



Decision

Matter of: U.S. Department of the Interior, Bureau of Land Management—
Applicability of the Congressional Review Act to 2022 National
Petroleum Reserve in Alaska Integrated Activity Plan Record of
Decision

File: B-337234

Date: July 24, 2025

DIGEST

On April 25, 2022, the U.S. Department of the Interior (Interior), Bureau of Land Management (BLM) issued a record of decision titled, *National Petroleum Reserve in Alaska Integrated Activity Plan Record of Decision* (2022 ROD or ROD). The ROD adopts a new integrated activity plan for BLM's future management of the National Petroleum Reserve in Alaska, an approximately 23-million-acre area on Alaska's North Slope.

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 2022 ROD is a rule for purposes of CRA because it meets the APA definition of a rule, and no CRA exception applies. Therefore, the ROD is a rule subject to CRA's submission requirements.¹

DECISION

On April 25, 2022, the U.S. Department of the Interior (Interior), Bureau of Land Management (BLM) issued a record of decision titled, *National Petroleum Reserve*

¹ BLM has not, to date, submitted the ROD to Congress or the Comptroller General, but the agency submitted a final rule incorporating certain parts of the ROD to the Comptroller General in April 2024 and to Congress in May 2024.

in Alaska Integrated Activity Plan Record of Decision (2022 ROD or ROD).² We received a request for a decision as to whether the ROD is a rule for purposes of the Congressional Review Act (CRA).³ As discussed below, we conclude that the ROD is a rule subject to CRA's submission requirements.

Our practice when rendering decisions is to contact the relevant agencies to obtain factual information and their legal views on the subject of the request.⁴ Accordingly, we reached out to Interior on March 18, 2025, and received Interior's response on May 20, 2025.⁵

BACKGROUND

2022 ROD

The 2022 ROD documents the Secretary of the Interior's (Secretary) decision to adopt a new integrated activity plan for BLM's future management of the National Petroleum Reserve in Alaska (NPR-A).⁶ The NPR-A is an approximately 23-million-acre area on Alaska's North Slope.⁷ The ROD replaced a 2020 Record of Decision,⁸ and the adopted plan provides for management of the NPR-A consistent

² The 2022 ROD is available at https://eplanning.blm.gov/public_projects/117408/200284263/20058238/250064420/2022_NPRA_IAP_ROD_508.pdf (last visited July 15, 2025).

³ Letter from Senator Lisa Murkowski, Senator Dan Sullivan, and Representative Nick Begich to Comptroller General (Mar. 6, 2025).

⁴ GAO, *GAO's Protocols for Legal Decisions and Opinions*, GAO-24-107329 (Washington, D.C.: Feb. 2024), available at <https://www.gao.gov/products/gao-24-107329>.

⁵ Letter from Assistant General Counsel, GAO, to Senior Advisor to the Secretary, Delegated the Authority of the Solicitor, Interior (Mar. 18, 2025); Letter from Acting Associate Solicitor, Division of General Law, Interior, to Assistant General Counsel, GAO (May 20, 2025) (Interior Response).

⁶ 2022 ROD, at 1. Interior's Principal Deputy Assistant Secretary for Land and Minerals Management signed the ROD.

⁷ BLM, *National Petroleum Reserve in Alaska*, available at <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about/alaska/NPR-A> (last visited July 15, 2025).

⁸ BLM, *National Petroleum Reserve in Alaska Integrated Activity Plan Record of Decision* (Dec. 31, 2020) (2020 Record of Decision), available at

(continued...)

with the plan approved in a 2013 Record of Decision,⁹ with some modifications and clarifications.¹⁰

BLM is responsible for managing the NPR-A under the authority and direction of the Naval Petroleum Reserves Production Act of 1976, as amended (NPRPA)¹¹ and the Federal Land Policy and Management Act of 1976, as amended (FLPMA).¹² The NPRPA requires the Secretary to “conduct an expeditious program of competitive leasing of oil and gas in the” NPR-A.¹³ The NPRPA further provides that the Secretary “shall assume all responsibilities” for “any activities related to the protection of environmental, fish and wildlife, and historical or scenic values” and authorizes the Secretary to “promulgate such rules and regulations as he deems necessary and appropriate for the protection of such values within the” NPR-A.¹⁴ The statute also authorizes the Secretary to designate lands “containing any significant subsistence, recreational, fish and wildlife, or historical or scenic value” and requires that exploration in these areas “shall be conducted in a manner which will assure the maximum protection of such surface values to the extent consistent with the” statute’s requirements for exploration activities.¹⁵ BLM refers to these lands as “Special Areas.”¹⁶ Under the FLPMA, the Secretary is authorized to regulate “the use, occupancy, and development of . . . public lands” and “take any action necessary to prevent unnecessary or undue degradation of th[ose] lands.”¹⁷

https://eplanning.blm.gov/public_projects/117408/200284263/20032151/250038350/NPR-A%20IP%20Record%20of%20Decision.pdf (last visited July 15, 2025).

