Date: August 4, 2025

U.S. Department of the Interior
Attn: Stephen G. Tryon, Director, Office of Environmental Policy and Compliance
1849 C Street NW, MS 5020
Washington, DC 20240

Via Submission on the Federal eRulemaking Portal: https://www.regulations.gov

RE: National Environmental Policy Act Implementing Regulations (Docket Number DOI-2025-0004)

Dear Director Tryon & DOI NEPA Planning Team,

Utah Public Lands Alliance (UPLA) is writing to provide public comment on the National Environmental Policy Act (Implementing Regulations[1] interim final rule, hereto forward referred to as "Rule." The entirety of our membership live near and/or recreate throughout the 22.8 million acres of public land that is managed by the Bureau of Land Management (BLM) in Utah, as well as BLM-managed public lands throughout the rest of the USA. Our members are directly impacted by the framework of National Environmental Policy Act (NEPA) procedures and decision making as related to all facets of BLM public land management. Thus, our members are among the hundreds of millions of people who will be impacted by the outcome of this Rule. This letter of comment shall not supersede the rights of other UPLA agents, representatives, or members from submitting their own comments; the BLM should consider and appropriately respond to all comments received for the Rule.

UPLA is a non-profit organization representing over 5,800 members, in addition to speaking out for 69 OHV clubs and organizations. We advocate for responsible outdoor recreation, active stewardship of public lands, and encourage members to exercise a strong conservation ethic including "leave no trace" principles. We champion scrupulous use of public lands for the benefit of the general public and all recreationists by educating and empowering our members to secure, protect, and expand shared outdoor recreation access and use by working collaboratively with public land managers, all recreationists, and other public land stakeholders. Our members participate in outdoor recreation of all forms to enjoy federally and state managed lands throughout Utah, including BLM managed public lands. UPLA members visit public lands to participate in motorized and human-powered activities such as off-roading, camping, hiking, canyoneering, horseback riding, sightseeing, photography, wildlife and nature study, observing cultural resources, and other similar pursuits on a frequent and regular basis throughout every

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season of the year. UPLA members and supporters have concrete, definite, and immediate plans to continue such activities in BLM-managed public lands throughout Utah and the USA for the indefinite foreseeable future.

I, Rose Winn, am an avid outdoor recreation enthusiast and anthropologist; hiking, backpacking, backcountry horseback riding, camping, rock climbing, off-roading, fishing, forage of wild herbs and plants for medicinal uses, and exploration of cultural and archeological sites and artifacts on public lands are among my core areas of activity and interest. I serve as the Natural Resources Consultant for Utah Public Lands Alliance (UPLA), a non-profit organization dedicated to keeping offroad trails open for all recreation users. While my profession allows me to advocate to protect public access to public lands for all stakeholders and multiple-uses, I also work as a volunteer on conservation, mitigation, and restoration projects on public lands.

As a joint writer of this comment letter, Loren Campbell is a Jeeper and UTV enthusiast from Virgin, Utah. Loren serves as the President of Utah Public Lands Alliance (UPLA). We share a strong interest in maximizing opportunities for offroad motorized recreation. Loren works full time as a volunteer advocate to protect access for all users, and also organizes and works as a volunteer on projects on public lands. UPLA, Loren, and I are also members of BlueRibbon Coalition. These comments are submitted on behalf of both myself and Loren Campbell, as well as our members and followers from within and outside of Utah.

Please note our support and agreement with the comments submitted by BlueRibbon Coalition.

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GENERAL COMMENTS

UPLA recognizes the positive mental, spiritual, physical, and social benefits that can be achieved through outdoor recreation. We also recognize that outdoor recreation provides business owners and local communities with significant financial stimulus. Of foremost importance to our motivations for this comment letter: our members are directly affected by management decisions concerning land use in BLM-managed public lands, including and especially, decisions that impact the scope and implementation of the multiple-use mandate, and related balance of public access and outdoor recreation with conservation of natural and cultural resources.

Our members subscribe to the tenets of:

- Public access to public lands now, and for all future generations
- Active stewardship for the benefit of all US citizens who collectively own our public lands as part of our national endowment
- Effective management of public lands to ensure the safety of all who enjoy them
- Conservation of ecological, cultural, and archeological resources in balance with implementation of the Congressional mandate for multiple-use public land management

UPLA members as well as the general public desire access to public lands now and in the infinite foreseeable future. Restricting access today deprives the public of the opportunity to enjoy the many natural wonders of public lands. UPLA members and the general public are deeply concerned about the condition of the environment and public safety. They desire safe means to access public lands to engage in conservation efforts as well as outdoor recreation. UPLA supports the concept of managed recreation and believes it is prudent to identify areas where both motorized and non-motorized use is appropriate.

