



BLM Public Lands Rule Frequently Asked Questions

- *How will the proposed rule ensure the health and resilience of public lands?*

The BLM will conserve intact landscapes, restore degraded habitat, and balance responsible development decisions based on science and data. The BLM already does this under the Federal Land Policy and Management Act and under policy and guidance that encourages programs to implement conservation and ecosystem management.

However, the BLM does not currently have regulations that directly promote conservation efforts for all resources. The proposed rule is intended to address this gap in the Bureau's regulations and to codify some of the existing tools and resources into regulation, so that conservation is applied more broadly across the landscape to all program areas.

- *How does the rule incorporate conservation?*

The proposed rule would put conservation –both protection and restoration – on an equal footing with other uses consistent with the plain language of Federal Land Policy and Management Act. The proposed rule defines conservation to include both protection and restoration.

- *How does this rule uphold the law?*

The BLM's role in managing for ecosystem resilience and conservation stems from Federal Land Policy and Management Act, the BLM's organic act, which directs the BLM to preserve and protect public lands in their natural condition when appropriate. The Public Lands Rule simply provides direction for how the agency could do just that.

FLPMA expressly states that public lands should be managed to protect environmental and water resources, fish and wildlife habitat, and outdoor recreation, among other values, all of which benefit from the conservation of intact habitat and the restoration of degraded lands. FLPMA also requires the BLM to prevent unnecessary or undue degradation; the proposed rule includes additional tools to help meet this congressional mandate.

This proposed rule would allow the BLM to better fulfill its mission, ensuring public lands continue to be accessible and productive for future generations, and provide tools and processes to enable management decisions based on science and data.

- *Will the proposed rule change existing laws or create new ones?*

No. In addition to carrying out the Federal Land Policy and Management Act, the BLM currently manages public lands in compliance with numerous laws and policies that may apply to different uses, such as the Taylor Grazing Act and the Mineral Leasing Act. The proposed Public Lands Rule would not change that or create new laws; it is consistent with the current laws that apply to BLM's management of public lands.

- *How does this rule affect development of public lands?*

This proposed rule would provide additional tools the BLM could use to fulfill its multiple use and sustained yield mission. The rule would help guide responsible and balanced development of critical minerals, energy, and other resources. It would not prohibit land uses that impair landscape health and resilience; rather, it would require that the project avoid impairment and an explanation if and when such impairment could not be avoided.

The proposed rule would also help facilitate responsible development by providing specific tools to authorize appropriately tailored and durable compensatory mitigation. The conservation leasing tool proposed in the rule responds, in part, to comments from state and industry partners on the need for a reliable path to pursue compensatory mitigation on public lands to facilitate development projects.

The BLM's ability to manage for multiple use and sustained yield of public lands depends on the resilience of ecosystems across those lands. The proposed rule would provide consistent direction to local land managers on how to manage for resilient, healthy, landscapes through conservation of intact habitats and informed decision-making in management plans and permits.

- *What are conservation leases?*

A conservation lease is a land use authorization that the BLM can issue to an external entity to help achieve restoration or mitigation outcomes on public lands. The proposed rule treats it as a tool, not a requirement. The conservation lease would be proposed by a third-party and the BLM has discretion to decide whether and how a lease would be an appropriate tool to achieve restoration or mitigation. This part of the proposed rule responds to external feedback from states, developers, and other stakeholders to codify a path for durable restoration and mitigation efforts on public lands.

As described in the proposed rule, conservation leases would:

- Support sustained yield through “restoration or land enhancement” or “mitigation” uses,
- Be consistent with, and not override, valid existing rights,
- Require land management to protect the goals of the leases but not interfere with casual use or other consistent uses,
- Be applied for, granted, suspended, or terminated in processes similar to those employed under BLM’s current regulations for issuing leases, permits and easements (43 C.F.R. 2920)

The BLM is seeking feedback on the specific nature of the conservation leasing rules proposed.

- *Has BLM ever used conservation leasing before?*

While the name conservation leasing is new, the tool and the goals it achieves are not. In the Desert Renewable Energy Conservation Plan, the BLM allows use of its National Conservation Lands to satisfy California Department of Fish and Wildlife compensatory mitigation requirements.

- *How would this proposed rule affect BLM’s ACEC designation process?*

FLPMA requires BLM to prioritize the designation and protection of Areas of Critical Environmental Concern in land use plans. ACECs are a tool to protect historic, cultural and scenic resources. The proposed rule would not make any major changes to BLM’s existing practices in identifying and managing ACECs; rather it would provide consistent and clear direction on their use. . The BLM currently inventories, evaluates, and designates ACECs requiring special management direction as part of the land use planning process. As part of this rulemaking, the BLM proposes establishing procedures that ensure consideration of ecosystem resilience, including intact landscapes and habitat connectivity, in designating and managing ACECs.

In more than 40 years of applying ACEC designations, the BLM has identified several needed revisions. Additionally, the BLM’s procedures for considering and designating potential ACECs are currently described partially in regulation and partially in agency policy. The proposed rule would codify these procedures in regulation, providing more cohesive direction and consistency to the agency’s ACEC designation process.

- *How does the proposed rule fit with President Biden’s America the Beautiful Initiative?*

President Biden issued a call-to-action to support locally led and locally designed conservation action across the nation. This proposed rule is consistent with that vision - outlining a framework to guide balanced development on public lands and providing tools that states, Tribes, organizations, and individuals can use to help restore and conserve public lands.

The Public Lands Rule would ensure that our public lands and the resources they provide are available for future generations. It would elevate the role of conservation as a use alongside other uses like grazing, renewable energy development, and recreation. The rule would not elevate conservation above other uses, nor would it prevent the BLM from allowing appropriate development. Any land use protections would be subject to regular land use management processes and open to public comment.

- *How would this proposal affect critical minerals or renewable energy development?*

BLM lands are an economic driver across the West, and the Public Lands Rule would ensure those lands and the resources they produce continue to be available for future generations. This is particularly important as BLM lands confront the daily challenges of a changing climate, challenges westerners are already living with, including extreme drought and fire. Moreover, the rule would not prevent responsible development, including approving renewable energy projects, building transmission lines or managing mining for critical minerals.

- *What impact will this rule have on the BLM's oil & gas program?*

The proposed rule will not impact how the oil and gas program operates. The BLM will continue to implement the Mineral Leasing Act and to hold regular onshore lease sales, consistent with the Inflation Reduction Act. The proposed rule would provide a decision framework for the BLM that would have land health assessments guide its work, including identifying appropriate areas for development. The proposed rule also includes a path to facilitate responsible development on public lands, including through conservation leasing, which can help provide certainty to developers in relation to conducting restoration and compensatory mitigation.

- *Why is the BLM proposing this rule now?*

As we welcome record numbers of visitors to BLM's public lands to hunt, fish, hike, and recreate, we want to ensure that these lands are healthy and resilient for the generations to come. Furthermore, the BLM is more and more challenged to balance multiple use and sustained yield in the face of a changing climate, as well as increasing degradation and fragmentation of public lands.

For example, a recent report, *A Sagebrush Conservation Design to Proactively Restore America's Sagebrush Biome*, demonstrated that up to 73 percent of the threats to the sagebrush biome area result from a loss of intactness and impacts from climate change. Roughly 1.3 million acres of sagebrush are degraded annually. The good news is that quality land is still available and can be kept that way through continued wise management, and degraded lands can be restored using tools included in this new proposed rule.