⁹ BLM, *National Petroleum Reserve-Alaska Integrated Activity Plan Record of Decision* (Feb. 21, 2013) (2013 Record of Decision), *available at* https://eplanning.blm.gov/public_projects/nepa/117408/168999/205600/NPR-A_FINAL_ROD_2-21-13.pdf (last visited July 15, 2025).

¹⁰ 2022 ROD, at 1–2.

¹¹ 42 U.S.C. §§ 6501–6507.

¹² 43 U.S.C. §§ 1701–1787; *see* 2022 ROD, at 3.

¹³ 42 U.S.C. § 6506a(a).

¹⁴ 42 U.S.C. § 6503(b).

¹⁵ 42 U.S.C. § 6504(a).

¹⁶ 2022 ROD, at 4–5.

¹⁷ 43 U.S.C. § 1732(b). However, the NPR-A is exempt from certain requirements of the FLPMA. *See* 2022 ROD, at 10.

To implement these requirements, BLM prepares integrated activity plans for the NPR-A to provide consistent management guidance.¹⁸

The 2022 ROD states that BLM decided to adopt a new plan following its determination that the 2020 Record of Decision was inconsistent with the policy direction set forth in Executive Order No. 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, issued on January 20, 2021.¹⁹ The ROD states that the adopted plan better serves the policy set forth in Executive Order No. 13990 than the plan adopted by the 2020 Record of Decision “by providing greater protections to environmental values and subsistence uses in the NPR-A while still allowing for oil and gas exploration and development consistent with BLM’s management responsibilities under the NPRPA.”²⁰

The ROD further states that it was prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA)²¹ and the Council on Environmental Quality’s NEPA implementing regulations²² in effect prior to September 14, 2020.²³ BLM determined that the environmental impact statement (2020 EIS) and associated evaluations used for the 2020 Record of Decision remained adequate under NEPA and other relevant statutes, and no additional analysis was necessary for BLM to select a different alternative from the range analyzed in the 2020 EIS.²⁴

¹⁸ See Interior Response, at 2.

¹⁹ 2022 ROD, at 1; see Exec. Order No. 13990, 86 Fed. Reg. 7037 (Jan. 25, 2021). Executive Order No. 13990 was subsequently revoked by Executive Order No. 14154, *Unleashing American Energy*, January 20, 2025. Exec. Order No. 14154, § 4(a)(i), 90 Fed. Reg. 8353, 8354 (Jan. 29, 2025).

²⁰ 2022 ROD, at 11.

²¹ 42 U.S.C. §§ 4321–4347. Under NEPA, an agency proposing a “major [f]ederal action[]” must prepare a statement of its environmental impact if the action will “significantly affect[] the quality of the human environment.” 42 U.S.C. § 4332(2)(C).

²² 40 C.F.R. pts. 1500–1508 (2020). The Council on Environmental Quality recently issued an interim final rule removing these regulations. *Removal of National Environmental Policy Act Implementing Regulations*, 90 Fed. Reg. 10610 (Feb. 25, 2025).

²³ 2022 ROD, at 1, 3 & n.1. The ROD describes additional applicable statutory and Executive Order requirements and BLM’s actions to meet those requirements. See *id.* at 12–20.

²⁴ 2022 ROD, at 1.