The BLM administers more surface land (245 million acres or one-tenth of America's land base[2]) and more subsurface mineral estate (700 million acres) than any other government agency in the United States. The BLM manages 22.8 million acres of public land in Utah[3], representing 42% of the total land mass in this state. Utah's public lands offer the primary source for the public to enjoy outdoor recreation, as is the case in all states across the USA. Reduction or elimination of public access to BLM managed land thus bears the potential to increase user conflicts and resource damage by removing sufficient access to public lands for all forms of outdoor recreation.

As the BLM is considering critical issues to inform changes to NEPA regulations and implementation, we are concerned about the risk of recreational values being placed in an inferior position of priority among the range of public land values that are at stake. We frame this

comment letter with a reminder that it is the BLM's Congressionally-directed responsibility to develop rules and plan alternatives that serve to maximize the multiple-use directive, and place recreational values in equal status for optimization as all other public land values. Regulatory changes that function to close or restrict motorized, recreational, and other public access would negatively impact UPLA members, as well as all members of the general public who enjoy outdoor recreation on BLM managed lands, by significantly minimizing their ability to access public land. In accord with legal and procedural dictates, any changes that are finalized and adopted for NEPA procedures and implementation must align with Congressional directives.

As Congressionally-designated managers, it is the responsibility of the BLM to optimize management protocol to balance conservation of natural and cultural resources with public access and enjoyment of public lands. By the letter and spirit of the law, it is neither necessary nor prudent to restrict or eliminate public access to BLM-managed public lands as a primary management tool; to do so, when alternative mechanisms for management that would effectively balance conservation with public access are readily available, is both arbitrary and capricious.

While evaluating the proposed Rule the BLM is legally and procedurally compelled to address the following Rule components:

1. Disproportionate impact on members of the public for NEPA revisions specific to energy, major infrastructure, forest management, and recreational uses
2. Congressional direction, Congressional intent, and federal agency operational guidelines
3. Subversion of the Council on Environmental Quality's repeal of 40 CFR § 1503.4: the "substantive comment requirement"
4. Excessive use of categorical exclusions
5. Legal and procedural contradiction with overturn of the Chevron Doctrine
6. Failure to account for economic and social impacts

Additionally, we acknowledge improvements in the function of mitigations and alternatives development that we encourage the DOI to retain within the final draft of the Rule.

In summary reference to the items noted above, with additional detail for each following within this comment letter, we support any additional comments from individuals, groups, associations, and the general public that encourage the DOI to adhere to the Congressionally-mandated directive that requires protection of recreational access and infrastructure as a core value for BLM public land management. We support any additional comments that encourage the DOI to uphold their mission and commitment to the public to manage public lands in a manner that maximizes public access, and sustains the health, diversity, cultural resources, and values of the

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land for the use and enjoyment of present and future generations. We strongly advocate against any components of the Rule that would diminish or eliminate public access to public lands.

DISPROPORTIONATE IMPACT ON MEMBERS OF THE PUBLIC FOR NEPA REVISIONS SPECIFIC TO ENERGY, MAJOR INFRASTRUCTURE, FOREST MANAGEMENT, AND RECREATIONAL USES

While we recognize and support the intent to modernize and streamline NEPA procedures in the interest of reducing delays – particularly for energy development, large infrastructure projects, and forest and wildfire management – it is deeply concerning that the proposed Rule focuses exclusively on these sectors. This narrow scope effectively overlooks the critical importance of public access, outdoor recreation, and especially motorized off-highway vehicle (OHV) recreation on public lands managed by BLM. The Rule provides no direct reference to BLM Travel Management Plans (TMPs), route designation, or OHV uses. However, the Rule directly impacts all facets of TMPs, route designation, and OHV uses by rescinding DOI NEPA procedures (43 CFR §46) and replaces them with internal agency procedures in the Department Manual (DM 516), reducing legally enforceable steps.

The proposed Rule identifies the need to expedite environmental reviews for key sectors (Sections I–II of the Preamble, pp. 2–5), citing persistent litigation and administrative delays. Yet, the same urgency and consideration are not extended to the management and preservation of recreation assets, which are equally integral to the purpose of public lands under the Federal Land Policy and Management Act of 1976[4] (FLPMA). Recreational users – particularly those engaged in OHV activities – are among the most directly affected stakeholders in land use planning decisions, and yet are notably absent from the considerations outlined in this rule.

