



## Decision

**Matter of:** U.S. Department of the Interior, Bureau of Land Management—  
Applicability of the Congressional Review Act to Miles City Field Office  
Record of Decision and Approved Resource Management Plan  
Amendment

**File:** B-337163

**Date:** June 25, 2025

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### DIGEST

The U.S. Department of the Interior, Bureau of Land Management (BLM) issued the *Miles City Field Office: Record of Decision and Approved Resource Management Plan Amendment* (Miles City RMPA). The Miles City RMPA guides the management of BLM-administered lands in the Miles City Field Office and designates which areas are available for coal leasing consideration.

The Congressional Review Act (CRA) requires that before a rule can take effect, an agency must submit the rule to both the House of Representatives and the Senate, as well as the Comptroller General. CRA adopts the definition of “rule” under the Administrative Procedure Act (APA) but excludes certain categories of rules from coverage. We conclude that the Miles City RMPA meets the APA definition of a rule, and no CRA exception applies. Therefore, the Miles City RMPA is a rule subject to CRA’s submission requirements.

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### DECISION

On November 20, 2024, the U.S. Department of the Interior (Interior), Bureau of Land Management (BLM) issued a record of decision and resource management plan amendment titled, *Miles City Field Office: Record of Decision and Approved Resource Management Plan Amendment* (Miles City RMPA).<sup>1</sup> We received a

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<sup>1</sup> BLM, *Miles City Field Office: Record of Decision and Approved Resource Management Plan Amendment* (Nov. 20, 2024), available at <https://eplanning.blm.gov/eplanning-ui/project/2021155/510> (last visited June 11, 2025).

request for a decision as to whether the Miles City RMPA is a rule for purposes of the Congressional Review Act (CRA).<sup>2</sup> As discussed below, we conclude that the Miles City RMPA is a rule for purposes of CRA.

Our practice when issuing decisions is to obtain the legal views of the relevant agency on the subject of the request.<sup>3</sup> Accordingly, we reached out to Interior to obtain the agency's legal views.<sup>4</sup> We received Interior's response on May 2, 2025.<sup>5</sup>

## BACKGROUND

### BLM Public Land Management

Under the Federal Land Policy and Management Act of 1976, as amended (FLPMA), BLM is responsible for developing, maintaining, and, when appropriate, revising "land use plans which provide by tracts or areas for the use of the public lands."<sup>6</sup> BLM land use plans, referred to as "resource management plans" (RMPs), establish goals and objectives to guide future land and resource management actions implemented by BLM.<sup>7</sup> Pursuant to FLPMA, BLM established procedures for the development, revision, and amendment of RMPs.<sup>8</sup>

The objective of resource management planning is to maximize resource values for the public through a rational, consistently applied set of regulations and procedures which promote the concept of multiple use management.<sup>9</sup> An RMP generally

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<sup>2</sup> Letter from Senator Steve Daines, Senator Tim Sheehy, Representative Troy Downing, and Representative Ryan K. Zinke to Comptroller General (Feb. 14, 2025).

<sup>3</sup> GAO, *GAO's Protocols for Legal Decisions and Opinions*, GAO-24-107329 (Washington, D.C.: Feb. 21, 2024), available at <https://www.gao.gov/products/gao-24-107329>.

<sup>4</sup> Letter from Assistant General Counsel, GAO, to Acting Solicitor, Interior (Mar. 4, 2025).

<sup>5</sup> Letter from Acting Associate Solicitor, Division of General Law, Interior, to Assistant General Counsel, GAO (May 2, 2025) (Response Letter).

<sup>6</sup> Pub. L. No. 94-579, title II, § 202(a), 90 Stat. 2743, 2747 (Oct. 21, 1976), 43 U.S.C. § 1712(a).

<sup>7</sup> *Resource Management Planning*, 81 Fed. Reg. 89580 (Dec. 12, 2016).

<sup>8</sup> See 43 U.S.C. § 1712(f); 43 C.F.R. part 1600.

