state and local agencies can often comply with their own environmental review requirements by adopting or incorporating by reference certain environmental documents prepared under NEPA, but only if those NEPA documents exist and meet state statutory requirements.[63]

The Rule would increase the burden on the States by shifting the responsibility to analyze the potential impacts of federal actions from USPS to the States. The States' laws are often administered in conjunction with NEPA, either through coordinated state and federal review or by relying on NEPA review to satisfy state environmental review requirements. This collaboration allows state, local, and federal agencies to share documents, reduce paperwork, and efficiently allocate limited time and resources. Changes to USPS's NEPA regulations in the Rule would make this coordination more difficult and time consuming. For instance, the Rule's definition of environmental impacts or effects could result in situations where USPS's analysis of indirect and cumulative impacts would be inadequate to satisfy a state's standards. Similarly, the Rule's omission of the previous requirement for USPS to consider an environmentally preferred alternative would also be inconsistent with some state standards.[64] In such cases, state agencies would be unable to rely on the federal NEPA document to make their own environmental findings. Thus, the burden would fall on the States to conduct additional analysis, such as preparing a separate state analysis of indirect and cumulative impacts and alternatives. Rather than expediting actions that require NEPA review, this burden shifting would create inefficiencies that would likely delay them.

Moreover, even if additional environmental review were not required under a State's statutes, the Rule would diminish the amount of information available to state and local agencies and the public regarding environmental impacts of proposed projects. In such a case, neither the federal nor the State agency responsible for a project would be required to analyze or disclose the same level of information that would be required under USPS's current regulations. This deprives the States and the public of the ability to participate in the NEPA process and ensure that USPS's environmental decision-making is well-informed.

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[58] Conn. Gen. Stat. § 22a-1 *et seq.*
[59] Exec. Order No. 215 (September 11, 1989).
[60] Mass. Gen. Laws, ch. 30, §§ 61-62I.
[61] D.C. Code § 8-109.01–109.12;D.C. Mun. Regs. tit. 20, § 7200–7299.
[62] *See* 60 Fed. Reg. 52,712.
[63] *See, e.g.*, N.Y. Comp. Codes R. & Regs. tit. 6, § 617.15; Mass. Gen. Laws, ch. 30, § 62G.
[64] For example, under the California Environmental Quality Act, agencies must evaluate a specific "no project" alternative and an additional "environmentally superior alternative." 14 Cal. Code Regs. § 15126.6(e)(1), (e)(2). USPS's previous regulations similarly required USPS to "specify[ ] alternatives considered to be environmentally preferable." 39 C.F.R. § 775.9(a)(5)(ii).

Furthermore, rescinding regulations promulgated through notice in the Federal Register and request for public comment,[65] and replacing them with non-binding procedures, opens the door to more frequent and less public revisions to these NEPA procedures. By not following a notice and comment process for the adoption of subsequent NEPA procedures, USPS would avoid the rigors and scrutiny typically associated with revision of agency regulations. This could encourage more frequent changes in USPS's NEPA procedures and thereby create uncertainty regarding the requirements of environmental review as it may be unclear which version of USPS's NEPA procedures apply to any one project. And because USPS's new procedures are non-binding, there will be less transparency as to which of the non-binding procedures are actually being followed for any particular project. This could lead to time-consuming and costly revisions to State-specific environmental review procedures to account for shifting USPS procedures.

B. The Rule Would Undermine the Full Evaluation of Major Federal Actions at a Time When Climate Change Threats Make Comprehensive Analysis Even More Critical to the States.

A robust NEPA process resulting in full evaluation of reasonably foreseeable environmental impacts of major federal actions has become even more critical in the face of the increasing severity and frequency of compounding climate change impacts on States' sovereign lands and coastal areas, natural resources, infrastructure, and the health and safety of residents.

Climate change is causing significant environmental and economic losses for States and our residents, including damage to infrastructure and natural resources,[66] housing[67] and job instability,[68] and the cost of health care and lives lost from environmental pollutants,[69] extreme

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[65] *See, e.g.,* 62 Fed. Reg. 42,958 (Aug. 11, 1997).

[66] JEC Democratic Majority, *Climate-Exacerbated Wildfires Cost the U.S. Between $394 to $893 Billion Each Year in Economic Costs and Damages* 1 (Oct. 2023), https://www.jec.senate.gov/public/_cache/files/9220abde-7b60-4d05-ba0a-8cc20df44c7d/jec-report-on-total-costs-of-wildfires.pdf (last visited July 24, 2026); NOAA National Centers for Environmental Information (NCEI), *Billion-Dollar Weather and Climate Disasters* (2025), https://www.ncei.noaa.gov/access/billions/ (last visited July 24, 2026).