A significant concern with the proposed rule is the DOI's shift toward accelerated NEPA reviews paired with reduced opportunities for public involvement. The move to implement "14-day Environmental Assessments (EAs)" and "28-day Environmental Impact Statements (EISs)," with no public comment period during the EA process and only a 10-day window during final EIS preparation, represents a sharp departure from long-standing NEPA standards. Historically, the public has been provided 30- to 90-day comment periods for draft EAs and EISs – including for BLM Resource Management Plans – enabling stakeholders to analyze agency proposals, conduct site-specific assessments, and provide meaningful feedback.

While it is true that many energy-related actions may not directly impact public access or recreational use of public lands, some will. The Western Solar Plan is a prime example of a renewable energy initiative that overlaps with active recreation areas, including motorized use

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zones and established access corridors. When energy development intersects with recreation infrastructure or travel routes, especially in multiple-use landscapes managed by BLM, it is essential that these proposals undergo a full and transparent public review process – not an abbreviated one.

The proposed fast-track review timelines dramatically limit the public's ability to review technical documentation, evaluate environmental impacts, and consult with local user groups. In the context of motorized recreation and Travel Management, this is especially problematic, given the volume of route-specific data involved and the time required to verify on-the-ground conditions. The truncation of public comment periods could result in negative impacts on projects affecting trails, OHV areas, and other recreational resources. BLM's current public process includes scoping, 90-day draft comment periods, plan protests, and objection resolution. The Rule would make all of these more variable, and weaker, according to agency discretion.

Accordingly, we recommend that the final rule establish a minimum 45-day public comment period for any project that directly affects public access or outdoor recreation. Furthermore, the rule should mandate a 90-day public comment period for all NEPA actions that propose changes to more than 100 miles of OHV-designated routes, whether those changes occur within broader land use planning efforts, project-specific proposals, or travel management updates. These timelines are not excessive – they are proportional to the complexity of the decisions and the degree of public interest involved. Ensuring equitable public participation must remain a core value of NEPA implementation, regardless of the urgency surrounding specific sectors like energy or wildfire management.

We urge the Department to add a dedicated section to the final rule addressing Recreation, including the NEPA procedures applicable to:

- Recreation Management Plans (RMPs)
- OHV and motorized recreation planning
- Travel Management Plans (TMPs)
- Project-specific proposals that affect public access or designated routes

Currently, TMPs are among the most contentious and technically complex planning efforts BLM undertakes, and they have substantial, long-term implications for public land access. Despite this, they are not even mentioned in the proposed rule. This is a serious oversight.

Moreover, the current procedural model often affords the BLM years to conduct its analysis of travel networks, while the public is frequently provided only 30 days – or in some cases less – to

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review thousands of pages of documentation, route inventories, and GIS data. This disproportionate allocation of time severely hinders the public's ability to provide substantive, informed, and locally relevant comments.

For example:

- The Henry Mountains / Fremont Gorge TMA involves remote, rugged terrain that often takes a full day to reach, in addition to the time required to drive and assess individual routes. A short comment period for travel management or multiple use public access for projects within the Henry Mountains / Fremont Gorge TMA, in this context, essentially excludes meaningful participation.
- The Labyrinth Rims / Gemini Bridges TMP covered a vast area near Moab, Utah, and involved such a high volume of route mileage and analysis that 30–45 days was insufficient for stakeholders to fully assess the impacts of proposed closures.
- The San Rafael Swell TMP presented additional complexity due to the overlay of the John D. Dingell Jr. Conservation, Management, and Recreation Act (Dingell Act[5]), which layered new legal designations on top of an already extensive TMP. The compressed timeline provided to the public made it impossible for many interested users to comment comprehensively.

In these cases, recreation stakeholders were not given a fair opportunity to engage in the process proportionally to the scope and significance of the proposed actions. These are not isolated cases; they represent a broader systemic issue in how NEPA is currently applied to recreation planning.

The timing of project announcements is also a significant factor of impact on public engagement in public comments on NEPA projects. If a project is announced during the winter – it is typically challenging to impossible for OHV and recreation users to get out on the terrain to evaluate trail and site conditions, to ground truth the details of the proposed changes in a general management plan, travel management plan, or other planning document that bears impact on recreation access. We are not suggesting that the BLM cannot or should not announce projects during the winter, however, the seasonal timing of projects that are opened for public comment should be included as a significant factor when determining the length of time for the public comment period.

