

AEMA Public Lands Committee:  
CC: Officers and Trustees:

Last week, the Bureau of Land Management (BLM) published in the *Federal Register* a proposed rule that would significantly change the way the agency manages the 245 million acres of land it oversees, most of it in western states. The text of the proposed rule is available [here](#) and attached for your convenience.

Provisions proposed in the rule include adding conservation to the list of uses within the Federal Land Policy Management Act's (FLPMA) multiple use framework; creating "conservation leases"; applying land health standards to all BLM-managed lands, not just grazing allotments; and opening the door to expanded use of Areas of Critical Environmental Concern (ACECs) as a conservation tool.

The proposal argues that it merely "clarifies that conservation is a use on par with other uses of the public lands under FLPMA's multiple-use and sustained-yield framework." However, this appears to be directly at odds with the plain language of Section 103(l) of the statute, which reads: "The term 'principal or major uses' *includes and is limited to*, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production." [emphasis added] That said, the ACEC language in FLPMA appears to be the avenue BLM will use to accomplish this regulatory "clarification" that conservation is a principal or major use.

For many years, environmental groups and others have advocated for more and expanded ACECs, as a de facto way to designate critical habitat, wilderness or monuments, stretching for creative ways to put lands off limits to mineral location and entry.

Within days of the proposal's publication, several Republican senators expressed strong opposition, including Senator John Barrasso (R-WY), Ranking Member of the Senate Committee on Energy and Natural Resources. Senator John Hoeven (R-ND) [pledged](#) to introduce language in the Interior and Environment Appropriations bill to block further development or implementation of the rule, and lead a congressional comment letter in opposition.

Several other user groups that are dependent on public lands have also expressed concern, not only about the substance, but the lack of engagement from BLM in developing the proposal. Indeed, BLM has acknowledged publicly that it used "in-house" expertise in writing the rule, rather than engaging stakeholders.

AEMA will submit comments on the proposal, which has the potential to profoundly affect project development on BLM lands if adopted in its current form. We plan to coordinate with other user groups as well as our allies in Congress, and we will schedule a Public Lands Committee meeting in the next few weeks to further develop AEMA comment and engagement strategy. Please contact Mark or Sid if you have questions about this proposal.

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