The ROD adopted the “no action” alternative examined in the 2020 EIS, thereby re-implementing the plan approved in the 2013 Record of Decision, with certain clarifications and modifications.²⁵ The plan adopted by the ROD will remain in place unless and until BLM determines that new circumstances require a different approach.²⁶

Under the ROD, approximately 11.8 million acres, or 52 percent, of the NPR-A’s subsurface estate are available for oil and gas leasing, while the remaining approximately 11 million acres, or 48 percent, are closed to oil and gas leasing.²⁷ In addition, the ROD makes lands available for oil and gas infrastructure, including pipelines and other infrastructure necessary for owners of any offshore leases in certain areas to bring oil and gas across the NPR-A to the Trans-Alaska Pipeline System, while also generally prohibiting new infrastructure on approximately 8.3 million acres.²⁸ The ROD states that the areas closed to oil and gas leasing and new infrastructure include areas critical to certain bird and caribou populations.²⁹ Compared to the 2020 Record of Decision, the ROD reduces the area available for oil and gas leasing and the allowable area for new infrastructure, as the 2020 Record of Decision made approximately 18.6 million acres, or 82 percent, of the NPR-A’s subsurface estate available for oil and gas leasing and prohibited new infrastructure on approximately 4.3 million acres.³⁰

The ROD adopts other management approaches that differ from the 2020 Record of Decision. For example, the ROD alters the Special Areas designated under the NPRPA.³¹ The ROD also establishes performance-based required operating procedures and lease stipulations that apply to oil and gas leasing and development

²⁵ *Id.* at 1–2; Interior Response, at 2.

²⁶ 2022 ROD, at 2.

²⁷ *Id.* at 4.

²⁸ *Id.* at 1–2, 4.

²⁹ *Id.* at 4.

³⁰ *Id.* at 8, 11.

³¹ 2022 ROD, at 4–5. The majority of lands in the Special Areas are closed to oil and gas leasing under the ROD. *Id.* at 1.

and, in some cases, non-oil and gas activities within the NPR-A.³² A number of these procedures and stipulations differ from those in the 2020 Record of Decision.³³

According to the ROD, additional site-specific analysis will occur when BLM receives an application to approve an action on the ground, and this will be done through subsequent NEPA reviews and analysis that BLM will conduct before issuing permits or approving any ground-disturbing activity.³⁴ For example, the ROD states that BLM will make decisions on applications for new infrastructure following a multi-agency NEPA review.³⁵

Recent Actions Regarding the NPR-A

Following issuance of the 2022 ROD, BLM published a final rule in the *Federal Register* on May 7, 2024, to revise the framework for designating and assuring maximum protection of the Special Areas' significant resource values and to protect and enhance access for subsistence activities throughout the NPR-A.³⁶ The rule also revised BLM regulations to incorporate certain aspects of the 2022 ROD, such as the Special Area designations and leasing and infrastructure allocations adopted in the ROD.³⁷

On January 20, 2025, the President issued Executive Order No. 14153, *Unleashing Alaska's Extraordinary Resource Potential*, which, in part, directed the Secretary to

³² *Id.* at 2, 6, Appendix A.

³³ Compare *id.*, at Appendix A, with 2020 Record of Decision, at Appendix A; see BLM, *National Petroleum Reserve in Alaska Integrated Activity Plan and Environmental Impact Statement, Volume I: Executive Summary, Chapters 1-3, References, and Glossary* (June 2020), at Tables 2-2, 2-3 (comparing these provisions across the alternatives under consideration), available at https://eplanning.blm.gov/public_projects/117408/200284263/20020342/250026546/Volume%201_ExecSummary_Ch1-3_References_Glossary.pdf (last visited July 15, 2025). For example, the ROD modifies “Lease Stipulation K-1 – River Setbacks” based on the reinstatement of an amended Colville River Special Area Management Plan, and the ROD reinstates a required operating procedure prescribing actions lessees must take to monitor whether permitted activities contaminate subsistence foods. 2022 ROD, at A-6–A-10, A-26.

³⁴ 2022 ROD, at 9.

³⁵ *Id.* at 4.

³⁶ *Management and Protection of the National Petroleum Reserve in Alaska*, 89 Fed. Reg. 38712, 38712 (May 7, 2024) (2024 NPR-A Final Rule).

³⁷ *Id.* at 38745–46.