To remedy this, we strongly recommend that the final rule include a minimum 45-day public comment period for any project that directly impacts public access or recreation, and a mandatory 90-day comment period for all plans that propose changes to more than 100 miles of OHV-designated routes. These timeframes would restore a degree of balance to

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the planning process and allow users and local communities to conduct site visits, analyze agency data, consult with experts, and develop substantive responses.

Furthermore, **we recommend that the DOI include in the final Rule a commitment to conduct robust scoping and alternatives development with recreation stakeholders – including OHV users, local governments, and advocacy organizations – before releasing draft NEPA documents for formal comment. Finally, we recommend that post-draft objection and objection resolution processes as currently required remain intact.** Recreation users are not incidental participants in the NEPA process; they are among the most frequent users and stewards of BLM lands and should be afforded decision-making equity commensurate with that status.

The urgency to streamline NEPA for energy, infrastructure, and forest management is clear and justified. But that cannot – and must not – come at the expense of robust public involvement in recreation planning. The NEPA process was created to guarantee public involvement in federal decision-making and ensure that diverse stakeholder voices could shape the future of public lands. Recreation – especially OHV recreation – is a valid, legally protected use of public lands under multiple statutes, including FLPMA and the Recreation and Public Purposes Act[6] (RPPA).

The DOI must not let efficiency undermine transparency. We respectfully request that you expand the scope of the final rule to include NEPA guidance specific to recreation, and embed minimum standards for public involvement, comment periods, and stakeholder outreach where public access and route designations are affected.

CONGRESSIONAL DIRECTION, CONGRESSIONAL INTENT, & BLM OPERATIONAL GUIDELINES

The BLM manages public lands and subsurface estate under jurisdiction granted by the United States Congress, in accord with FLPMA. The BLM is a contracted public land manager, with direct accountability to the citizens of the United States for the method and outcomes of their management actions. The BLM does not possess ownership of the public lands they are privileged to manage through Congressional directive. Neither does the BLM possess sole discretion to exercise management authority that excludes the vested interests of the full citizenship of the USA. As elected leaders, the US Congress is the only entity which may direct the BLM's management protocol. US citizens are protected from the risk of BLM overreach in management authority by the functions of congressional process, FLPMA, NEPA, as well as the broader framework of the US Constitution.

Since its inception as a federal agency, the BLM has been explicitly, and very clearly, directed to manage public lands per the multiple-use mandate[7]. Per the definition of multiple use within U.S. Code § 1702 Title 43[8], the term "multiple use" means:

> *"The management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output."*

When drafting the Rule, it is critical that NEPA process and protocol must not serve to diminish or eradicate the purpose and implementation of the multiple-use mandate on BLM managed public lands. As set forth in law, the BLM's mission and congressional management directive is to achieve quality land management under the sustainable multiple-use management concept to meet the diverse needs of the people of the United States. The BLM's operational guidelines clearly state that the foundational framework for all management action is to uphold and expand the multiple-use objective, manage public lands for the benefit of the people (all citizens of the USA), to maintain transparency and accountability in all decisions and actions, to execute decisions in a way that is fair to the public, and most importantly – to follow the law and congressional intent.

Since its inception in 2014, UPLA has been an active, responsible partner of the BLM, with members continually engaged in volunteer service to advance conservation, trail and landscape maintenance, public education, public safety, and cooperative public land management. UPLA members have a longstanding history of visiting BLM managed lands as individuals, groups, and for organized outdoor recreation events. Casual use and organized events like ours bring public land visitors to public lands in an orderly and controlled manner. This ensures conservation of the landscape and wildlife habitat, while preventing overcrowding and user conflict. Our events and membership doctrines promote land use ethics, responsible camping, respect for natural resources, and public safety. It is critical that the NEPA policies set forth in the Rule will not

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obstruct the membership of UPLA, as well as members of the general public, from accessing BLM-managed public lands for organized, safe, conservation-centric recreation.

Elimination of public access and failure to adhere to the multiple-use objective would be a violation of Congressional direction and Congressional intent for the scope of limitations by which the BLM is authorized to manage our public lands. It is critical for DOI NEPA planning managers to bear in mind that the BLM does not own our public lands. BLM managed lands are a part of the public endowment, as all public lands are owned by the citizens of the USA (the public); the BLM is merely contracted to manage those lands within the defined scope of limited authority that is granted by Congress. **The Rule must demonstrate that the BLM is not overstepping Congressional direction and Congressional intent such that the best interests and needs of the public would be overrun through restriction or elimination of public involvement in all facets of public land management planning.**

SUBVERSION OF THE COUNCIL ON ENVIRONMENTAL QUALITY'S REPEAL OF 40 CFR § 1503.4: THE "SUBSTANTIVE COMMENT REQUIREMENT"

We are deeply concerned by the reintroduction of a requirement that public comments must be "substantive" in order to be considered by the agency during NEPA decision-making. This requirement, previously codified in 40 CFR § 1503.4, was repealed by the Council on Environmental Quality (CEQ) as of April 11, 2025, under revised NEPA regulations intended to restore broader public access and participation. However, this same standard appears again in the Department of the Interior's proposed rule, undermining that progress.

