

Frequently Asked Questions (FAQs): Regional Mitigation Strategies and Landscape Assessment for Bureau of Land Management Solar Energy Zones in Arizona

1. What is Mitigation?

The National Environmental Policy Act (NEPA) implementing regulations define mitigation as measures taken to: 1) avoid an impact altogether; 2) minimize the degree or magnitude of the impact; 3) reduce the impact over time; 4) rectify the impact; or 5) compensate for the impact (40 CFR 1508.20). Federal agencies are required to account for and disclose the impacts of their actions on the human and natural environment, and are directed to avoid, minimize or *mitigate* adverse impacts of their actions.

2. What is a Bureau of Land Management Regional Mitigation Strategy?

The Bureau of Land Management (BLM) recognizes that some major ground disturbing activities (such as construction and operation of transmission lines and utility scale renewable energy) may result in *unavoidable* impacts that cannot be minimized on the project site. Unavoidable impacts can include impacts on wildlife and their habitat, recreational settings, surface water and groundwater, air quality, and other resources, as well as impacts on values of lands managed by the National Park Service, the U.S. Fish and Wildlife Service, and state wildlife agencies.

For example, a project may result in destruction of burrowing owl habitat. The BLM could require the developer to construct burrowing owl habitat at a different location. The owls on the project site would then be moved to the new habitat.

The BLM's interim policy on regional mitigation (BLM Instruction Memorandum 2013-142; available at http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2013/IM_2013-142.html), considers mitigation on a landscape scale, taking account of existing resource conditions and trends. This regional approach can be used to determine which unavoidable impacts warrant offsite mitigation and to identify potential mitigation opportunities.

3. What is a solar regional mitigation strategy?

Solar regional mitigation strategies recommend offsite mitigation actions and locations for potentially unavoidable impacts associated with developing and operating utility-scale solar power facilities on solar energy zones (SEZs). Every solar project on BLM land has required general and site-specific design features (also called mitigation measures). In addition, the 2012 Record of Decision for the Solar Programmatic Environmental Impact Statement (Solar PEIS) directs the BLM to develop *solar regional mitigation strategies* for SEZs. The Solar PEIS is available at solareis.anl.gov. A solar regional mitigation strategy evaluates and recommends the need, location and measures for offsite mitigation at the landscape scale.

Solar project developers can avoid most impacts by limiting the project to an area where there are few conflicts with natural resources. Developers can also minimize conflicts through project design and by using design features and by implementing resource-friendly construction and operating procedures. Despite these onsite mitigation measures, the construction and operation of many utility-

scale solar facilities may result in unavoidable adverse impacts. The BLM requires offsite mitigation in those cases.

4. What is the Sonoran Desert Rapid Ecoregional Assessment (REA)?

A rapid ecoregional assessment is a geographic study of the current status of resources and the changes that can be projected in the next few decades. The Sonoran Desert REA, completed in 2012, considers land use management questions, conservation values, and forces driving change in natural and cultural resources. (BLM has initiated landscape-scale assessments for 11 ecoregions in the western U.S. – details are available at http://www.blm.gov/wo/st/en/prog/more/Landscape_Approach/reas.html.)

5. Why is the BLM doing a solar regional mitigation strategy for Arizona SEZs?

This project aims to identify ways to address potential unavoidable impacts of utility-scale solar energy development within the three Arizona SEZs and to advance landscape-scale, ecosystem-based approaches to resource management and multiple use issues. The BLM believes that the solar regional mitigation strategies will facilitate solar development on public lands while supporting national, state, and local-area conservation objectives. The development of these strategies for Arizona’s SEZs will provide greater certainty to solar developers and interested parties regarding both expected impacts and required mitigation for solar development.

6. What is offsite mitigation?

Offsite mitigation consists of compensating for resource impacts by replacing or providing substitute resources or habitat at a different location¹. Offsite mitigation is supplemental to onsite mitigation and is used to provide multiple uses on public lands while ensuring resource management objectives are met.