<sup>9</sup> 43 C.F.R. § 1601.0-2. FLPMA defines "multiple use" as "the management of the public lands and their various resource values so that they are utilized in the

(continued...)

establishes land use designations; allowable resource uses; resource conditions, goals, and objectives; program constraints and general management practices; areas to be covered by more specific plans; and other related information.<sup>10</sup>

BLM may amend an RMP to account for, among other things, new data, new or revised policy, or a change in circumstances.<sup>11</sup> Amendments are to be made through an environmental assessment of the proposed change or an environmental impact statement, if needed, and must involve public involvement and interagency coordination.<sup>12</sup>

### Miles City Resource Management Plan

In 2015, BLM revised and combined two previously issued RMPs into a new RMP for the Miles City Field Office.<sup>13</sup> The 2015 Miles City RMP provided direction for approximately 2.75 million surface acres and 10.6 million acres of mineral estate managed by BLM across 17 eastern Montana counties.<sup>14</sup> It established goals, objectives, land use allocations, and management direction for the BLM-administered surface and mineral estate.<sup>15</sup>

Following its issuance, the 2015 Miles City RMP was challenged in the United States District Court for the District of Montana on the basis that BLM improperly approved the plan in violation of the National Environmental Policy Act (NEPA).<sup>16</sup> The court

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combination that will best meet the present and future needs of the American people . . .” This objective aims to ensure “a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values . . .” 43 U.S.C. § 1702(c).

<sup>10</sup> Response Letter, at 2; see *also* 43 C.F.R. § 1601.0-5(n).

<sup>11</sup> 43 C.F.R. § 1610.5-5.

<sup>12</sup> *Id.*

<sup>13</sup> BLM, *Miles City Field Office Approved Resource Management Plan* (Sept. 15 2015), at BA-1, available at <https://eplanning.blm.gov/eplanning-ui/project/59042/510> (last visited June 11, 2025) (2015 Miles City RMP).

<sup>14</sup> 2015 Miles City RMP, at 1-1.

<sup>15</sup> *Id.*

<sup>16</sup> NEPA requires agencies to prepare an environmental impact statement for “major Federal actions” that “significantly” affect the “quality of the human environment . . .” 42 U.S.C. § 4332(C).

found that BLM violated NEPA in its final environmental impact statement and ordered BLM to complete a new coal screening and remedial NEPA analysis.<sup>17</sup>

In response, BLM proposed an RMP amendment for the Miles City Field Office in 2019.<sup>18</sup> The 2019 Miles City RMP was also challenged in court. Once again, the court found that BLM violated NEPA. In its order, the court directed BLM to consider no coal leasing and limited coal leasing alternatives and to disclose the public health impacts, both climate and non-climate, of burning fossil fuels from the planning areas.<sup>19</sup>

On November 20, 2024, BLM approved the Miles City RMPA and subsequently published a notice of its availability in the *Federal Register*.<sup>20</sup> The Miles City RMPA consists of the Record of Decision and the RMP amendment, which is based on Alternative D in the final environmental impact statement. The Miles City RMPA provides specific coal screen designations for the 11.7 million acres of subsurface federal mineral coal estate for which BLM has authority to determine its availability. It also addresses the NEPA deficiencies identified by the court order.<sup>21</sup>

Additionally, the Miles City RMPA allocates 1,745,040 acres as unavailable for further consideration for leasing in order to reduce greenhouse gas emissions.<sup>22</sup> As such, BLM will not accept new coal lease applications. However, existing coal leases may be developed in accordance with lease terms and conditions.<sup>23</sup> The Miles City RMPA does not modify other resource allocation management decisions that were previously made in the 2015 Miles City RMP.<sup>24</sup>

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<sup>17</sup> *Western Organization of Resource Councils, et al. v. BLM*, Docket No. CV 16-21-GF-BMM (D. Mont. Mar. 26, 2018).