Specifically, the proposed rule's Section 46.445 (pp. 43–44 of the Federal Register document) and related references to "meaningful" or "substantive" comments impose de facto thresholds for public participation. These provisions again require members of the public to demonstrate technical or legal sophistication to have their concerns recognized, effectively filtering out more than 90% of public input especially from individuals and communities without legal training, environmental science credentials, or institutional representation.

The return of this requirement disenfranchises a broad cross-section of the public, including rural residents, local recreationists, and OHV users who rely on BLM-managed lands for legal, long-standing access. Their firsthand knowledge of the land and its uses should carry weight, regardless of whether their comments contain citations or formal environmental analysis.

Such a limitation contradicts the foundational spirit of NEPA, which was designed to provide "broad opportunities for public participation in federal decision-making" (42 U.S.C. § 4331(a)).

It also runs counter to the First Amendment rights of citizens to petition the government and express concerns in public forums. The Administrative Procedure Act (5 U.S.C. § 553) further reinforces the requirement that agencies "give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments"—without imposing a burden to prove a comment is "substantive" in legal or scientific terms.

The use of this standard in previous NEPA implementations has resulted in countless comments from the public being summarily dismissed as "non-substantive," even when they offered real-world experience or voiced legitimate concerns. For those impacted by travel management decisions – such as OHV users whose access routes may be closed – the dismissal of these voices is not just procedural; it is a denial of equitable representation in public lands planning.

We therefore urge that all language in the proposed rule that restricts the consideration of public input to only "substantive comments" be removed or revised. Instead, BLM and DOI should affirm that all public comments will be acknowledged and evaluated, and that local knowledge, lived experience, and community-based input are valid forms of participation under NEPA.

The Department's commitment to meaningful public involvement cannot be reconciled with language that systemically excludes the vast majority of public voices. For NEPA to fulfill its democratic purpose, the process must remain open to all – not just to those who speak in technical jargon or legal code.

EXCESSIVE USE OF CATEGORICAL EXCLUSIONS

The proposed rule raises serious concerns regarding the expanded use of categorical exclusions (CEs) without public transparency, especially as it coincides with the rescission of binding CEQ NEPA regulations effective April 11, 2025, per Executive Order 14154 and the changes to Title 40 CFR. This marks a transition from a nationally uniform NEPA regulatory framework to one where each agency – such as the BLM – operates under its own "procedural guidance," which can be internally revised without routine public notice or accountability. The proposed rule formalizes this shift, including in Section III.D (Federal Register pp. 30–34), where it explicitly promotes the broader application of CEs and reaffirms agency discretion over internal NEPA procedures.

The implications of this change are particularly troubling for public land recreation and access. Under this model, public comment is only guaranteed when the agency explicitly publishes proposed procedural updates. There is no default mechanism for the public to be notified or

engaged when CEs are added or altered – even when they may directly impact designated roads, trails, or motorized route networks. Per the definitions of the proposed Rule, BLM may bypass traditional NEPA review on TMP updates, route closures, or trail decommissioning by expanding CEs; this risks loss of motorized access routes without public input or recourse, especially on controversial or habitat-sensitive lands.

While this structure may appear efficient or even beneficial under leadership that values public access and multi-use recreation, it also creates significant risk. If future BLM leadership prioritizes restrictive management philosophies, there would be no institutional safeguard preventing the use of categorical exclusions to authorize trail decommissioning, motorized route closures, reroutes, or access limitations – without public notice, scoping, or environmental review via EA or EIS. This lack of procedural transparency undermines public trust and disenfranchises recreation stakeholders.

Categorical exclusions were intended for truly routine, low-impact federal actions. But the rule, as proposed, blurs that boundary and allows for their expanded use even in areas where significant access changes could occur. This threatens the statutory rights of public land users, particularly under the Federal Land Policy and Management Act (FLPMA, 43 U.S.C. §§ 1701 et seq.), which establishes recreation as a recognized and valid use of public lands, and under the Administrative Procedure Act (APA, 5 U.S.C. § 553(c)), which mandates meaningful public participation in agency rulemaking.

