U.S. Department of the Interior
Bureau of Land Management

BLM's Proposed Public Lands Rule - Reviewer's Guide
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The Need for a Public Lands Rule

The proposed Public Lands Rule would establish a framework to ensure healthy landscapes, abundant wildlife habitat, clean water and balanced decision-making on our nation's public lands. It would uphold the Bureau of Land Management's (BLM) multiple-use and sustained-yield mission, ensuring the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations. By highlighting conservation as one of the multiple uses on public lands, the proposal would help guide responsible development while safeguarding important places for the millions of people who visit public lands every year to hike, hunt, camp, fish, and more now and into the future.

This proposal comes at a pivotal moment, as our public lands face new and growing challenges. Climate change is driving unprecedented drought and increasingly intense fires, a loss of wildlife, and an influx of invasive species. At the same time, public lands face growing pressure as recreation increases and development on private land disrupts habitat. This proposal would ensure the BLM is able to respond to these pressures, managing for healthy lands today so that it can deliver on its multiple-use mission for current and future generations.

Framework Overview

To manage for multiple use and sustained yield under FLPMA, the BLM must ensure the resilience of ecosystems on public lands.

The proposed Public Lands Rule would establish the policy that the BLM will build and maintain the health and resilience of public lands in three primary ways:

(1) **Protecting** the most intact, functioning landscapes;

(2) **Restoring** degraded habitat and ecosystems; and

(3) **Providing for balanced responsible development** across all plans and programs based on science and data.

The proposed rule advances a definition of conservation that encompasses both protection and restoration actions, recognizing that BLM must protect natural and intact landscapes and also restore important degraded landscapes in order to achieve ecosystem resilience and fulfill the agency's sustained yield mandate. As a result, the rule would provide for the BLM to use a suite of conservation actions including a newly formalized tool—conservation leases—and clarification of an existing tool—Areas of Critical Environmental Concern (ACECs). In doing so, the rule would confirm conservation as one of the uses under FLPMA's multiple-use framework.

In addition to protecting and restoring priority landscapes, the challenges facing our public lands demand thoughtful, science-based management in all planning, permitting and program decision-making. The proposed rule would direct the BLM to implement the third prong of the policy—balanced, responsible development—by assessing, inventorying, monitoring, and managing land and watershed health across all public lands using science-based management standards and analytical tools.

The proposed rule's three new subparts in 43 CFR part 6100, and revisions to existing subpart 1610 in the planning regulations address all three prongs of the policy by (1) establishing principles of ecosystem resilience, (2) directing conservation uses to achieve ecosystem resilience, and (3) providing assessment tools to manage all public lands for ecosystem resilience.

(1) Purpose and Principles for Ecosystem Resilience (Subpart 6101)

The BLM's ability to manage the public lands for multiple use and sustained yield rests on the resilience and health of ecosystems across those lands. The purpose of this proposed rulemaking is to provide the BLM with management tools to steward public lands to ensure ecosystem resilience consistent with the agency's mission to "sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations." (See § 6101.1). The management tools needed to achieve ecosystem health and resilience include conservation uses, such as managing areas to protect intactness, and science and data tools, such as land health assessments.

The principles for ecosystem health and resilience established in the rule would provide a framework for the BLM to appropriately apply various tools to protect intact landscapes, restore degraded habitat, and manage all public lands based on science and data. (See § 6101.5).

(2) Conservation Use to Achieve Ecosystem Resilience (Subparts 6102 and 1610)

To support efforts to protect and restore public lands, the proposed rule clarifies that conservation is a use under FLPMA's multiple-use framework, including in all planning, permitting and program decision-making. Recognizing that public land conservation is incompatible with a "one size fits all" approach, the proposed rule promotes various conservation tools that should be used as appropriate, and in some cases several tools may be used together. Specific conservation uses that would be employed to achieve ecosystem health and resilience are protection of intact landscapes (See §§ 6102.1 and 6102.2), restoration (See § 6102.3), conservation leasing (See § 6102.4), mitigation (See § 6102.5-1), and ACEC designation (See § 1610.7-2).

The rule would set forth a framework for the BLM to make management decisions based on science and data, including at the planning, permitting, and program levels, that would help to ensure ecosystem health and resilience. Among other things, the BLM would avoid authorizing uses of public lands that permanently impair ecosystem resilience where that avoidance is consistent with applicable law and the management of the area. Where such impairment cannot be avoided, the rule would require an explanation. (See § 6102.5).

(3) Science and Data Tools for Achieving Ecosystem Resilience (Subpart 6103)

The BLM's efforts to protect, restore, and make informed planning, permitting, and program decisions rest on the agency's ability to assess and incorporate land health condition. Accordingly, the proposed rule would incorporate the fundamentals of land health and related standards and guidelines into all management activities, instead of limiting their application to public-lands grazing. (See § 6103.1). In implementing the fundamentals of land health, the proposed rule would codify the need to use high-quality information to prepare land health assessments and evaluations and make determinations about land health condition for decision-making across BLM programs. (See § 6103.1-2). To further ensure that sound science underpins public land management, the proposed rule would require the BLM to complete watershed condition classifications in all land use planning and to use inventory, assessment, and monitoring information to inform decision-making across program areas. (See § 6103.2).