7. How is a regional mitigation strategy different from the way mitigation has been handled in the past?

Mitigation strategies typically have been developed on a case-by-case basis. The “avoid and minimize” strategy has been tailored to the specific site and the proposed facility. Where offsite mitigation was required, the BLM generally provided solar developers with objectives. The developers then created proposals for the BLM to consider. If the BLM found a proposal sufficient, it was approved. If not, the developer went back to the drawing board to try again. Under the Solar Regional Mitigation Strategy approach, the BLM will undertake a collaborative process to:

- Identify the unavoidable adverse impacts that will be mitigated offsite
- Establish offsite and/or regional mitigation objectives
- Establish transparent mitigation costs or obligations
- Identify actions and locations to mitigate unavoidable impacts
- Establish offsite or regional mitigation fees as an option for developers
- Monitor the outcomes of mitigation and adapt as necessary to achieve the mitigation objectives.

¹ In the past this has also been called “compensatory mitigation.”

8. Why is the BLM changing the way mitigation is handled for solar development?

Comments on the Solar PEIS revealed dissatisfaction with the current mitigation process from both development and conservation perspectives. Some commenters said having solar project developers propose specific offsite mitigation is inefficient. Commenters also recognized that offsite mitigation was not being considered on a landscape scale and that potential mitigation opportunities were missed on some lands.

9. What are the goals of a Solar Regional Mitigation Strategy?

The goals of a Solar Regional Mitigation Strategy are to:

- Develop a consistent, regional approach to mitigating impacts
- Reduce uncertainty about mitigation requirements and streamline the process
- Establish science-based or other objective criteria to identify unavoidable impacts that warrant mitigation
- Establish onsite avoidance and minimization requirements that support build-out plans for the SEZ
- Obtain agreement from various regulatory agencies regarding the need for mitigation and the appropriate offsite mitigation strategy
- Reduce the costs, complexity and time associated with offsite mitigation activities and project approvals
- Establish a simple mitigation fee structure with opportunity to pool funds collected from multiple developers and apply pooled funds to mitigation projects that will produce the most significant results for the dollar
- Support the BLM's implementation of an adaptive management approach to solar energy development
- Provide relevant information for determining mitigation requirements for projects on variance lands
- Achieve a greater degree of stakeholder collaboration throughout the mitigation strategy process

10. Will the regional mitigation strategy eliminate the need to develop a mitigation plan specific to each proposed project in a SEZ?

No. Since each proposed development will have a unique project design and associated impacts, each project within a SEZ will require an individual mitigation plan. However, it is expected that these individual plans will be consistent with and make use of the regional mitigation strategy for the SEZ. This will result in a reduced level of effort as compared with the BLM's current process for identifying impacts and mitigation measures for individual projects.

11. How will the BLM decide how and where to implement mitigation actions and allocate mitigation fees?

One of the most important parts of a solar regional mitigation strategy is determining how and where the unavoidable impacts of solar development can be most efficiently and effectively mitigated offsite. In developing such a strategy, the BLM will take into consideration:

- Relevant ecological, social, and/or economic values and systems, and where these systems are most at risk
- The relative risks posed by the development of the SEZ on these systems
- The BLM's resource management goals, as articulated in the applicable resource management plans.
- The degree to which lands and resources, if protected and/or restored, would most efficiently and effectively mitigate the unavoidable adverse impacts of solar development in the SEZ.

In order to implement this strategy the BLM, in collaboration with stakeholders, will develop and implement a process for soliciting, screening, selecting, and monitoring mitigation projects designed to implement the Solar Regional Mitigation Strategy. This process is similar to the way mitigation funds are allocated under a habitat management plan.

12. Will the payment of a mitigation fee relieve applicants of the need to carry out onsite mitigation activities?

No. BLM policy states clearly that fees may not be used for onsite mitigation and that every effort should be made to mitigate impacts onsite before any offsite mitigation is considered.