Moreover, such unchecked discretion conflicts with the First Amendment right to petition the government for redress of grievances and to participate in public processes affecting public resources. The closure of motorized access routes without notice or opportunity to comment denies users that constitutionally protected role in decision-making.

As a remedy, we strongly urge the DOI to revise the proposed rule to require public notice and an opportunity to comment whenever new CEs are added or revised, particularly those that could affect roads, trails, motorized access, or recreation infrastructure. Additionally, we recommend the DOI establish limits on the use of categorical exclusions in travel management and OHV planning, such that CEs may not be used to authorize:

- **Permanent motorized route closures**
- **Decommissioning of public access corridors**
- **Actions affecting >5 miles of designated OHV routes without at least a documented environmental review (EA) and public comment opportunity**

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Finally, we assert the exigence that the DOI should commit to publicly disclosing all NEPA manual updates, revisions to internal procedures, and proposed changes to CE lists related to recreation and access planning on a designated agency webpage or Federal Register notice system. These simple but essential reforms will uphold the transparency and equity central to NEPA's purpose.

LEGAL AND PROCEDURAL CONTRADICTION WITH OVERTURN OF THE CHEVRON DOCTRINE

Another deeply troubling dimension of the proposed NEPA implementing regulations is the increased delegation of de facto authority to agency "Responsible Officials," which appears to reinstate a strong version of the outdated Chevron deference model – despite the Supreme Court's recent repudiation of that doctrine in Loper Bright v. Raimondo and Biden v. Nebraska (No. 22-451) – and in direct tension with the Court's directive that agencies should not assume inherent correctness simply by virtue of being the government.

In the proposed rule, DOI rescinds uniform CEQ regulations (43 CFR 46.150–.160) and replaces them with discretionary agency procedures under Section III.B, which authorizes actions such as emergency responses and streamlined categorical exclusions based on the "Responsible Official's judgment." Similarly, as described in DOI's alternative NEPA arrangements for energy emergencies, the Responsible Official "will, in his discretion, determine the duration of the written comment period" and may finalize EAs without public comment altogether, with final EISs receiving only a brief (often 10-day) comment window, at the Responsible Official's sole discretion.

This shift toward discretionary administration runs counter to the Supreme Court's rejection of broad agency deference in Chevron. The Court made clear that agencies are not entitled to automatic deference simply based on expertise or incumbency. Yet this rule appears to re-empower unilateral decision-making by agency personnel – who may change with administrations – without statutory safeguards or guarantees for public participation.

The extreme concern here is that future "responsible officials" less inclined toward recreation access and multiple-use principles might wield this discretion to close motorized routes, reroute trails, or decommission access points without meaningful public review or NEPA assessment. Such decisions would lack institutional memory and override public input across shifts in leadership, undermining land access rights guaranteed under federal statutes like FLPMA and the APA.

The concentration of NEPA-critical decisions in the hands of discretionary officials also disempowers the public and conflicts with First Amendment protections to petition and participate in government. The Administrative Procedure Act mandates public participation in rulemaking (5 U.S.C. § 553), and NEPA itself requires meaningful consideration of environmental values (42 U.S.C. § 4332(2)(B)). No statute grants carte blanche to agency officials to interpret these provisions in a vacuum, yet that appears to be exactly what the proposed rule permits.

As remedy, the Rule must be revised to eliminate broad unchecked discretion for Responsible Officials in determining comment periods, categorical exclusions, or procedural applicability – especially where public land access and recreation are at stake. Instead, specific procedural guardrails should replace discretionary language: for example, requiring fixed minimum comment periods for Recreation Management Plans or route changes, and mandating EAs or EISs over internal procedures where motorized access is being modified.

By stripping out the discretionary authority currently granted to Responsible Officials in sections authorizing internal procedure control (e.g. Sections III.B and the emergency/alternative arrangements under 43 CFR 46.150 equivalent language), DOI can realign with the Supreme Court's limitation on agency deference, preserve statutory public participation mandates, and ensure that NEPA retains its role as a democratizing environmental planning tool.

FAILURE TO ACCOUNT FOR ECONOMIC AND SOCIAL IMPACTS

The proposed Rule modifies how agencies evaluate economic and social effects, granting them greater discretion to limit such analysis, especially when impacts are indirect or not "reasonably foreseeable." These changes appear in Section 1502.16 (Environmental consequences) and are discussed throughout pages 45205–45207 of the Federal Register notice.

