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BLM Rescinds Conservation and Landscape Health Rule for Public Lands

On September 11, the U.S. Bureau of Land Management (BLM) proposed the rescission of the Conservation and Landscape Health Rule (2024 Rule) that had gone final a year earlier on June 10, 2024. (*See* 89 FR 40308). The 2024 Rule was issued by the Biden Administration with three objectives: (1) protect the most intact, functioning landscapes; (2) restore degraded habitat and ecosystems; and (3) use science and data as the foundation for management decisions across all plans and programs.

Stating that the 2024 Rule is "unnecessary and violates existing statutory requirements" and that the rule "undermines the BLM's management of the public lands under applicable law," the agency is seeking comment on its proposal to rescind the 2024 Rule in full.

Multiple Use is the Issue; Conservation is a Non-Use. The proposed rescission is founded on the agency's conclusion that the 2024 Rule improperly identifies conservation as a "non-use" in contrast to a "productive use" pursuant to leases and permits for uses of the land like grazing, energy development, or recreation. The BLM's assessment concludes that the rule created regulatory uncertainty, reduced access to lands, and undermined the long-standing multiple-use mandate of the BLM as established by Congress pursuant to the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1732). The proposal states that the rule "ultimately vests too much discretion in individual authorizing officers" to preclude other, productive uses (*i.e.,* grazing, mining, and energy development), and that it is incompatible with the goals of the restoration or mitigation, potentially over large tracts of public land.

FLPMA Provides BLM with Sufficient Tools to Protect Public Lands. The proposal states that the BLM has sufficient tools to manage the public lands without inviting third parties to seek land use authorizations for those types of activities traditionally performed by the agency. For example, the U.S. Department of Interior (DOI), after following certain procedural requirements established by Congress, may withdraw public land pursuant to FLPMA. The 2024 Rule, in contrast, effectively allows land withdrawals without following the Congress's required procedures. Thus, the proposal repeals the leasing provisions contained in the 2024 Rule at 43 CFR 6102.4 and 6102.4.1.

In addition, when Congress explicitly provides such authority, federal agencies may prevent development for preservation purposes, (*e.g.,* designation of a Wilderness Area or National Park.) Citing the U.S. Supreme Court's ruling in *West Virginia* v. *EPA,* 597 U.S. 697 (2022), the proposal submits that the 2024 Rule is "not supported by clear statutory authority."

Areas of Critical Environmental Concern. The proposal submits that the 2024 Rule unlawfully expanded the scope of the BLM's regulations related to the designation and management of areas of critical environmental concern (ACECs) and proposes to restore the ACEC regulations to their form prior to promulgation of the 2024 Rule.

The proposal states that the 2024 Rule distorts the ACEC process by allowing for temporary management of ACECs without the procedures formerly required to designate ACECs thus denying opportunities for public participation to determine whether the ACEC designation is even warranted.

Action-forcing Mechanism to be Repealed. The proposal describes the provisions of 43 CFR subpart 6103 as the "lynchpin" of the land health provision of the 2024 Rule. That subpart requires the BLM to act on a "fixed or rapid timetable" that ostensibly interferes with previously authorized uses of the public lands. Those provisions are said to "hamstring the Bureau by displacing its usual processes to meet a deadline" and that the 2024 Rule therefore "interferes with the Bureau's ability to reach the decision that best balances management of the public lands for multiple use and sustained yield." Thus, the agency is proposing to repeal 43 CFR subpart 6103 in its entirety.

Contrast the BLM's criticism of what it refers to as the "action-forcing provisions of the 2024 Rule" with the alternative arrangements the DOI implemented for environmental review of energy projects under the National Environmental Policy Act. On April 23, 2025, citing President Trump's declaration of a national energy emergency, the DOI significantly shortened review timelines for all energy projects including those for projects related to the identification, leasing, siting, production, transportation, refining, or generation of energy within the U.S. The DOI submits that the new permitting procedures will take a multi-year process down to no more than 28 days, *i.e.,* reducing agency preparation of an Environmental Assessment from a year to roughly 14 days and preparation of an Environmental Impact Statement from two years to approximately 28 days. The changes also reduce public comment periods, and the scope of analysis required. *See the FAQs* re: the April 23, 2025, emergency permitting procedures here.

The Remainder of the 2024 Rule Will be Repealed. Stating that the entire 2024 Rule adds "unnecessary burdens to BLM decision-making and management of public lands," and that the BLM already considers and accounts for the full range of issues and values when engaged in the planning process, the agency is proposing to repeal all of the provisions of the 2024 Rule.

Comments Sought on the Economic Impacts of the 2024 Rule. The proposal iterates that the Biden Administration received 216,403 public comments on the 2024 Rule, 152,673 of which the agency formally considered at final. Representatives of landowners, states, and municipalities expressed concern that the 2024 Rule would have wide-ranging economic impacts that may have been materially underestimated in the analysis.

Comments Must be Received by November 10, 2025. Thus, the BLM is now reviewing those public comments and believes that they "may raise important questions about whether the economic impacts of the 2024 Rule were materially underestimated." With a November 10, 2025 deadline, the BLM is seeking comments on the statutory authority for the 2024 Rule, the economic impacts and costs and benefits of the 2024 Rule, and the effect of the 2024 Rule on productive uses of land.

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