[67] Mariya Bezgrebelna et al., *Climate Change, Weather, Housing Precarity, and Homelessness: A Systematic Review of Reviews*, 18 Int J Environ Res Public Health 5812 (May 28, 2021); Taylor Gauthier & Financial Security Program, *The Devastating Effects of Climate Change on US Housing Security*, The Aspen Institute (April 21, 2021), https://www.aspeninstitute.org/blog-posts/the-devastating-effects-of-climate-change-on-us-housing-security/ (last visited July 24, 2026).

[68] A. R. Crimmins et al., Fifth National Climate Assessment, at Ch. 19 (2023), https://repository.library.noaa.gov/view/noaa/61592/noaa_61592_DS1.pdf (last visited July 24, 2026) (Climate change is anticipated to "impact employment by changing demand for workers, reducing worker safety, altering the location of available jobs, and changing workplace conditions in heat-exposed jobs.") (citations omitted).

[69] American Lung Association, *Asthma Trends and Burden* (last updated July 15, 2024), https://www.lung.org/research/trends-in-lung-disease/asthma-trends-brief/trends-and-burden (last visited July 24, 2026).

storms,[70] heatwaves,[71] and wildfires.[72] For instance, New Mexico already faces serious environmental challenges, with the entire state currently suffering from drought conditions and average temperatures increasing fifty percent faster than the global average over the past century.[73] The escalating heatwaves, degradation of air quality, flooding, sea-level rise, extreme storms, and infectious diseases brought on by climate change have greater impacts on "[r]acially and socioeconomically marginalized communities," including communities of color, low-income communities, and Indigenous Peoples and Tribal Nations, as well as people with disabilities and unhoused people.[74] Such climate-related impacts disproportionately affect vulnerable populations facing existing environmental burdens,[75] exacerbating both environmental risk[76] and economic inequality.[77]

The States are already committing significant resources to meet policy goals and comply with statutory mandates to reduce in-state greenhouse gas emissions while also investing in infrastructure to protect communities and state resources from the effects of climate change. As the operator of the largest federal fleet, consisting of 262,000 vehicles, USPS's actions could affect the States' progress in meeting their policy goals.[78] Moreover, USPS operates a large distribution and delivery network using multiple modes of transportation in every state and territory in the country, and actions changing the operations or infrastructure of this network, such as fleet expansion and construction of mail distribution facilities, could also impact the States' goals and mandates. A fully informed decision-making process requires that federal agencies such as USPS work closely with state, tribal, territorial and local governments, as well as the public, to ensure that decisions account for the climate change impacts on communities already overburdened with pollution and associated public health harms.

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[70] *Supra* n. 60 at: Ch. 2.

[71] R. Emerton et al, *Global heat stress intensification and its expanding footprint on the human population*, *Nature Climate Change* (2026), https://www.nature.com/articles/s41558-026-02670-5 (last visited July 24, 2026).

[72] Kim Knowlton et al., *Six Climate Change-Related Events in the United States Accounted for About $14 Billion in Lost Lives and Health Costs*, 30 Health Affairs 2167, 2170 (Nov. 2011); Vijay S. Limaye et al., *Estimating the Health-Related Costs of 10 Climate-Sensitive U.S. Events During 2012*, 3 GeoHealth 245, 245 (Sep. 2019), https://doi.org/10.1029/2019GH000202 ; Steven Woolf et al., *The Health Care Costs of Extreme Heat*, Center for American Progress (Jun. 27, 2023), https://www.americanprogress.org/article/the-health-care-costs-of-extreme-heat/ (last visited July 24, 2026).

[73] Robert Repetto, Ph.D., *New Mexico's Rising Economic Risks from Climate Change,* Dēmos, UpdatedNMFullReport.pdf (last visited November 4, 2026).

[74] Alique Berberian et al., Racial Disparities in Climate Change-Related Health Effects in the United States, 9 Current Environmental Health Rep. 451, 454 (May 28, 2022) https://doi.org/10.1007/s40572-022-00360-w (last visited July 24, 2026); *see also supra* n. 60 at ch. 15.

[75] *Id.* at 451-52.

[76] H. Orru et al., *The Interplay of Climate Change and Air Pollution on Health*, 4 Current Envtl. Health Report 504, 504 (2017) https://link.springer.com/article/10.1007/s40572-017-0168-6 (last visited July 24, 2026).

[77] Avery Ellfeldt & E&E News, *Climate Disasters Threaten to Widen U.S. Wealth Gap,* Scientific American (Oct. 2, 2023), https://www.scientificamerican.com/article/climate-disasters-threaten-to-widen-u-s-wealth-gap/ (last visited July 24, 2026).

[78] USPS, Postal Facts, https://facts.usps.com/postal-service-has-more-than-200000-vehicles/

C. The Rule Would Make It More Difficult for States to Protect their Overburdened Communities and Vulnerable Populations.