13. How does the Solar Regional Mitigation Strategy apply to applications received for lands identified as 'variance areas' in the Solar PEIS?

Variance areas are locations outside of SEZs where the BLM will consider solar development applications on a case-by-case basis. Regional Mitigation Strategies are designed as an incentive for development within SEZs, not for variance areas, and will be specific to the development expected within SEZs. Projects developed in proximity to SEZs would be considered as part of the cumulative impacts assessment for SEZs. While projects in variance areas will not be offered the same incentives as projects in SEZs by way of a Regional Mitigation Strategy, projects in the vicinity of SEZs may be able to use an existing Regional Mitigation Strategy to identify potential impacts of development and offsite mitigation objectives and opportunities.

14. How do Solar Regional Mitigation Strategies relate to BLM Resource Management Planning?

BLM policy for offsite mitigation requires that, for an unavoidable impact to warrant offsite mitigation, it must pose a threat to BLM resource management goals and objectives articulated in a Resource Management Plan (RMP). In identifying which unavoidable impacts associated with SEZs warrant mitigation, the BLM will review existing RMPs among other resources. The BLM will also use existing RMPs to establish mitigation objectives and potential mitigation opportunities.

15. How do Solar Regional Mitigation Strategies relate to land-use plans developed and managed by other agencies in the region?

In identifying which unavoidable impacts associated with SEZs warrant mitigation, the BLM will review land-use and other plans developed and managed by other agencies in the region (e.g. county-level documents). The BLM will also use these existing plans to aid in establishing mitigation objectives and identifying potential mitigation opportunities.

16. How will the requirements of the National Environmental Policy Act be addressed in the Solar Regional Mitigation Strategy process?

The development of a Solar Regional Mitigation Strategy in and of itself does not trigger NEPA but can inform it. These strategies will guide how future project authorizations will occur but do not authorize or force any action. The BLM will complete a site-specific environmental review of all solar energy ROW applications in accordance with NEPA prior to issuing a ROW authorization. All project-specific mitigation will be analyzed under NEPA as part of the required site-specific NEPA for projects.

17. What is the schedule for the Solar Regional Mitigation Strategy Project for BLM Arizona solar energy zones?

The project was initiated in January 2014 and is scheduled for completion in March 2015.

18. Under what authority is the BLM authorized to carry out regional mitigation strategies?

The Federal Land Policy Management Act (FLPMA) authorizes the BLM to address mitigation of impacts on public lands. FLPMA states that “the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource and archeological values....” FLPMA §102(a)(8). In addition, the use, occupancy and development of public lands must be regulated by the Secretary of the Interior, subject to other applicable law, through easements, permits, leases, licenses, or other instruments. For further information see FLPMA §302(b), 43 U.S.C. § 1732(b).

19. Under what authority is the BLM authorized to collect fees to fund offsite mitigation?

FLPMA section 307(c), 43 U.S.C. § 1737(c), or the Wyden Amendment, 16 U.S.C. § 1011 authorize the BLM to collect fees to fund offsite mitigation. The BLM may accept an offer of monies from individual applicants for the purpose of pooling funds towards completion of larger offsite mitigation efforts.

20. How will stakeholders be involved in the project?

The BLM invites the public to engage and participate in the project. The public may keep abreast of project topics, workshop planning, agendas, and activities via the BLM Arizona Solar Regional Mitigation Strategy web-site at:

http://www.blm.gov/az/st/en/prog/energy/solar/arizona_regional_mitigation.html The BLM will be posting workshop documents, data, and other information on this site.

The BLM will primarily be communicating with the interested public via news releases and emails (to the BLM Solar Energy Program web site subscriber list and individuals on workshop participant lists), to notify and inform the public of project activities. Interested public can sign up to receive email notifications by sending an email to Lane Cowger, BLM's project manager, at lcowger@blm.gov.