This retreat from a robust economic and social review framework is deeply concerning for communities reliant on public land access, such as those tied to OHV-based recreation. It undermines the capacity to assess how proposed actions (e.g., route closures or access restrictions) affect local economies, tourism-dependent businesses, and rural livelihoods. This shift also creates procedural barriers for public stakeholders to challenge agency decisions - because the diminished requirement to document these impacts leaves them out of the administrative record.

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The need for thorough economic and social impact analysis is supported by the National Environmental Policy Act itself (42 U.S.C. § 4331), which declares it the responsibility of the federal government to "assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings," and to "enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources." Courts have also held that NEPA requires consideration of "economic or social effects" when they are interrelated with environmental effects (see *Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766 (1983)).

As remedy, we recommend that the Rule be revised to require comprehensive analysis of economic and social impacts – including cumulative and indirect effects – whenever public access to public lands is subject to restriction, closure, or significant change. Specifically:

- A public comment period of at least 45 days must be required for any proposed federal action where economic or social impacts could arise from public access changes.
- For projects affecting more than 100 miles of OHV routes, a mandatory 90-day public comment period must be required.
- BLM and DOI should be required to quantitatively assess economic impacts on local businesses, tourism economies, and gateway communities when travel management or access-restrictive actions are proposed.

These revisions would retain NEPA's purpose as a decision-making framework that integrates environmental, economic, and social stewardship of public resources including public lands, with public accountability.

IMPROVEMENTS IN THE FUNCTION OF MITIGATIONS AND ALTERNATIVES DEVELOPMENT

While many elements of the proposed rule raise significant concerns, particularly regarding public involvement and discretionary authority, we acknowledge and support several provisions that enhance the treatment of mitigation and provide potential benefits to balanced NEPA planning, including for public land recreational users such as off-highway vehicle (OHV) enthusiasts.

One noteworthy improvement is the proposed revision to mitigation policy under NEPA. The 2020 CEQ regulations established during the previous administration required that any mitigation measures considered in an environmental review must be enforceable in order to be included in the analysis. This effectively limited the range of solutions and adaptive approaches

that agencies could consider – even those with strong likelihood of implementation. By contrast, the current proposed rule restores the ability for agencies to consider voluntary, non-binding, or otherwise reasonably foreseeable mitigation measures in their analysis, regardless of their enforceability status. This expanded flexibility, referenced on page 45960 of the proposed rule, will allow more responsive and adaptive environmental planning while recognizing that not all beneficial mitigation efforts can be preemptively codified or mandated through enforceable mechanisms. This is particularly helpful in the context of recreation management and route designation, where local partnerships, stewardship commitments, or adaptive trail design strategies often provide important impact mitigation without needing formal regulatory enforcement mechanisms.

In addition, the proposed rule revises the previous requirement that agencies always identify a single "environmentally preferred alternative." Under the 2020 CEQ rules, agencies were expected to identify and highlight the alternative that would yield the greatest environmental benefit – including benefits related to climate change or environmental justice outcomes – regardless of whether that alternative was balanced or feasible. While well-intentioned, this requirement often distorted planning outcomes, framing alternatives with recreational or access benefits as inherently less desirable. The newly proposed approach, articulated on pages 45957–45958, removes this rigid mandate. Instead, agencies are now directed to give balanced consideration to both adverse and beneficial impacts, recognizing that environmental decisions often involve complex trade-offs. This is a vital correction that enables NEPA documents to include a more robust and accurate evaluation of the full spectrum of impacts – including those that may arise from overly restrictive environmental management.

Importantly, this shift will encourage agencies to more transparently assess the potential adverse effects of access restrictions, route closures, or recreation limitations, which have often been under-analyzed in previous NEPA processes. For OHV users and other public land stakeholders, this means environmental documents may more meaningfully examine the socioeconomic, cultural, and ecosystem-scale impacts of excluding certain user groups or altering long-established recreational access systems. In areas where climate, vegetation, or wildlife management actions result in reduced public access, the ability to analyze those adverse effects alongside environmental benefits creates a more balanced planning framework.

In summary, while significant reforms are still needed in the areas of public involvement and transparency, **the rule's new provisions around mitigation and impact balancing represent a positive step. We encourage the Department to preserve and further clarify these components, particularly by explicitly requiring agencies to assess the adverse impacts of actions that restrict public use and access, and to document these effects as part of the**

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NEPA record. These updates strengthen NEPA's role as an integrative planning tool, enabling agencies to weigh full-spectrum impacts and avoid one-dimensional environmental decisions that may unintentionally harm communities, culture, and public recreation values.