The States have significant interests in robust and consistent evaluation of the full range of effects of USPS's actions to prevent the creation and exacerbation of public health and other disparities flowing from uninformed federal decisions that adversely impact vulnerable communities. Fleet purchases of internal combustion engine vehicles that would circulate nearly every day throughout these communities, or the siting of mail distribution centers in or near historically overburdened areas, can be especially intrusive on a local level and thus require open communication with State and local governments.

The Rule threatens these important interests by impairing the ability of the States to understand the full range of effects from USPS's actions and by eliminating procedural mechanisms that help ensure that USPS does not overlook comments related to impacts on populations and communities that have historically borne disproportionate environmental harms. Without a full understanding of the effects, States would be limited in their ability to protect already overburdened communities. The Rule threatens to eliminate consideration of significant cumulative effects of a federal project on communities that already face a historic and disproportionate pattern of exposure to environmental hazards. These communities are more likely to suffer future health disparities if cumulative impact review is eliminated from the NEPA process.

Studying cumulative and indirect impacts is essential to preventing further harm to overburdened communities, including communities of color, low-income communities, and Indigenous Peoples and Tribal Nations, already burdened with the effects of disproportionately high levels of pollution and other environmental and economic harms. Consideration of cumulative effects is also vital in understanding the health vulnerabilities of such geographically defined communities as well as populations such as people with disabilities, LGBTQ+ people, unhoused people, older adults, and young people, and assisting decision-makers to mitigate and prevent disproportionate environmental and climate harms.[79] Agencies simply cannot know the full impact of a project on a community without considering its existing levels of pollution and the cumulative impacts of adding another pollution source or environmental burden. Similarly, without considering existing burdens, agencies cannot identify meaningful alternatives or mitigation measures to reduce or avoid harms to impacted communities. And increased public health and community harms from weakened NEPA reviews would require greater expenditures of state, Tribal, territorial and local funds to evaluate and remedy increased public health disparities flowing from uninformed federal agency action.

[79] *See* 2020 Multistate Comments; Comments of the Attorneys General of Massachusetts et al. on the U.S. Environmental Protection Agency Interim Framework for Advancing Consideration of Cumulative Impacts, 89 Fed. Reg. 92,125 (November 21, 2024).

Further, by eliminating the requirement that USPS respond to comments on a draft and supplemental EIS, the Rule eliminates a procedural safeguard for ensuring that USPS considers all public input about the potential environmental impacts of a proposed project.

In summary, USPS's longstanding regulations implementing NEPA are an important tool for the States to protect their interests in informed federal decision-making and avoiding numerous types of potential harms to their resources and the public health of their residents. The States have strong interests in the continued implementation of NEPA regulations that provide for a robust, deliberative, and complete federal environmental review process that the States have relied on for decades. USPS's Rule threatens to undermine the quality and efficiency of NEPA reviews and impair the States' and their residents' interests.

III. THE RULE DOES NOT MEET NEPA REQUIREMENTS.

The Postal Service's Rule is contrary to NEPA and fails to comply with the law's text and purpose, because its revisions unlawfully restrict the definition of effects and curtail public participation in the NEPA process.

A. The Rule Unlawfully Limits USPS's Responsibility to Consider "Indirect" and "Cumulative" Effects.

NEPA requires that an agency assess all of a proposed action's reasonably foreseeable significant impacts.[80] The analysis of cumulative and indirect effects is necessary to allow for the full consideration of significant impacts required by NEPA. USPS's revised NEPA regulations fail to direct the Agency to evaluate the indirect and cumulative effects of major federal actions, violating a core tenet of NEPA.

NEPA "compel[s] federal agencies to take a hard and honest look at the environmental consequences of their decisions."[81] As part of this process, NEPA requires that federal agencies prepare a "detailed statement" on the impacts of certain actions prior to making decisions.[82] Under Section 102 of NEPA, agencies must disclose "any adverse environmental effects which cannot be avoided" if the agency action goes forward.[83] Critically, NEPA requires that agencies "recognize the worldwide and long-range character of environmental problems."[84] In enacting NEPA, Congress sought to prevent agencies from making decisions without considering the larger context and incremental impact of projects on the environment. NEPA's legislative history evidences Congress' intent to require agencies to consider the bigger picture; when laying the framework for NEPA, the Senate expressed concern that "[i]mportant decisions concerning the

[80] 42 U.S.C. § 4332.
[81] *Am. Rivers v. FERC*, 895 F.3d 32, 49 (D.C. Cir. 2018) (citations and internal quotation marks omitted).
[82] 42 U.S.C. § 4332(2)(C).
[83] *Id.* § 4332(2)(C)(ii).
[84] *Id*. § 4332(2)(I).