<sup>18</sup> BLM, *Miles City Field Office: Final Supplemental Environmental Impact Statement and Proposed Resource Management Plan Amendment* (Oct. 4, 2019), available at <https://eplanning.blm.gov/eplanning-ui/project/116998/570> (last visited June 11, 2025) (2019 Miles City RMP).

<sup>19</sup> *Western Organization of Resource Councils, et al. v. BLM*, Docket No. CV 20-76-GF-BMM (D. Mont. Aug. 3, 2022).

<sup>20</sup> *Notice of Availability of the Record of Decision and Approved Resource Management Plan Amendment for the Miles City Field Office, Montana*, 89 Fed. Reg. 93650 (Nov. 27, 2024).

<sup>21</sup> See generally Miles City RMPA.

<sup>22</sup> Miles City RMPA, at 1-4.

<sup>23</sup> Miles City RMPA, at 1-4.

<sup>24</sup> Miles City RMPA, at 2-3.

## Congressional Review Act

CRA, enacted in 1996 to strengthen congressional oversight of agency rulemaking, requires federal agencies to submit a report on each new rule to both houses of Congress and to the Comptroller General for review before a rule can take effect.<sup>25</sup> The report must contain a copy of the rule, “a concise general statement relating to the rule,” and the rule’s proposed effective date.<sup>26</sup> CRA allows Congress to review and disapprove rules issued by federal agencies for a period of 60 days using special procedures.<sup>27</sup> If a resolution of disapproval is enacted, then the new rule has no force or effect.<sup>28</sup>

CRA adopts the definition of a rule under the Administrative Procedure Act (APA), which states that a rule is “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.”<sup>29</sup> However, CRA excludes three categories of rules from coverage: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.<sup>30</sup>

Interior did not submit a CRA report to Congress or the Comptroller General on the Miles City RMPA.<sup>31</sup> In its response to us, Interior provided additional information about the Miles City RMPA but did not state a position as to whether it is a rule under CRA.<sup>32</sup>

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<sup>25</sup> 5 U.S.C. § 801(a)(1)(A).

<sup>26</sup> *Id.*

<sup>27</sup> 5 U.S.C. § 802.

<sup>28</sup> 5 U.S.C. § 801(b)(1).

<sup>29</sup> 5 U.S.C. §§ 551(4), 804(3).

<sup>30</sup> 5 U.S.C. § 804(3).

<sup>31</sup> Response Letter, at 1.

<sup>32</sup> See Response Letter. However, Interior did state that an RMP “is not a final implementation decision on actions that require further plans, process, or decisions”. *Id.* at 2.

## DISCUSSION

To determine whether the Miles City RMPA is a rule subject to review under CRA, we first address whether it meets the APA definition of a rule. As explained below, we conclude that it does. We then consider whether the Miles City RMPA falls within any CRA exceptions. We conclude that it does not. As such, the Miles City RMPA is subject to review under CRA.

### The Miles City RMPA is a Rule Under APA

Applying APA's definition of rule, the Miles City RMPA meets all of the required elements. First, the Miles City RMPA is an agency statement as it was issued by BLM, a federal agency.<sup>33</sup>

Second, the Miles City RMPA is of future effect as it is to be used prospectively to guide the management of the BLM mineral coal estate administered by the Miles City Field Office.<sup>34</sup> Decisions made in the Miles City RMPA became effective November 20, 2024, when the Record of Decision was signed.<sup>35</sup> As of that date, the Miles City RMPA replaces decisions for coal resource leasing availability by making certain acres of BLM-administered land unavailable for leasing going forward. Therefore, the Miles City RMPA has future effect.

Finally, the Miles City RMPA implements, interprets, or prescribes law or policy, because it designates which areas of BLM-administered land are available for coal leasing consideration in accordance with BLM's responsibilities for land use management under FLPMA. The Miles City RMPA also sets policy by providing specific coal screen designations for the 11.7 million acres of subsurface federal mineral coal estate for which BLM has authority to determine its availability.