“place a temporary moratorium on all activities and privileges granted” pursuant to the 2022 ROD in order to review the ROD, reinstate the 2020 Record of Decision, and rescind the 2024 NPR-A Final Rule.³⁸ On February 3, 2025, the Secretary issued an order that, among other things, directed the Assistant Secretary for Land and Minerals Management to submit an action plan describing the necessary and appropriate steps to execute the relevant portions of Executive Order No. 14153.³⁹

On March 20, 2025, the Secretary announced actions to implement these orders, including making up to 82 percent of the NPR-A available to oil and gas leasing.⁴⁰ In its May 20, 2025, response to us, Interior stated that the 2022 ROD was still in effect, but BLM had initiated a process to evaluate whether the 2020 EIS was sufficient to support the issuance of a new Record of Decision that would substantially align with the 2020 Record of Decision.⁴¹ On June 3, 2025, BLM published a notice of proposed rulemaking proposing to rescind the 2024 NPR-A Final Rule.⁴² On June 17, 2025, BLM released for comment a draft Environmental Assessment as part of its efforts to issue a new NPR-A integrated activity plan that aligns with the 2020 Record of Decision.⁴³

³⁸ Exec. Order No. 14153, § 3(b)(xii)–(xiv), 90 Fed. Reg. 8347, 8349 (Jan. 29, 2025).

³⁹ Interior, Secretary’s Order No. 3422, *Unleashing Alaska’s Extraordinary Resource Potential*, § 6(a) (Feb. 3, 2025), available at https://www.doi.gov/sites/default/files/document_secretarys_orders/so-3422-signed.pdf (last visited July 15, 2025).

⁴⁰ Interior, *Interior Secretary Takes Steps to Unleash Alaska’s Extraordinary Resource Potential* (Mar. 20, 2025), available at <https://www.doi.gov/pressreleases/interior-secretary-takes-steps-unleash-alaskas-extraordinary-resource-potential> (last visited July 15, 2025).

⁴¹ Interior Response, at 2–3.

⁴² *Rescission of the Management and Protection of the National Petroleum Reserve in Alaska Regulations*, 90 Fed. Reg. 23507 (proposed June 3, 2025).

⁴³ BLM, *BLM National NEPA Register: National Petroleum Reserve in Alaska Integrated Activity Plan EA*, available at <https://eplanning.blm.gov/eplanning-ui/project/2038893/510> (last visited July 15, 2025). On July 4, 2025, Public Law 119-21 – commonly known as the One Big Beautiful Bill Act – was enacted, and the statute includes provisions directing the Secretary to “expeditiously restore and resume oil and gas lease sales . . . in the areas designated for oil and gas leasing as described in the [2020 EIS] and the [2020 Record of Decision]” and “offer the same lease form, lease terms, economic conditions, and stipulations as described in the [2020 EIS] and the [2020 Record of Decision].” An Act To provide for reconciliation pursuant to title II of H. Con. Res. 14, Pub. L. No. 119-21, § 50105, 139 Stat. 72 (2025). These provisions do not affect GAO’s application of CRA to the 2022 ROD at issue in this decision.

Congressional Review Act (CRA)

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 the Comptroller General for review before the rule can take effect.⁴⁴ The report must contain a copy of the rule, “a concise general statement relating to the rule,” and the rule’s proposed effective date.⁴⁵ CRA allows Congress to review and disapprove rules issued by federal agencies for a period of 60 days using special procedures.⁴⁶ If a resolution of disapproval is enacted, then the new rule has no force or effect.⁴⁷

CRA adopts the definition of “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.”⁴⁸ However, CRA excludes three categories of APA 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.⁴⁹

BLM did not submit a CRA report to Congress or the Comptroller General on the 2022 ROD. In its response to us, Interior provided additional information about the ROD but did not state a position as to whether it is a rule under CRA.⁵⁰ However, BLM submitted a CRA report on the 2024 NPR-A Final Rule, which incorporates certain aspects of the ROD, to the Comptroller General in April 2024 and to Congress in May 2024.⁵¹

⁴⁴ 5 U.S.C. § 801(a)(1)(A).

⁴⁵ *Id.*

⁴⁶ See 5 U.S.C. § 802.

⁴⁷ 5 U.S.C. § 801(b)(1).

⁴⁸ 5 U.S.C. §§ 551(4); 804(3).

⁴⁹ 5 U.S.C. § 804(3).

⁵⁰ See Interior Response.

⁵¹ GAO Database of Rules, available at <https://www.gao.gov/fedrules/210606>; 170 Cong. Rec. H2995 (daily ed. May 8, 2024); 170 Cong. Rec. S3650–51 (daily ed. May 9, 2024).

DISCUSSION

To determine whether the 2022 ROD 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 ROD falls within any CRA exceptions. We conclude that it does not. Therefore, the ROD is a rule subject to review under CRA.