use and the shape of man's future environment continue to be made in small but steady increments which perpetuate rather than avoid the recognized mistakes of previous decades."[85]

In alignment with NEPA's plain text and purpose, for over 40 years the courts have interpreted NEPA's "hard look" requirement to demand consideration of direct, indirect, and cumulative effects.[86] Accordingly, CEQ's former NEPA regulations included a commonsense requirement that agencies analyze the direct, indirect, and cumulative impacts of a major federal action in the definition of effects.[87]

By contrast, USPS's interim final Rule excludes the clear requirement to consider those three categories of effects, replacing it with a vague instruction that "[e]ffects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain."[88] By sidelining impacts that are "remote in time" or "geographically remote," the Rule unlawfully restricts the scope of environmental impacts subject to NEPA, undermining NEPA's mandate and purpose of ensuring that agencies are fully equipped decisionmakers.[89] NEPA requires that an agency assess *all* of the project's reasonably foreseeable significant impacts,[90] and the exclusion of impacts purely for being "remote in time" or "geographically remote," would unlawfully take such "long range" environmental impacts out of NEPA's purview and undermine NEPA's mandate and purpose to ensure that agencies are fully equipped to make decisions concerning all significant environmental impacts.[91]

Analysis of only those direct effects that are close in time and geography to the proposed federal action ignores the true nature of most environmental problems. Comprehensive analysis of a project's environmental effects is critical for informing decision makers and the public, particularly where projects may contribute incrementally to larger environmental or climate harms. As the Second Circuit noted in *Hanly v. Kleindienst*, "[o]ne more factory polluting air and water in an area zoned for industrial use may represent the straw that breaks the back of the environmental camel. Hence the absolute, as well as comparative, effects of a major federal action must be considered."[92] The Supreme Court's 2025 decision in *Seven County*

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[85] S. Rep. No. 91-296, at 5.
[86] *Kleppe*, 427 U.S. at 410; *Hanly v. Kleindienst*, 471 F.2d 823, 830–31 (2d Cir. 1972); *Ecology Ctr. v. Castaneda*, 574 F.3d 652, 666 (9th Cir. 2009) ("NEPA requires the Forest Service to perform a cumulative impact analysis in approving projects.").
[87] 40 C.F.R. § 1508.1(i).
[88] 39 C.F.R. § 775.2(d)(2).
[89] See *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989); 42 U.S.C. §§ 4332(2)(F), 4332(2)(C)(ii).
[90] 42 U.S.C. § 4332. Moreover, CEQ itself previously stated that "[p]erhaps the most significant environmental impacts results from the combination of existing stresses on the environment with the individually minor, but cumulatively major, effects of multiple actions over time." CEQ, Exec. Office of the President, National Environmental Policy Act: A Study of Its Effectiveness After Twenty-five Years at 29 (Jan. 1997), https://ceq.doe.gov/docs/ceq-publications/nepa25fn.pdf.
[91] *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989); 42 U.S.C. §§ 4332(2)(F), 4332(2)(C)(ii).
[92] 471 F.2d at 831.

Infrastructure Coalition v. Eagle County, Colorado[93] does not change the principle that indirect effects should be considered in appropriate cases.

While *Seven County* did limit the "reasonably foreseeable" impacts an agency must consider in conducting NEPA environmental review to some extent, it did not hold that an agency need not ever consider indirect or cumulative impacts of a major federal action. Rather, the opinion acknowledges that an agency may have to consider indirect or cumulative impacts from a proposed action, if there exists a reasonable causal nexus:

> To be clear, the environmental *effects* of the project at issue may fall within NEPA even if those *effects* might extend outside the geographical territory of the project or might materialize later in time—for example, run-off into a river that flows many miles from the project and affects fish populations elsewhere, or emissions that travel downwind and predictably pollute other areas. Those so-called indirect effects can sometimes fall within NEPA . . . .[94]

The Court further recognized that "other projects may be interrelated and close in time and place to the project at hand—a residential development next door to and built at the same time as a ski resort, for example" and thus require analysis in a NEPA document for a project.[95] *Seven County* accordingly does not excuse agencies from NEPA's command to consider "reasonably foreseeable" impacts, including indirect and cumulative impacts. Moreover, the absence of "indirect" or "cumulative" impacts from the Postal Service's NEPA Procedures should not allow the Postal Service to avoid considering the *direct* impacts of changes to its routes and fleet size and makeup which, by their nature, can be dispersed in geography and time because the Postal Service delivers to every address in the U.S..

As such, USPS's redefinition that excludes "indirect" or "cumulative" impacts is contrary to NEPA. The agency is required to take the requisite "hard look" at all reasonably foreseeable impacts that are relevant to its NEPA analysis, including all direct, indirect, and cumulative impacts.