Section by Section Summary

Subpart 6101 – General Information

> § 6101.1 – Purpose. The overall purpose of the proposed rule is to ensure healthy wildlife habitat, clean water, and ecosystem resilience so that our public lands can resist and recover from disturbances like drought and wildfire.

> § 6101.2 – Objectives. The six specific objectives of the proposed rule are to achieve and maintain ecosystem resilience and health of the public lands; promote conservation by protecting and restoring healthy ecosystems and intact landscapes; integrate the fundamentals of land health into all resource management; incorporate inventory, assessment and monitoring principles into decision-making to advance ecosystem health and resilience; promote restoration of degraded public lands; and ensure public lands can recover from environmental change and disturbance.

> § 6101.3 – Authority. The authorities under which this proposed rule would be promulgated are primarily the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), as amended, and the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7202).

> § 6101.4 – Definitions. The proposed rule includes new definitions for concepts such as conservation, resilient ecosystems, sustained yield, mitigation, and unnecessary or undue degradation, along with others used throughout the text. These definitions would apply only to this specific rule.

> § 6101.5 – Principles for Ecosystem Resilience. In accordance with FLPMA, the proposed rule would establish the principle that BLM must conserve renewable natural resources at a level that maintains or improves ecosystem health and resilience in order to achieve the agency's multiple-use and sustained-yield mission.

Subpart 6102 – Conservation Use to Achieve Ecosystem Resilience

The proposed rule would highlight conservation as one of the multiple uses of public lands under FLPMA's multiple-use framework. In furtherance of this objective, Subpart 6102 would provide specific direction for implementing certain programs in a way that emphasizes conservation use and would provide new tools and direction for managing conservation use to ensure ecosystem health and resilience on public lands.

> §§ 6102.1 and 6102.2 – Protection of Intact Landscapes. The rule would require the BLM to manage certain landscapes to protect their intactness. The rule would direct the BLM to determine during land use planning processes which tracts of public land will be put to conservation use and which areas communities need for growth and development. The rule would require the BLM to consider available tools that would help achieve management goals.

> § 6102.3 – Restoration. The proposed rule would direct the BLM to emphasize restoration across the public lands to enable achievement of its sustained yield mandate, including active management when appropriate to achieve ecosystem resilience. The rule

would require BLM to identify priority landscapes for restoration and develop restoration plans during land use planning.

§ 6102.4 – Conservation Leasing. The rule would formally establish a mechanism, conservation leases, that would allow third parties to help protect and restore public lands. Conservation leases could be issued for restoration or mitigation only. This would provide a tool for managing the implementation of mitigation measures, vastly expanding opportunities for offsetting public land impacts. It also would provide an opportunity to put compensatory mitigation dollars to work. These leases would not preclude other uses or disturb existing authorizations. The proposed rule solicits comments on terminology, duration, purposes, and further constraints for conservation leasing.

§ 6102.5 – Management Actions for Ecosystem Resilience. The rule would set forth a framework for the BLM to make management decisions based on science and data, including at the planning, permitting, and program levels, that would help to ensure ecosystem health and resilience. Among other things, the BLM would avoid authorizing uses of public lands that permanently impair ecosystem resilience where that avoidance is consistent with applicable law and the management of the area. Where such impairment cannot be avoided, the rule would require an explanation.

§ 6102.5-1 – Mitigation. The rule would reiterate that the BLM will generally apply the mitigation hierarchy to avoid, minimize, and compensate for impacts to all public land resources and require, to the maximum extent possible, mitigation for impacts to important, scarce, or sensitive resources. The rule also would establish a framework for third-party mitigation fund holders.

Subpart 6103 – Tools for Achieving Ecosystem Resilience

§ 6103.1 – Fundamentals of Land Health. The proposed rule would apply the agency's existing fundamentals of land health—watershed function, ecological processes, water quality and wildlife habitat—to all BLM lands and program areas. These fundamentals of land health are currently only addressed in BLM's grazing regulations for rangeland health. The proposed rule would require the BLM to establish goals, objectives and success indicators to ensure land health standards are measurable and reviewed periodically, and that appropriate action is taken when land health standards are not being met.

§ 6103.2 – Inventory, Assessment and Monitoring. The proposed rule would require the BLM to rely on watershed condition classifications when completing land use planning, and to use inventory, assessment and monitoring information to inform decision-making. The rule would establish principles to ensure that inventory, assessment, and monitoring activities are evidence-based, standardized, efficient, and defensible.

Subpart 1610 – Resource Management Planning

§ 1610.7-2 – Designation of Areas of Critical Environmental Concern. By amending existing regulations in subpart 1610, the rule would clarify how the BLM will designate and manage ACECs, a statutory tool that can play an important role in conserving intact,

functioning landscapes. The revised regulations would clarify that resources, values, systems, or processes may meet the ACEC criterion of having "importance" if they contribute to ecosystem health and resilience, including by protecting intact landscapes and habitat connectivity.