Our conclusion here is consistent with our previous decisions finding similar land use and RMPs implement, interpret, or prescribe law or policy.<sup>36</sup> For instance, in B-238859, Oct. 23, 2017, we found that an amendment to the Forest Service's Tongass Land and Resource Management Plan (Tongass Amendment) implemented law by establishing new criteria for the sale of timber to non-agency parties. We explained that with the Tongass Amendment, the Forest Service set

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<sup>33</sup> See B-329065, Nov. 15, 2017 (finding a similar RMP issued by BLM to be an agency statement).

<sup>34</sup> Miles City RMPA, at 1-1.

<sup>35</sup> See Miles City RMPA, at 1-4, 1-12.

<sup>36</sup> See, e.g., B-238859, Oct. 23, 2017; B-275178, July 3, 1997; B-274505, Sept. 16, 1996.

forth its policy for timber sales and thus implemented its statutory responsibility under the National Forest Management Act.<sup>37</sup>

Similarly in B-329065, Nov. 15, 2017, we concluded that four RMPs issued by BLM prescribed policy by establishing available uses for the areas that each RMP covered. We noted that each RMP implemented provisions of FLPMA and other applicable statutory and regulatory provisions.<sup>38</sup> The same can be said of the Miles City RMPA at issue here. The Miles City RMPA implements FLPMA and prescribes policy by designating which areas of BLM-administered land are available for coal leasing consideration. As such, the Miles City RMPA meets the third element of the APA definition of rule. Having satisfied all the required elements, the Miles City RMPA meets the APA definition of rule.

### CRA Exceptions

We must next determine whether any of CRA's three exceptions apply. CRA provides for three types of rules that are not subject to its requirements: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.<sup>39</sup>

#### (1) Rule of Particular Applicability

Consistent with our previous decisions, the Miles City RMPA is a rule of general applicability, rather than particular applicability. In B-238859, Oct. 23, 2017, the Forest Service proffered that its Tongass Amendment was a rule of particular applicability because it applied to a single national forest. We disagreed, noting that the Tongass Amendment governed all natural resource management activities, all projects approved to take place, and all persons or entities using the forest. As such, it was a rule of general applicability.<sup>40</sup> Likewise, the Miles City RMPA establishes land use designations that govern any coal activities by any person or entity within the Miles City Field Office, making it a rule of general applicability.

#### (2) Rule of Agency Management or Personnel

The Miles City RMPA is not a rule of agency management or personnel. We have previously held that rules that fall into this category relate to purely internal agency

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<sup>37</sup> B-238859, Oct. 23, 2017.

<sup>38</sup> B-329065, Nov. 15, 2017.

<sup>39</sup> 5 U.S.C. § 804(3).

<sup>40</sup> B-238859, Oct. 23, 2017.

matters.<sup>41</sup> Because the Miles City RMPA is concerned with public use of the areas it governs rather than management of BLM itself or its personnel, it does not meet CRA's second exception.

(3) Rule of Agency Organization, Procedure, or Practice that Does Not Substantially Affect Non-Agency Parties

Lastly, the Miles City RMPA is not a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.<sup>42</sup>

We have previously explained that this exception was modeled on the APA exception to notice-and-comment rulemaking requirements for "rules of agency organization, procedure, or practice[.]"<sup>43</sup> The purpose of the APA exception is to ensure "that agencies retain latitude in organizing their internal operations," so long as such rules do not have a substantial impact on non-agency parties.<sup>44</sup>

Following this interpretation in the CRA context, we have only applied CRA's third exception to rules that primarily focus on the internal operations of an agency.<sup>45</sup> For instance, in B-329926, Sept. 10, 2018, we found that updates to a Social Security Administration (SSA) hearings manual governing SSA adjudicators' use of information from the internet qualified as a rule of agency organization, procedure, or practice. There, the manual outlined procedures for SSA employees to follow in processing and adjudicating benefits claims. Because the manual was directed to and binding only on SSA officials without imposing new burdens on claimants, we concluded that the manual met CRA's third exception.<sup>46</sup>

In contrast, rules that are directed at and primarily concerned with the behavior of non-agency parties do not fall within this category.<sup>47</sup> Thus, in B-274505, Sept. 16, 1996, we declined to apply CRA's third exception to a Forest Service memorandum on the Emergency Salvage Timber Sale Program, because it was not limited to the Forest Service's methods of operations. Instead, the memorandum established the

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<sup>41</sup> See, e.g., B-335142, May 1, 2024; B-334411, June 5, 2023.