B. The Rule Improperly Presupposes that Multiple Classes of Actions Would Not Require an Environmental Impact Statement.

In a similar vein, the Rule presupposes multiple classes of actions that "normally require environmental assessments, but likely do not require an environmental impact statement."[96] However, several of the listed classes of actions are so broad that they could very well

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[93] *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 605 U.S. 168 (2025) [hereinafter *Seven Cnty.*].
[94] *Seven Cnty.*, 605 U.S. at 187 (emphasis in original).
[95] *Id.* at 190.
[96] 91 Fed. Reg. at 60,836.

encompass actions with significant environmental impacts warranting preparation of an environmental impact statement.

By listing multiple classes of actions as "unlikely" to require an environmental impact statement, the Rule effectively directs the USPS to base its decision-making on a potentially false premise, replacing NEPA's requirements for evidence-based reasoning and a "hard look" at the significance of environmental impacts, with reduced information and unverified assumptions.

In particular, the Rule lists several actions that warrant a deeper level of scrutiny often found in an EIS, such as: actions "that would adversely affect a federally listed threatened or endangered species or its habitat"; actions "that would directly affect public health"; actions "that would require development within park lands, or be located in close proximity to ecologically critical areas"; and actions that threaten a violation of applicable federal, state, or local environmental laws or requirements imposed for the protection of the environment."

In addition, among other classes of actions, the Rule directs USPS to presuppose actions that may generate indirect or cumulative significant environmental impacts—such as proposed actions where "there is no clear indication that significant effects will result" and/or "have highly uncertain or unknown risks on the human environment"—as only requiring an environmental assessment, not an environmental impact statement.

The Rule also presupposes that actions with potentially significant environmental impacts—such as the "[n]ew construction of a facility with vehicle bulk fuel dispensing capabilities," which are often used for large fleet operations, industrial and commercial fleets, and aviation and marine vessels—would require only an environmental assessment, not an environmental impact statement.

As such, this provision of the Rule may improperly circumvent NEPA's "hard look" standard for virtually any proposed action, undermining the very purpose of NEPA.

C. **The Rule Would Unlawfully Curtail Public Participation in the NEPA Process.**

As described more fully above, public participation is one of the "twin aims" of NEPA.[97] Federal agencies are statutorily obliged to "consider every significant aspect of the environmental impact of a proposed action" *and* "inform the public that it has indeed considered environmental concerns in its decision-making process."[98] To effectuate public participation in the environmental review process, NEPA requires that agencies prepare EISs in part to "make available to the public, information of the proposed project's environmental impact and encourage public participation in the development of that information."[99] Contrary to that requirement, the Rule removes language requiring USPS to make available to the public "[a]ny

[97] *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 97 (1983) (internal citation omitted).
[98] *Id*.
[99] *Save Lake Washington v. Frank*, 641 F.2d 1330, 1334 (9th Cir. 1981) (quoting *Trout Unlimited v. Morton*, 509 F.2d 1276, 1287 (9th Cir. 1974).

completed draft environmental impact statement which is made the subject of a public hearing" at least 15 days in advance of the hearing, as well as language obliging the Agency to respond to comments as part of a final EIS.[100] In addition, the Rule adds multiple categorical exclusions that are drafted so broadly that actions with reasonably foreseeable and significant environmental impacts could be excluded from environmental review—effectively, and unlawfully, eliminating procedural safeguards for public participation from the outset. Accordingly, the Rule's revisions chill public involvement in the environmental review process and undermine a foundational purpose of NEPA in violation of the law.

IV. USPS'S CATEGORICAL EXCLUSIONS ARE VAGUE AND OVERBROAD

Multiple categorical exclusions established by the Rule are drafted too broadly and include actions that require case-by-case analyses of their potential environmental impacts. "Categorical exclusions, by definition, are limited to situations where there is an insignificant or minor effect on the environment."[101] Several of the categorical exclusions that the Rule promulgates are so broadly written that they could be read to encompass actions with significant effects on the environment, and their application to these actions would be in violation of NEPA. In addition, the Rule states that "[b]ased on the Postal Service's experience, there are no actions that normally require an environmental impact statement." However, several of the proposed categorical exclusions may encompass actions that go beyond USPS's standard operations and authority, and due to their scope or nature could produce effects requiring an environmental impact statement. Therefore, the vagueness and breadth of the exclusions calls into question the underlying basis for developing those categories. Absent clarification of the meaning and scope of the following proposed categorical exclusions, the USPS should evaluate potential environmental impacts of actions through environmental assessments or environmental impact statements, which are intended to provide a more rigorous framework for such fact-based issues.

