

Action Alert!

Your comments are needed on the BLM's proposed Public Lands Rule. Speak up now and let the BLM know that more needs to be done to protect the environment, fight climate change, and stop the biodiversity crises.

Here are some suggested talking points for comments to the Bureau of Land Management's proposed Conservation Rule. Please feel free to use them all or use them as a guide for developing your own comments. Thank you so much for helping us with this heavy lift!

The Conservation Framework

We applaud the BLM for recognizing and codifying what has been the law of the land since the passage of FLPMA in 1976. Environmental protection was always meant to be at the forefront of public lands management.

FLPMA clearly 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; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use"*

Multiple use is clearly defined by statute to ensure that these values are given equal or even greater footing than extractive and fundamentally destructive uses of public lands. FLPMA states that all public lands require, *"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."*

While the goals of protecting and restoring degraded federal lands are laudable, the mechanics of this regulation are in need of significant revision to ensure that all decisions, including those for extractive uses such as livestock grazing, are built on a foundation of conservation principles and objectives.

- The BLM has far more discretion in how development and extractive uses are permitted than is acknowledged in the proposed rule. It is well within the authority of the agency to cancel or phase out activities that cause degradation of the public lands.
- Conversely, the proposed rule confers far too much discretion to local managers, allowing landscape level protections to be excluded from final decisions as long as the appropriate planning boxes are checked. In the final rule, the BLM must include clear and unequivocal direction at the national level to ensure implementation of conservation and restoration measures rather than simple consideration.
- Rather than create new mechanisms such as conservation leasing to achieve the goals and objectives of FLPMA, the BLM should fully account for the causes of environmental destruction and revise the regulations for the offending activities so that public lands will be protected and restored and future harm prevented.

- Meaningful public engagement at all levels of planning, decision making, and throughout project implementation is a fundamental principle of democracy and sound public land management. The final rule must clearly detail the responsibilities of the agency under the National Environmental Policy Act and discourage the use of categorical exclusions that exclude the public.
- Congress formally authorized the National Landscape Conservation System (NLCS) in 2009. However, the BLM has never undertaken rulemaking for the NLCS and many lands that are currently designated for conservation are lacking sufficiently protective management plans and continue to allow for uses that are incompatible with conservation objectives and are actively leading to further degradation of these lands. The final rule should include specific direction for the NLCS and ensure the highest levels of protection are implemented in a timely manner.

What does the BLM rule mean for livestock grazing?

Areas of Critical Environmental Concern (ACECs)

The proposed rule aims to codify the statutory language in FLPMA about ACECs. FLPMA states that during the development and revision of land use plans, the Secretary shall give priority to the designation and protection of Areas of Critical Environmental Concern. Unfortunately, the proposed rules fall short of this requirement and waters down the statutory language by emphasizing the consideration of ACECs over the prioritization of designating them. Further replacing the word “protection” with “management” is a significantly weaker standard that may lead to inadequate protection.

The final rule should ensure that if an area meets the criteria for ACEC designation, it is automatically designated and has a management plan implemented that will protect the values identified including the preclusion of livestock grazing as appropriate.

The final rule should include direction for the BLM to designate Research Natural Areas as a type of ACEC in order to establish a well distributed network of reference areas. This is an essential component of the land health evaluation process. Research Natural Areas should not permit livestock grazing.

Restoration

- The final rule should adopt and adhere to the [Society for Ecological Restoration's International Principles and Standards](#).
- The final rule should clearly indicate that passive restoration, or the removal of the stressors leading to degradation, is the preferred method of achieving recovery. In many cases, especially where Rangeland Health Standards are not being met, this should include reducing or eliminating livestock grazing.
- The final rule should include a list of activities that are appropriate for restoration and a list of activities that are inappropriate. Livestock grazing is not an acceptable restoration practice and the altering of grazing management to reduce impacts shall not be considered as a restoration activity.
- The final rule should clearly identify restoration activities that require additional analysis under NEPA including public participation.
- The final rule should specify that only appropriate, locally sourced, native plants are permitted for revegetation and restoration.

Conservation Leasing

- The final rule must clearly identify what activities will be allowed under conservation leases.
- Conservation leases must include adequate public participation and thorough environmental analysis under the NEPA.
- On lands currently authorized for grazing where land health standards are not being met, actions to bring grazing into compliance should not be considered restoration activities as it is the responsibility of BLM to ensure that authorized grazing meets land health standards through changes to grazing management before the next grazing season.
- As written, the proposed rule and the BLM's explanations of the rule are contradictory and would essentially give ranchers veto power over habitat protection and conservation. For example, the BLM Fact Sheet for Conservation leasing states, "If the proposed activities in a conservation lease would conflict with existing authorizations, such as if a specific type of restoration would not be compatible with grazing and the proposed location is already subject to a grazing authorization, then the conservation lease could not be issued on those particular lands." However, the BLM is also claiming that permitted grazing is "consistent and complimentary with conservation." So in what scenario would a restoration activity not be compatible with grazing unless that grazing is causing ecological damage and inconsistent with conservation objectives?
- In the mitigation context, no effort to restore degraded conditions caused by current livestock grazing could be considered mitigation because they are not additional to what the agency is already required to manage for and has regulations in place to do.
- Conservation leases effectively outsource the agency's job of protecting public lands for future generations. The public shouldn't have to pay the Bureau for the privilege of safeguarding the resources the Bureau itself is supposed to be managing for the common good.
- The agency is proposing to charge "rent" to people who want to protect the land for all of us while letting the extractive industries pay a pittance to destroy it for their own profit.
- If the BLM proceeds with the conservation leasing program, the agency must ensure that the public participation and thorough environmental analysis is an integral part of a proposed restoration action. This must include meaningful engagement at the planning, decision making, implementation and evaluation stages of conservation leases.

