



Frequently Asked Questions: BLM Proposed Public Lands Rule and Renewable Energy

- ***What will the proposed Public Lands Rule mean for renewable energy development?***

The Biden-Harris administration is committed to ensuring that public lands support our transition to a clean energy economy. The efficient deployment of renewable energy from BLM-managed public lands is crucial in achieving the President’s goals of a carbon pollution-free power sector by 2035 and the permitting of 25 gigawatts of solar, wind, and geothermal production on public lands by 2025.

The proposed Public Lands Rule does not change BLM’s renewable energy program or resource management planning. The BLM would continue to identify appropriate sites for renewable energy development and to efficiently process applications for renewable energy development and transmission projects on public lands. Under the proposed rule, the BLM would use land health assessments and the best available science and data to assist in identifying lands for energy development and deployment. In addition, the proposed rule would provide more certainty for individual projects, by providing additional direction on mitigation, including another mechanism for compensatory mitigation in the form of conservation leasing.

- ***How does this proposed rule relate to the ongoing solar planning process and availability of lands for renewable energy writ large?***

The ongoing process to update the BLM’s Solar Programmatic Environmental Impact Statement (PEIS) will identify the most favorable lands for applications for solar energy development across 11 Western states. It also will identify lands that would be off-limits for development and require best practices for avoiding or mitigating impacts where development is occurring. The 2012 PEIS also sought to avoid intact landscapes and other areas with natural and cultural values, including excluding areas of critical environmental concern from utility scale solar development.

Outcomes of the ongoing Solar PEIS update and the public process for the proposed Public Lands Rule will be complementary. While the proposed Public Lands Rule directs land managers to identify intact lands and lands in need of restoration in future land use planning processes, that process will not interfere with renewable energy development on a given site. Land management planning and permitting decisions will still be made based on the merits of individual applications and the conditions on the ground.

In a future land use planning process, lands may be prioritized for management to preserve intactness or to complete restoration – just as decisions are made now in all land use planning processes to allocate lands for different uses. As prescribed in the proposed Public Lands Rule, the BLM would continue to set these management priorities through a robust public process, considering use by adjacent communities and other potential uses.

- ***What does intactness mean, and what does it mean for development?***

Intact landscapes are defined in the proposed rule as unfragmented ecosystems free of local conditions that could permanently or significantly disrupt, impair, or degrade the landscape's structure or ecosystem resilience, and that are large enough to maintain native biological diversity, including viable populations of wide-ranging species. Intact landscapes have high conservation value, provide critical ecosystem functions, and support ecosystem resilience.

The proposed rule would not prohibit land uses that impair intactness. Rather, under the proposed rule, intact landscapes would be identified and managed at the local level. The identification of intact landscapes and subsequent decisions about how best to manage each of them would occur through the land use planning process, with community and stakeholder engagement and public comment. In doing so, the BLM would consider a range of potential uses in accordance with its multiple-use management approach, as well as the best available scientific information.

In identifying the areas that are most suitable for management as intact landscapes, the proposed rule would direct the BLM to work with communities to also identify areas targeted for strategic growth and development.

- ***What is conservation leasing, and what does it mean for development?***

Conservation leases are a mechanism included in the proposed Public Lands Rule that can be used to carry out durable restoration and mitigation on BLM-managed public lands. The proposed rule would allow conservation leases to be used only for these two purposes: restoration and compensatory mitigation. Consistent with how the BLM promotes and administers other uses, conservation leases would be a tool available to entities seeking to restore public lands or provide mitigation for an action elsewhere on the public lands. A conservation lease would be proposed for one of these two uses by a third party; the proposed rule does not contemplate the BLM *requiring* use of conservation leases.

Conservation leases could be used to support renewable energy development by providing a tool for compensatory mitigation – compensating for the loss of resources that cannot be avoided, such as wildlife habitat. For example, through a conservation lease, the loss of wildlife habitat on public lands could be offset by restoration of other habitat carried out on public lands. Ultimately, this tool would facilitate BLM's ability to permit environmentally sound renewable energy development on public lands.

Conservation lease applications would be reviewed on a case-by-case basis, specific to a restoration or mitigation goal, and considered in the context of other potential uses on the

landscape, such as renewable energy. The BLM would then determine whether a conservation lease would be appropriate in each individual situation.

Conservation leases would not disturb existing authorizations, valid existing rights, or state or Tribal land use management. If the proposed activities in a conservation lease would conflict with existing authorizations, then the conservation lease could not be issued on those particular lands. *In every case, the proposed rule contemplates that these leases would be issued for discrete areas on a time-limited basis.*

The BLM is seeking feedback on the conservation leasing approach set out in the proposed rule.

- *Has BLM ever used conservation leasing before?*

While the label conservation leasing is new, the authority on which it is based (which comes from the Federal Land Policy and Management Act) and the goals it achieves are not. For example, in the Desert Renewable Energy Conservation Plan, compensatory mitigation activities, such as restoration and enhancement of wildlife habitat, are carried out on the BLM's National Conservation Lands to satisfy California Department of Fish and Wildlife requirements through a Memorandum of Understanding.

Carrying out compensatory mitigation on public lands has faced questions about durability – whether the mitigation will last as long as the impacts from the associated public land use. Conservation leases would provide a reliable approach to facilitate development, responding to feedback from state, local, and industry partners and providing more options for carrying out compensatory mitigation on public lands.

- *How would this proposed rule change the designation of Areas of Critical Environmental Concern (ACECs) and what might that mean for development?*

The proposed rule would not make any major changes to BLM's existing practices in designating ACECs; rather it would provide consistent and clear direction on the practice. The BLM's procedures for considering and designating potential ACECs are currently partially described in regulation and partially described 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.

The BLM currently inventories, evaluates, and designates ACECs as part of the land use planning process, and will continue to do so. In this proposed rulemaking, the BLM clarifies that ecosystem resilience, including intact landscapes and habitat connectivity, can be a purpose for designating and managing ACECs.

The proposed rule would not change how proposed ACEC designations are considered alongside applications for other proposed uses on the same site. It would continue to support the use of ACECs as durable compensatory mitigation sites for renewable energy and other development, as BLM has done previously through regional mitigation strategies.

- *Could the new land health standards create a barrier to deploying renewable energy projects and transmission lines?*

No. This rule has the potential to make it easier to develop renewable energy and transmission projects, by providing a pathway for compensatory mitigation and providing better tools to identify sites where development may be appropriate.

The proposed Public Lands Rule would not alter BLM's review or approval of applications for new renewable energy or transmission development. While the rule asks land managers to identify relevant indicators, which may include intactness or the need for restoration, to inform decisionmaking. But those indicators do not impose requirements for or against development. Decisions on individual applications would still occur under normal processes.