The 2022 ROD is a Rule Under APA

Applying APA's definition of "rule," the 2022 ROD meets all of the required elements. First, the ROD is an agency statement as it was issued by BLM, a federal agency.⁵²

Second, the ROD is of future effect. An agency action of future effect is one "concerned with policy considerations for the future rather than the evaluation of past or present conduct."⁵³ The ROD adopts a plan "for future management of the NPR-A," and the adopted plan will remain in place unless and until BLM determines that new circumstances require a different approach.⁵⁴

Finally, the ROD prescribes and implements law and policy and describes agency procedure and practice requirements. An agency statement implements, interprets, or prescribes law or policy when the action creates new regulations, changes regulatory requirements or official policy, or alters how the agency will exercise its discretion, among other things.⁵⁵ The 2022 ROD prescribes policies for future uses of the covered area, the NPR-A, and includes restrictions on certain uses, like oil and gas exploration and development activities, in particular areas.⁵⁶

⁵² 2022 ROD, at 1; BLM, *BLM National NEPA Register: National Petroleum Reserve in Alaska Integrated Activity Plan*, available at <https://eplanning.blm.gov/eplanning-ui/project/117408/510> (last visited July 15, 2025); see B-337200, June 25, 2025 (concluding that a BLM resource management plan for an area in Alaska was an agency statement); B-329065, Nov. 15, 2017 (same).

⁵³ B-316048, Apr. 17, 2008.

⁵⁴ 2022 ROD, at 1–2; see B-337200, June 25, 2025 (concluding that a BLM resource management plan making recommendations and designating future uses for a specific area had future effect); B-329065, Nov. 15, 2017 (same).

⁵⁵ B-334005, Jan. 18, 2023 (citing *Industrial Safety Equipment Association, Inc. v. Environmental Protection Agency*, 837 F.2d 1115, 1120 (D.C. Cir. 1988)).

⁵⁶ 2022 ROD, at 4.

Our conclusion here is consistent with our previous decisions finding that similar land use programs and resource management plans implement, interpret, or prescribe law or policy.⁵⁷ 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 forth its policy for timber sales and thus implemented its statutory responsibility under the National Forest Management Act.⁵⁸

Similarly, in B-329065, Nov. 15, 2017, we examined four BLM resource management plans covering areas in Alaska. We concluded that the plans implemented, interpreted, or prescribed law or policy because the plans "prescribe[d] policies for future use of the areas . . . cover[ed], such as where mining or off-highway vehicles are permitted," and, for two of the areas, "identif[ied] Areas of Critical Environmental Concern," where special management attention was needed to protect certain resources.⁵⁹ We further noted that the plans "implement[ed] the provisions of FLPMA and other applicable statutory and regulatory provisions."⁶⁰

The same can be said of the 2022 ROD here. The ROD reduces the area available for oil and gas leasing and new infrastructure in the NPR-A compared to the 2020 Record of Decision.⁶¹ And just as the plans in B-329065 designated certain locations as "Areas of Critical Environmental Concern," the ROD likewise alters the areas of the NPR-A designated for special protections, the Special Areas.⁶² The ROD also adopts performance-based required operating procedures and lease stipulations that apply to future activities and which, in certain respects, differ from the provisions adopted in the 2020 Record of Decision.⁶³ Finally, the ROD

⁵⁷ See, e.g., B-329065, Nov. 15, 2017; B-238859, Oct. 23, 2017; B-275178, July 3, 1997.

⁵⁸ B-238859, Oct. 23, 2017.

⁵⁹ B-329065, Nov. 15, 2017 (*citing* 43 C.F.R § 1601.0-5); see 43 U.S.C. § 1702(a). We recently reached a similar conclusion with respect to another BLM resource management plan for an area in Alaska. See B-337200, June 25, 2025.

⁶⁰ *Id.*

⁶¹ 2022 ROD, at 1–2, 4, 8, 11.

⁶² *Id.* at 4–5.

⁶³ *Id.* at 6; *compare id.*, at Appendix A, *with* 2020 Record of Decision, at Appendix A.

implements FLPMA, as well as other applicable statutory and regulatory provisions, including NPRPA, NEPA, and the implementing regulations for those statutes.⁶⁴

An agency statement describes agency organization, procedure, or practice requirements when the statement discusses the internal operations of an agency, including statements that govern the conduct of agency proceedings.⁶⁵ The ROD describes various practices and procedures related to the permitting process, including how and when BLM will include stipulations in leases or impose required operating procedures, as well as the availability of waivers, exceptions, and modifications to those stipulations and procedures.⁶⁶

Having satisfied all the required elements, the 2022 ROD meets the APA definition of a rule.⁶⁷

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.⁶⁸

(1) Rule of Particular Applicability

Consistent with our previous decisions, the 2022 ROD is a rule of general applicability, rather than particular applicability.⁶⁹ Such rules are addressed to specific, identified persons or entities and address actions those persons or entities

⁶⁴ *Id.* at 3–4.