SUMMARY OF RECOMMENDATIONS TO ENSURE EQUITABLE AND LEGALLY COMPLIANT IMPLEMENTATION

To avoid unintended consequences from implementation of changes to NEPA planning, UPLA recommends that the final Rule incorporates the following:

1. Expand the scope of the final rule to include NEPA guidance specific to recreation, and embed minimum standards for public involvement, comment periods, and stakeholder outreach where public access and route designations are affected
2. Minimum 45-day public comment period for any project that directly impacts public access or recreation, and a mandatory 90-day comment period for all plans that propose changes to more than 100 miles of OHV-designated routes
3. Commitment to conduct robust scoping and alternatives development with recreation stakeholders – including OHV users, local governments, and advocacy organizations – before releasing draft NEPA documents for formal comment
4. Post-draft objection and objection resolution processes as currently required remain intact
5. Demonstrate that the BLM is not overstepping Congressional direction and Congressional intent such that the best interests and needs of the public would be overrun through restriction or elimination of public involvement in all facets of public land management planning
6. All language in the proposed rule that restricts the consideration of public input to only "substantive comments" be removed or revised; instead, BLM and DOI should affirm that all public comments will be acknowledged and evaluated, and that local knowledge, lived experience, and community-based input are valid forms of participation under NEPA
7. Require public notice and an opportunity to comment whenever new CEs are added or revised, particularly those that could affect roads, trails, motorized access, or recreation infrastructure
8. Establish limits on the use of categorical exclusions in travel management and OHV planning, such that CEs may not be used to authorize:
    a. Permanent motorized route closures
    b. Decommissioning of public access corridors
    c. Actions affecting >5 miles of designated OHV routes without at least a documented environmental review (EA) and public comment opportunity

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9. Commit to publicly disclosing all NEPA manual updates, revisions to internal procedures, and proposed changes to CE lists related to recreation and access planning on a designated agency webpage or Federal Register notice system
10. Revise the Rule to eliminate broad unchecked discretion for Responsible Officials in determining comment periods, categorical exclusions, or procedural applicability – especially where public land access and recreation are at stake
11. Incorporate specific procedural guardrails to replace discretionary language: for example, requiring fixed minimum comment periods for Recreation Management Plans or route changes, and mandating EAs or EISs over internal procedures where motorized access is being modified
12. Strip out the discretionary authority currently granted to Responsible Officials in sections authorizing internal procedure control (e.g. Sections III.B and the emergency/alternative arrangements under 43 CFR 46.150 equivalent language) to realign the DOI with the Supreme Court's limitation on agency deference and preserve statutory public participation mandates
13. Retain the Rule's new provisions around mitigation and impact balancing; preserve and further clarify these components, particularly by explicitly requiring agencies to assess the adverse impacts of actions that restrict public use and access, and to document these effects as part of the NEPA record

CLOSING

In addition to our preceding comments, we support any additional comments from individuals, groups, associations, and the general public that encourage the DOI to adhere to the Congressionally-mandated directive that requires meaningful and comprehensive public involvement as a centric NEPA procedural requirement. We support any additional comments that encourage the DOI to uphold their mission and commitment to the public to administer all BLM-managed public lands in a manner that maximizes public access, and sustains the health, diversity, cultural resources, and values of the land for the use and enjoyment of present and future generations. We strongly advocate against any components of the Rule that would diminish or eliminate public access to BLM-managed public lands.

We would like to close by once again calling your attention to the rights and interest that UPLA members, all outdoor recreationists, and the general public have as vested stakeholders of BLM-managed lands. We encourage the BLM to uphold their alignment with the BLM mission and operating guidelines, their responsibility to manage our public lands for the benefit of all American citizens, and their accountability to operate within the scope of congressionally-

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granted boundaries as contracted managers of our nation's public lands - the citizenry's prized national heritage.

Utah Public Lands Alliance would like to be considered an interested public for the Rule. Information can be sent to the following address and email address:

Rose Winn
Utah Public Lands Alliance
PO Box 833, St. George, UT 84771
rose@utahpla.com

Sincerely,

Rose Winn
Natural Resources Consultant
Utah Public Lands Alliance

Loren Campbell
President
Utah Public Lands Association

cc: Senator Mike Lee, Senator John Curtis, Congressman John Curtis, Congresswoman Celeste Malloy, Congressman Blake Moore, Congressman Burgess Owens, Governor Spencer Cox, PLPCO Director Redge Johnson, UPLA Trustees and Members

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