<sup>42</sup> See 5 U.S.C. § 804(3)(C).

<sup>43</sup> 5 U.S.C. § 553(b)(A); see B-329926, Sept. 10, 2018.

<sup>44</sup> *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980).

<sup>45</sup> See, e.g., B-329916, May 17, 2018.

<sup>46</sup> B-329926, Sept. 10, 2018.

<sup>47</sup> B-335629, July 8, 2024.



standards by which program determinations would be made, thus directly affecting the area for and number of timber sales that would result in contracts. In essence the memorandum went beyond how the Forest Service organized its internal operations.<sup>48</sup> Similarly, in B-238859, Oct. 23, 2017, we declined to apply CRA's third exception to the Tongass Amendment, because it was directed at land and resource use by non-agency parties.<sup>49</sup>

Here, the Miles City RMPA does entail some changes to agency procedure in that BLM will no longer consider coal leasing applications for the acres designated as unavailable for further consideration. However, like the Forest Service memorandum in B-274505 and the Tongass Amendment in B-238859, the Miles City RMPA is not limited to changes in internal agency operations. Instead, the Miles City RMPA is directed at, and concerns itself primarily with, the behavior of non-agency parties. Therefore, the Miles City RMPA does not qualify as a rule of agency organization, procedure or practice.

We must also consider whether the Miles City RMPA substantially affects the rights or obligations of non-agency parties. When analyzing this aspect of CRA's third exception, "the critical question is whether the agency action alters the rights or interests of the regulated entities."<sup>50</sup> Along similar lines, courts have determined that "[a]n agency rule that modifies substantive rights and obligations can only be nominally procedural, and the exemption for such rules of agency procedure cannot apply."<sup>51</sup>

In previous decisions, we have consistently concluded that where an RMP designates use by non-agency parties in the areas it governs, it has a substantial effect.<sup>52</sup> For instance, in B-275178, July 3, 1997, we reached this conclusion by noting that the Forest Service's RMP provided a "management prescription" giving general direction on what may occur within an area allocated to a particular land use designation. Similarly, in B-329065, Nov. 15, 2017, we concluded that four BLM RMPs had a substantial effect on non-agency parties where the plans limited the use of public land and prohibited mining and operation of off-highway vehicles in the areas they governed.

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<sup>48</sup> B-274505, Sept. 16, 1996.

<sup>49</sup> B-238859, Oct. 23, 2017.

<sup>50</sup> B-329926, Sept. 10, 2018.

<sup>51</sup> *United States Department of Labor v. Kast Metals Corp.*, 744 F.2d 1145, 1153 (5th Cir. 1984).

<sup>52</sup> See, e.g., B-329065, Nov. 15, 2017; B-238859, Oct. 23, 2017; B-275178, July 3, 1997.

Consistent with our caselaw on other RMPs, the Miles City RMPA has a substantial effect on non-agency parties. Its purpose is to “provide additional analysis for land use planning, specifically for analyzing coal” in the Miles City Field Office.<sup>53</sup> The Miles City RMPA makes unavailable 1,745,040 acres of BLM-administered coal from further consideration for leasing. As a result, BLM has foreclosed non-agency parties from new federal coal leasing in those designated areas, thereby altering their substantive rights and obligations. Accordingly, the Miles City RMPA fails to meet CRA’s third exception

## CONCLUSION

The Miles City RMPA is a rule for purposes of CRA because it meets the definition of a rule under APA and no CRA exception applies. Therefore, the Miles City RMPA is subject to CRA’s requirement that it be submitted to Congress and the Comptroller General before it can take effect.



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<sup>53</sup> Miles City RMPA, at 2-1.