⁶⁵ B-335316, Nov. 29, 2023; B-334005, Jan. 18, 2023.

⁶⁶ See 2022 ROD, at A-5–A-6.

⁶⁷ BLM's description of the ROD in the 2024 NPR-A Final Rule and the agency's decision to incorporate certain parts of the ROD in its regulations further support this conclusion. See 2024 NPR-A Final Rule, 89 Fed. Reg. at 38714 (stating that the ROD "provides broad management direction for uses and activities allowed within the [NPR-A], including requirements for environmentally and socially responsible resource development"), 38755 (stating that the final rule "codifies land use restrictions that already are legally binding in the . . . ROD").

⁶⁸ 5 U.S.C. § 804(3).

⁶⁹ See 5 U.S.C. § 804(3)(A).

may or may not take, taking into account facts and circumstances specific to those persons or entities.⁷⁰

In determining whether a rule is one of general or particular applicability, we have noted that a rule need not apply to the population as a whole to be considered a rule of general applicability; rather, all that is required is that the rule has general applicability within its intended range, regardless of the magnitude of the range.⁷¹ In particular, we have determined that a rule is one of general applicability even if the rule is limited to a specific geographic area, so long as the rule does not apply to specific, identified persons or entities.⁷² For example, in B-329065, Nov. 15, 2017, we concluded that the BLM plans at issue were not rules of particular applicability because they applied to “all natural resource management activities, all projects approved to take place, and all persons or entities that engage in uses permitted by those projects.”⁷³

Although the ROD is focused on a specific geographic area, namely the NPR-A, the ROD, like the plans at issue in B-329065, is not addressed to specific, identified persons or entities. Instead, the ROD applies to all persons or entities engaged in covered actions in the NPR-A, including oil and gas exploration and development.⁷⁴ Therefore, the ROD is a rule of general applicability.

(2) Rule of Agency Management or Personnel

The 2022 ROD is not a rule of agency management or personnel.⁷⁵ This exception applies to rules relating to “purely internal agency matters.”⁷⁶ These include rules related to controlling, directing, or supervising internal management issues,⁷⁷ as well as rules related to personnel issues like communications between employees and

⁷⁰ See, e.g., B-334146, June 5, 2023; B-330843, Oct. 22, 2019.

⁷¹ B-287557, May 14, 2001.

⁷² See B-238859, Oct. 23, 2017 (concluding that a rule applying to a specific national forest was not a rule of particular applicability because it applied to all persons or entities using the forest).

⁷³ B-329065, Nov. 15, 2017; *accord* B-337200, June 25, 2025.

⁷⁴ See *generally* 2022 ROD.

⁷⁵ See 5 U.S.C. § 804(3)(B).

⁷⁶ B-335142, May 1, 2024.

⁷⁷ See B-336512, Aug. 29, 2024.

managers, leave, or benefits.⁷⁸ For example, we concluded that the BLM plans at issue in B-329065, Nov. 15, 2017, did not meet this exception because they were concerned with management of uses of the relevant areas by the public rather than with management of BLM itself or its personnel.⁷⁹

The 2022 ROD does not involve internal agency management or personnel matters. Rather, the ROD adopts a new integrated activity plan for BLM's future management of the NPR-A.⁸⁰ This plan governs activities by non-agency parties in the area, including oil and gas exploration and development.⁸¹ Therefore, the ROD 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 2022 ROD is not a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.⁸²

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."⁸³ 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.⁸⁴

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. For instance, in B-329926, Sept. 10, 2018, we found that updates to a Social Security Administration (SSA) hearing 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

⁷⁸ B-335115, Sept. 26, 2023.

⁷⁹ B-329065, Nov. 15, 2017; *accord* B-337200, June 25, 2025.

⁸⁰ 2022 ROD, at 1.

⁸¹ *See generally* 2022 ROD.

⁸² *See* 5 U.S.C. § 804(3)(C).

⁸³ 5 U.S.C. § 553(b)(A); *see* B-329926, Sept. 10, 2018.

