



## Decision

**Matter of:** U.S. Department of the Interior, Bureau of Land Management—  
Applicability of the Congressional Review Act to 2024 Coastal Plain Oil  
and Gas Leasing Program Record of Decision

**File:** B-337330

**Date:** August 25, 2025

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### DIGEST

In December 2024, the U.S. Department of the Interior, Bureau of Land Management (BLM) issued the *Coastal Plain Oil and Gas Leasing Program Record of Decision* (2024 ROD). The 2024 ROD adopts a framework for managing the Oil and Gas Leasing Program in Alaska’s 1.5-million-acre Coastal Plain, pursuant to the Tax Cuts and Jobs Act.

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 2024 ROD meets the APA definition of a rule, and no CRA exception applies. Therefore, the 2024 ROD is subject to CRA’s submission requirements.

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### DECISION

In December 2024, the U.S. Department of the Interior (Interior), Bureau of Land Management (BLM) released a record of decision entitled, *Coastal Plain Oil and Gas Leasing Program Record of Decision* (2024 ROD).<sup>1</sup> We received a request for a decision as to whether the 2024 ROD is a rule for the purposes of the Congressional

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<sup>1</sup> The 2024 ROD is available at <https://eplanning.blm.gov/eplanning-ui/project/2015144/570> (last visited Aug. 18, 2025).

Review Act (CRA).<sup>2</sup> As discussed below, we conclude that the 2024 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.<sup>3</sup> Accordingly, we reached out to Interior on April 14, 2025.<sup>4</sup> Interior did not provide a response with its legal views regarding its compliance with CRA, but has provided additional factual information.<sup>5</sup>

## BACKGROUND

### Alaska Coastal Plain Oil and Gas Leasing Program

The Alaska "Coastal Plain" is a 1,563,500-acre area within the 19.3-million-acre Arctic National Wildlife Refuge on Alaska's North Slope.<sup>6</sup> Section 20001 of the Tax Cuts and Jobs Act (TCJA),<sup>7</sup> required the Secretary of the Interior to "establish and administer a competitive oil and gas program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain."<sup>8</sup> TCJA required that the Secretary conduct at least two oil and gas lease sales within 10 years of the Act's passage: an initial sale not later than four years after enactment,

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<sup>2</sup> Letter from Senator Lisa Murkowski and Senator Dan Sullivan, and Representative Nick Begich to Comptroller General (Mar. 20, 2025).

<sup>3</sup> 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>.

<sup>4</sup> Letter from Assistant General Counsel, GAO, to Senior Advisor to the Secretary, Delegated the Authority of the Solicitor, Interior (Apr. 14, 2025).

<sup>5</sup> See Email from Attorney-Advisor, Division of General Law, Office of the Solicitor, Interior, to Assistant General Counsel, GAO, *Subject: Ext. Request: B-337330* (July 9, 2025); Email from Attorney-Advisor, Division of General Law, Office of the Solicitor, Interior, to Assistant General Counsel, GAO, *Subject: Ext. Request: B-337330* (July 31, 2025).

<sup>6</sup> BLM, *Coastal Plain of the Arctic National Wildlife Refuge*, available at <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about/alaska/coastal-plain-arctic-national-wildlife-refuge> (last visited Aug. 18, 2025).

<sup>7</sup> Pub. L. No. 115-97, § 20001, 131 Stat. 2054, 2235–37 (Dec. 22, 2017).

<sup>8</sup> *Id.* § 20001(b)(2)(A).

and a second lease sale not later than seven years after enactment.<sup>9</sup> TCJA instructed the Secretary to offer not fewer than 400,000 acres area-wide in each lease sale, which were to be located in the areas with the highest potential for the discovery of hydrocarbons.<sup>10</sup> Furthermore, TCJA required the Secretary to authorize “up to 2,000 surface acres of [f]ederal land on the Coastal Plain to be covered by production and support facilities (including airstrips and any area covered by gravel berms or piers for support of pipelines) during the term of the leases under the oil and gas program.”<sup>11</sup> The U.S. Fish and Wildlife Service (USFWS) manages the lands in the Coastal Plain, while BLM manages the Oil and Gas Leasing Program.<sup>12</sup>