A. Categorical exclusion B1(f) – Procurement and/or fuel conversion of vehicles, whether owned or leased, where the vehicles are being procured or converted have both: (i) comparable or improved relative fuel efficiency and (ii) comparable or lower relative air emissions, as compared with the vehicles they are replacing in use or service, whether due to vehicle replacement, route growth or change in business needs.

The Rule categorically excludes the "[p]rocurement and/or fuel conversion of vehicles, whether owned or leased, where the vehicles are being procured or converted have both: (i) comparable or improved relative fuel efficiency and (ii) comparable or lower relative air emissions, as compared with the vehicles they are replacing in use or service, whether due to vehicle replacement, route growth or change in business needs." This categorical exclusion is

[100] 39 C.F.R. § 775.11(d)(1), (e)(1).
[101] Sierra Club v. Bosworth, 510 F.3d 1016, 1027 (9th Cir. 2007).

vaguely written and overly expansive, and it departs from prior USPS regulations and NEPA documents that recognized that changes in the fuel composition of a fleet can have significant impacts on the environment under NEPA.

For example, it is unclear what USPS means by allowing for vehicles with "comparable" fuel efficiency or air emissions to fall under this categorical exclusion. Considering the size of USPS's fleet, procuring vehicles with worse but purportedly "comparable" fuel efficiency or air emissions could either individually or cumulatively result in significantly worse fuel efficiency or air emissions over the lifetimes of the vehicles. It would violate NEPA for such a procurement to qualify for a categorical exclusion. It is also unclear what metrics USPS will use in determining whether procured or converted vehicles have comparable or improved relative fuel efficiency or comparable or lower relative air emissions. In particular, USPS should clarify how it will compare the fuel efficiency and air emissions of internal combustion engine vehicles with that of electric vehicles, including what methodologies and assumptions it will use in such a comparison. Absent this information, the public has no meaningful ability to comment on the proposal.

Moreover, the Rule provides no definition of "air emissions"; USPS should clarify that both criteria pollutants and greenhouse gases are included in this definition. Otherwise, the categorical exclusion would impermissibly permit the evasion of full NEPA review of potential air quality and climate change impacts. USPS should also clarify whether "air emissions" are measured on the basis of vehicle tailpipe emissions.

Furthermore, it is unclear if the last phrase of the categorical exclusion— "whether due to vehicle replacement, route growth or change in business needs"—sets forth the reasons for procurement and/or fuel conversion, or explains why the newly procured and/or converted vehicles have comparable or improved relative fuel efficiency or air emissions. Additionally, the Postal Service should clarify that vehicles being *added* to the fleet due to "route growth" fall outside of this categorical exclusion, since the categorical exclusion appears limited to vehicles that are "replacing"' those "in use or service."

Lastly, it is unclear what "change in business needs," outside of the need for vehicle replacement due to aging vehicles, would justify the procurement and/or fuel conversion of vehicles. USPS should clarify that such changes in "business needs" do not include under this categorical exclusion an increase in the number of vehicles in its fleet, or a replacement of smaller vehicles with larger ones.

To the extent USPS intends to use this categorical exclusion to modify its previous commitment, set forth in its September 29, 2023 Final Supplemental EIS for Next Generation Delivery Vehicles Acquisitions, to replace more than 106,000 vehicles in its fleet with 62% electric vehicles without further review in an EIS or SEIS, this would be inappropriate. As USPS has recognized, such changes in the composition of its delivery vehicle fleet could pose

significant impacts on the environment and thus warrant an EIS.[102] Any use of this categorical exclusion to modify a project that previously required an EIS would be contrary to NEPA.[103]

Moreover, USPS's previous commitment in its Final Supplemental EIS and Record of Decision for its Next Generation Delivery Vehicles Acquisitions project should be considered part of the baseline condition against which any replacement fleet purchase or conversion should be measured.[104] An agency cannot choose an artificially high baseline in order to conclude that even highly disruptive actions will have minimal incremental effects.[105] Accordingly, USPS should consider any replacement acquisitions or conversions of gas-powered vehicles against the baseline of its previous fleet acquisition Final Supplemental EIS and Record of Decision, with a vehicle mix consisting of 62% electric vehicles, rather than simply compare newly acquired or converted gas-powered vehicles against existing gas-powered vehicles that were meant to have been replaced with electric vehicles under the previously approved project.