⁸⁴ *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980).

and binding only on SSA officials without imposing new burdens on claimants, we concluded that the manual met CRA's third exception.⁸⁵

In contrast, rules that are directed at and primarily concerned with the behavior of non-agency parties do not fall within this category.⁸⁶ 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 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.⁸⁷ 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.

As discussed above, the 2022 ROD adopts a new integrated activity plan that governs activities by non-agency parties in the NPR-A, including oil and gas exploration and development.⁸⁸ In particular, the ROD reduces the area available for oil and gas leasing and new infrastructure compared to the 2020 Record of Decision.⁸⁹ The ROD also establishes performance-based required operating procedures and lease stipulations for activities carried out by non-agency parties, a number of which differ from those in the 2020 Record of Decision.⁹⁰ Although the ROD also describes various BLM practices and procedures related to the permitting process,⁹¹ the ROD is directed at and primarily concerned with the behavior and activities of non-agency parties in the NPR-A rather than the agency's methods of operation. Therefore, the ROD does not qualify as a rule of agency organization, procedure, or practice.⁹²

⁸⁵ B-329926, Sept. 10, 2018.

⁸⁶ B-337059, May 28, 2025 (*citing* B-335629, July 8, 2024).

⁸⁷ B-274505, Sept. 16, 1996.

⁸⁸ *See generally* 2022 ROD.

⁸⁹ *Id.* at 1–2, 4, 8, 11.

⁹⁰ *Id.* at 6; *compare id.*, at Appendix A, with 2020 Record of Decision, at Appendix A.

⁹¹ *See* 2022 ROD, at A-5–A-6.

⁹² *See* B-337059, May 28, 2025 (concluding that notwithstanding the inclusion of certain agency procedures and practices, the rule at issue was primarily focused on the behavior of non-agency parties and therefore was not a rule of agency organization, procedure, or practice).

In addition, the ROD substantially affects the rights or obligations of non-agency parties. We have previously determined that agency plans establishing the uses and activities that non-agency parties may engage in on public lands substantially affect the rights or obligations of those parties.⁹³ For example, in B-275178, July 3, 1997, we concluded that a Forest Service Land and Resource Management Plan substantially affected non-agency parties because it described the uses and activities that non-agency parties could conduct in specific areas, the minimum standards for accomplishing the activities, and guidelines on how to meet the standards. We concluded that the plan had such effects notwithstanding that there would be a second stage of decision-making involving site-specific determinations.⁹⁴

Like the plan at issue in B-275178, the 2022 ROD describes uses and activities non-agency parties may conduct in specific areas of the NPR-A.⁹⁵ The ROD reduces the area available for oil and gas leasing and new infrastructure and states that these changes “will likely result in less leasing over time.”⁹⁶ The ROD also makes changes to the “stipulations that apply to all future leases issued under” the plan adopted by the ROD as well as to the required operating procedures that “BLM will impose on applicants during the permitting process.”⁹⁷ Accordingly, even though the ROD indicates that further BLM action will be necessary to enter into leases or permit activities, the ROD governs those future decisions. Therefore, the ROD substantially affects the rights or obligations of non-agency parties.

CONCLUSION

The 2022 ROD is a rule for purposes of CRA because it meets the definition of a rule under APA and no CRA exception applies. Therefore, the ROD is subject to

⁹³ See, e.g., B-337200, June 25, 2025; B-238859, Oct. 23, 2017; B-275178, July 3, 1997; see also B-329065, Nov. 15, 2017 (concluding that the BLM plans at issue did not fall within this exception because the plan designated uses by non-agency parties that were permitted in the areas covered by the plan).

⁹⁴ B-275178, July 3, 1997.

⁹⁵ See generally 2022 ROD.

⁹⁶ *Id.* at 12.

⁹⁷ *Id.* at 6, A-4–A-5; see 2024 NPR-A Final Rule, 89 Fed. Reg. at 38713 (stating that the plan adopted by the ROD “allocates land uses in the [NPR-A] and includes oil and gas lease stipulations and infrastructure restrictions that apply to BLM authorizations in Special Areas and other areas throughout the [NPR-A]”).

CRA's requirement that it be submitted to Congress and the Comptroller General before it can take effect.

A handwritten signature in black ink, reading "Edda Emmanuelli Perez". The script is cursive and fluid, with the first name "Edda" starting with a large capital 'E' and the last name "Perez" ending with a long, sweeping tail.

Edda Emmanuelli Perez
General Counsel