Mitigation Hierarchy

The BLM's proposed mitigation hierarchy is missing several key components to ensure that the health of public lands and biodiversity are not diminished by industrial activities. These include:

- Irreplaceable Resources - The "avoid" component of the mitigation hierarchy must incorporate the identification of irreplaceable resources and identify no go zones for development. There must be a clear statement that irreplaceable resources cannot be compensated for and therefore must be preserved.
- Only restoration actions that are in addition to those for which the agency has existing legal requirements and/or a program to address should count as compensatory mitigation. For example, adjusting grazing management to comply with Rangeland Health Standards is *already* required by law and the BLM has both regulations and a grazing program to accomplish that objective.
- Net Benefit or No Net Loss - It is a well-established principle of mitigation recognized by the international community that compensatory mitigation should provide a net benefit for biodiversity and at a minimum ensure no net loss. The final rule must adhere to these principles.

- Up-front conservation - The proposed rule must guarantee that any mitigation credits are based on restoration work that has already been done and is functioning as habitat for the species that are impacted by development. Issuing credits for a future promise of restoration and functional habitat is unacceptable.

Land Health Standards

- The concept of applying rangeland health standards to all BLM activities seems like a step in the right direction. However, the current standards and especially the guidelines are very specific to livestock grazing and are not necessarily appropriate or applicable to other activities. New issue specific standards and guidelines should be developed.
- The implementation of the Fundamentals of Rangeland Health for livestock grazing has been unsuccessful after nearly 30 years of implementation or lack thereof. The BLM's own rangeland health data indicates that 50 percent of the lands assessed, or 54 million acres, do not meet land health standards and that 41 million acres of the 155 million acres of rangeland have yet to be assessed.
- The current standards allow for lands that are "making significant progress to be counted in the meeting standard category. However, the BLM has never defined "significant progress" and experience suggests that very little is actually being done on many of these landscapes to improve conditions in a timely manner. The final rule must define significant progress with quantitative and temporal objectives.
- The final rule should specify a deadline for appropriate action to address failures to meet standards and impose penalties for non-compliance.
- The BLM has recently been moving toward the application of remote sensing data for rangeland health analysis assessments and determinations. While these are promising tools, they must be used in coordination with and not in replace of on the ground assessments and determinations. The final rule should specify that qualified professional ID Teams must physically assess landscapes before determinations can be made and that remote data is only a complimentary tool for that purpose.
- See the [fact sheet](#) from PEER about the BLM Conservation rule and Rangeland Health Standards.

Unnecessary and Undue Degradation (UUD)

- The final rule should further define what constitutes UUD for specific uses.
- For livestock grazing we recommend UUD be defined as a level of impact that causes a net loss of habitat capability to support viable populations of threatened, endangered, candidate, or sensitive species, or is a contributing factor for a failure to meet Rangeland Health Standards for two or more evaluations in a row or more than 5 years from an initial determination.

Intact Landscapes

- The final rule should consider domestic livestock a disturbance agent that diminishes the intactness of landscapes.
- The final rule should consider not just the impact of livestock grazing on the intactness of a landscape, but also the impacts of livestock management, including lethal management of native carnivores to support livestock graining.

- The final rule should require widespread coexistence measures between livestock and native wildlife to mitigate the disturbance and fragmentation that is caused by livestock and their management.
- The final rule should consider the impacts of livestock grazing infrastructure including fencing, water developments, roads, and corrals on the intactness of landscapes.

Connectivity

The final rule should include specific language for habitat connectivity including coexistence measures.

Accountability

- The proposed rule adds a lot of responsibilities for BLM managers and staff but unfortunately doesn't address the problem of accountability. The example of the failure to implement the Fundamentals of Rangeland Health for livestock grazing despite regulations that have been in place for nearly 30 years and a detailed manual about how to do it is illustrative of the need for accountability measures written into the regulations. The final rule should ensure compliance with the direction by including performance measures and evaluation criteria for managers including substantial consequences for non-compliance.
- The final rule should clearly lay out the expectations for local managers in terms of accountability to the public. For example, managers should be required to provide a response to objective documentation by any interested party of a violation of the conservation lease or restoration failure
- Local managers often have a conflict of interest with the activities they are required to oversee and permit. Rangeland Health evaluations and determinations should be made by Regional or National teams of experts including management prescriptions to be implemented by local managers. Regular audits should be undertaken by independent agencies such as the USGS.

Climate Change and Biodiversity

- The proposed rule simply does not do enough to ensure that BLM managed lands will be resilient to the impacts of climate change and reverse the trend of biodiversity loss. In fact, public lands management lean into conservation and restoration to the greatest extent possible in order to work as a buffer and help offset developments on private lands for which the government has far less control.
- The proposed rule should include explicit direction for the BLM to assess the [Social Cost of Carbon](#) for all permitted activities including permitted livestock grazing.

Send in your comments by June 20 at [regulations.gov](#) using this [link](#).