Finally, the categorical exclusion is overbroad and, without explanation, departs from USPS's previous policies, which recognized that changes in fleet composition which affect fuel efficiency or air emissions can have significant impacts that preclude the use of a categorical exclusion under NEPA. Specifically, USPS's regulations previously included a provision, adopted on August 27, 1998, that an EA would normally be required for "[a]ny project that includes the conversion, purchase, or any other alteration of the fuel source for 25 percent or more of USPS vehicles operating with fuel other than diesel or gasoline in any carbon monoxide or ozone nonattainment area."[106] This provision acknowledges that changes to the fuel source for substantial portions of the USPS fleet may have either significant or unclear impacts, especially to criteria pollutant emissions, that should be studied and disclosed in at least an EA. Categorical Exclusion B1(f), by contrast, would allow USPS to acquire or convert gas-powered vehicles without environmental review, locking criteria-pollutant and greenhouse-gas emitting vehicles into the fleet potentially for decades, and substantially impacting human health and the environment, especially in nonattainment areas. This is contrary to NEPA's purpose in requiring that federal agencies take a "hard look" at potential environmental impacts.

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[102] USPS, *Record of Decision and Record of Environmental Consideration, Next Generation Delivery Vehicle Acquisitions* (February 23, 2022), https://uspsngdveis.com/documents/USPS%20NGDV%20Acquisitions%20NEPA%20Record%20of%20Decision_2.23.22.pdf (last visited November 4, 2026); USPS, *Final Supplemental Environmental Impact Statement, Next Generation Delivery Vehicle Acquisitions* (September 2023), https://uspsngdveis.com/documents/FinalNGDVSEIS.pdf (last visited November 4, 2026).

[103] *See* Sierra Club v. Bosworth, 510 F.3d at 1027 (categorical exclusions can only be applied if impacts are insignificant).

[104] *See Cascadia Wildlands v. Bureau of Indian Affairs*, 801 F.3d 1105 (9th Cir. 2015) (past, present, and future projects should be considered in assessing cumulative effects of agency action).

[105] *See Great Basin Resource Watch v. Bureau of Land Management*, 844 F.3d 1095, 1102-1104 (9th Cir. 2016) (finding analysis of air impacts deficient because agency did not provide support for its use of baseline values of zero for air polluntants).

[106] 63 Fed. Reg. 45,719, 45,720 (Aug. 27, 1998).

B. Categorical exclusion B4(d) – Acquisition or disposal of existing facilities and real property where the planned uses do not differ significantly from past uses of the site.

The Rule categorically excludes from NEPA review "[a]cquisition or disposal of existing facilities and real property where the planned uses do not differ significantly from past uses of the site." Categorical Exclusion B4(d). As drafted, it is unclear what factors would constitute an assessment between past and present uses. For example, while the operations of one planned use may fall under the same general category as another use, the two actions may still differ significantly in scope (such as scale, frequency, intensity, and duration), as well as their respective impacts on the environment and surrounding communities and properties. In addition, two generally comparable projects may also have significantly different construction plans, where the scope and resulting environmental impacts from construction may also differ significantly. Accordingly, the Rule should, at a minimum, clarify the definition and scope of "planned uses" as it relates to the standard operations of the USPS, as well as outline objective factors for conducting a meaningful comparison between past and present uses of the site.

C. Categorical exclusion B1(g) – Processing network actions necessary to improve performance and achieve operational efficiencies, including service standard changes and route optimization, that do not significantly adversely impact traffic safety, congestion or air quality.

The Rule categorically excludes "network actions…including service standard changes and route optimization that do not significantly adversely impact traffic safety, congestion or air quality." Categorical Exclusion B1(g). As drafted, the Rule does not define the term "network actions," nor does it clearly define its scope. Instead, the Rule cites opaque examples such as "route optimization," which could range from rerouting to removing certain routes to adding a significant number of new routes. Moreover, this Rule should not be used as a justification for segmenting a larger network reorganization action into a series of smaller actions. In addition, the Rule should include full consideration of the environmental and community impacts of a proposed action, not just its impacts to traffic, safety, congestion or air quality. For example, a proposed network action, such as adding a significant number of new routes, could generate noise pollution beyond municipal baseline limits, light pollution that exceeds local community preferences, and impacts to environmentally sensitive lands, such as protected wetlands, among other things. Accordingly, the Rule should, at a minimum, clarify the scope and definition of "network actions" as it relates to USPS's standard operations, as well as include full consideration of environmental and community impacts.

D. Categorical exclusion B3(a) – Siting, construction or operation of temporary support buildings or support structures.

The Rule proposes to categorically exclude "[s]iting, construction or operation of temporary support buildings or support structures." Categorical Exclusion B3(a). As drafted, the Rule does not define the scope of "temporary support buildings or support structures." In some cases, structures that are considered "temporary" can become permanent; such structures may warrant full NEPA review *before* they are sited or constructed. The siting, construction, and operation of buildings and structures—even if they are temporary—may still generate impacts to the environment and surrounding community, such as impacts to environmentally sensitive lands (like wetlands) or impacts to sewage systems, depending on the size of the project. Moreover, the Postal Service should clarify that portable diesel and gasoline bulk dispensing stations, which could emit significant amounts of air pollutants, do not fall under this exemption. Accordingly, the Rule should clearly define "temporary support buildings or support structures" as it relates to the USPS's standard operations.

E. Categorical exclusion B4(g) – Disposal or acquisition, whether through sale, lease, outlease, transfer or exchange, of properties where the size, area, topography, and zoning are similar to existing surrounding properties and/or where current, planned or reasonably anticipated uses are or would be similar to current surrounding uses (e.g., commercial store in a commercial strip, warehouse in an urban complex, office building in downtown area, or parking lot in an urban area).

The Rule categorically excludes "acquisition…of properties where the size, area, topography, and zoning are similar to existing surrounding properties and/or where current, planned or reasonably anticipated uses are or would be similar to current surrounding uses (e.g., commercial store in a commercial strip, warehouse in an urban complex, office building in downtown area, or parking lot in an urban area)." Categorical Exclusion B4(g).

As drafted, the Rule does not define the term "acquisition," and it narrows the scope of "acquisition" to non-material factors, such as size, area, topography, and zoning. However, acquisition of a property is not limited to such non-material factors; instead, acquisition generally involves consideration of the property's intended use and operations, as well as necessary construction. Both the construction plans and operations of a project could independently result in significant environmental impacts that require an environmental review. For example, a data center property may be similar in size to a neighboring hospital, but constructing and operating a data center would have significantly different environmental impacts than the hospital's current operations. And even if the new use results in similar environmental impacts as those caused by surrounding uses, the impacts of the new use, in combination with existing impacts, could be cumulatively significant.

In addition, it is unclear what factors would constitute an assessment between a property's "current, planned or reasonably anticipated uses" as compared to the current uses of surrounding properties, particularly because the Rule references exceptionally broad examples, such as "parking lot in an urban area" and "office building in a downtown area." Projects may still have significant environmental impacts even if they are sited in an urban or downtown area.

Accordingly, the Rule should, at a minimum, clearly define the scope and definition of acquiring properties as it relates to the standard operations of the USPS, as well as outline clearly defined, objective factors for conducting a meaningful assessment between the intended uses of an acquired property and surrounding properties. Absent this clarification, the USPS should evaluate potential environmental impacts of acquiring a property through environmental assessments or environmental impact statements, which are intended to provide a more rigorous framework for such fact-based issues.

F. Categorical exclusion B4(h) – Acquisition of real property not connected to specific facility plans or when necessary to protect the interests of the Postal Service in advance of final project approval. This categorical exclusion only applies to the acquisition. Any subsequent use of the site for a facility project must be considered under this part.

The Rule proposes to categorically exclude "acquisition of real property not connected to specific facility plans." As drafted, the Rule does not define the meaning and scope of "real property not connected to specific facility plans," which would, in effect, exclude *all* acquisitions of *any* real properties from environmental review, especially when read together with Categorical Exclusions B4(d) and B4(g). In addition, the Rule mentions that "[t]his categorical exclusion only applies to the acquisition" and "[a]ny subsequent use of the site for a facility project must be considered under this part." However, as noted above, acquisition generally involves consideration of the property's intended use and operations, as well as necessary construction, which could independently result in significant environmental impacts that require an environmental review. Accordingly, the Rule should, at a minimum, clarify the scope and definition of acquiring properties as it relates to the standard operations of the USPS. Absent this clarification, the USPS should evaluate potential environmental impacts of acquiring a property through environmental assessments or environmental impact statements, which are intended to provide a more rigorous framework for such fact-based issues.

IV. OTHER FEDERAL AGENCIES CANNOT ADOPT USPS'S CATEGORICAL EXCLUSIONS WITHOUT COMPLYING WITH THE APA.

Since 2023, section 109 of NEPA has included a provision stating that "[a]n agency may adopt a categorical exclusion listed in another agency's NEPA procedures for a category of

proposed agency actions for which the categorical exclusion was established consistent with this paragraph."[107]

Although the Postal Service takes the position in the Rule that "the Administrative Procedure Act does not apply to this action,"[108] the Postal Service's categorical exclusions may be adopted by federal agencies whose actions are unquestionably subject to the substantive standards of the Administrative Procedure Act (APA) as well as the procedural requirements under section 109 of NEPA for proper adoption of categorical exclusions. Accordingly, the scope and vagueness of some of the Postal Service's categorical exclusions may, if adopted by other federal agencies, become subject to APA rulemaking standards.

V. CONCLUSION

In conclusion, the Attorneys General appreciate the opportunity to comment on this rulemaking. We urge USPS to withdraw this Rule and publish for further public comments a new proposal that effectuates NEPA's goals of public participation and informed decision making.

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[107] 42 U.S.C. § 4336c.
[108] 91 Fed. Reg. at 60,831.

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