## 2020 ROD

To implement the provisions of TCJA, BLM issued the August 2020 *Coastal Plain Oil and Gas Leasing Program Record of Decision* (2020 ROD), which determined “where and under what terms and conditions” leasing would occur under the program.<sup>13</sup> To inform its decision, BLM prepared the *Coastal Plain Oil and Gas Leasing Program Environmental Impact Statement* (2019 EIS), in accordance with the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4347.<sup>14</sup>

The 2020 ROD adopted a plan from the 2019 EIS that made approximately 1,563,500 acres, or the entire Coastal Plain program area, available for oil and gas leasing, as well as for potential future exploration, development, and transportation.<sup>15</sup> On December 7, 2020, BLM published a notice of the first oil and gas lease sale in the Federal Register, for which it would be accepting bids pursuant

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<sup>9</sup> *Id.* §§ 20001(c)(1)(A), (c)(1)(B)(ii). These deadlines were December 22, 2021, and December 22, 2024, respectively. 2024 ROD, at 1.

<sup>10</sup> Pub. L. No. 115-97, § 20001(c)(1)(B)(i).

<sup>11</sup> *Id.* § 20001(c)(3).

<sup>12</sup> 2024 ROD, at 5.

<sup>13</sup> 2020 ROD, at 2. The 2020 ROD is available at [https://eplanning.blm.gov/public\\_projects/102555/200241580/20024135/250030339/Coastal%20Plain%20Record%20of%20Decision.pdf](https://eplanning.blm.gov/public_projects/102555/200241580/20024135/250030339/Coastal%20Plain%20Record%20of%20Decision.pdf) (last visited Aug. 18, 2025).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 3.

to the 2020 ROD.<sup>16</sup> The first sale was completed, and a total of nine tracts were leased to three lessees.<sup>17</sup>

On January 20, 2021, President Biden signed Executive Order No. 13990, which called for a temporary moratorium on federal activities relating to the Coastal Plain Oil and Gas Leasing Program, citing legal deficiencies underlying the program, including with respect to the 2019 EIS.<sup>18</sup> The Executive Order stated that the Secretary of the Interior was to review the program and conduct a new environmental analysis.<sup>19</sup> Subsequently, on June 1, 2021, the Secretary of the Interior issued Secretary's Order No. 3401, which announced that in light of identified legal deficiencies in the 2019 EIS and 2020 ROD, Interior would be conducting a new environmental impact analysis relating to the program.<sup>20</sup> While the new environmental impact assessment was pending, the Secretary directed that all Interior activities related to the program be temporarily halted.<sup>21</sup>

Interior sent notices to the three lessees from the first oil and gas lease sale, suspending operation of the leases while the new environmental impact assessment was conducted.<sup>22</sup> Two leases were subsequently cancelled and rescinded at the request of two of the lessees, and the remaining seven leases held by the third

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<sup>16</sup> *Notice of 2021 Coastal Plain Alaska Oil and Gas Lease Sale and Notice of Availability of the Detailed Statement of Sale*, 85 Fed. Reg. 78865, 78866 (Dec. 7, 2020).

<sup>17</sup> 2024 ROD, at 1.

<sup>18</sup> Exec. Order No. 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, § 4(a), 86 Fed. Reg. 7037, 7039 (Jan. 25, 2021).

<sup>19</sup> *Id.*

<sup>20</sup> Interior, Secretary's Order No. 3401, *Comprehensive Analysis and Temporary Halt on all Activities in the Arctic National Wildlife Refuge Relating to the Coastal Plain Oil and Gas Leasing Program* (June 1, 2021), available at <https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3401-comprehensive-analysis-and-temporary-halt-on-all-activities-in-the-arctic-national-wildlife-refuge-relating-to-the-coastal-plain-oil-and-gas-leasing-program.pdf> (last visited Aug. 18, 2025).

<sup>21</sup> *Id.*

<sup>22</sup> 2024 ROD, at 1–2.

lessee were cancelled by Interior due to “pre-leasing legal deficiencies.”<sup>23</sup> At the time of the 2024 ROD, BLM noted that there were no leased tracts within the program area.<sup>24</sup>

### 2024 ROD and Supplemental Environmental Impact Statement (SEIS)

On August 4, 2021, BLM published a notice in the Federal Register of its intent to prepare the 2024 SEIS to address the deficiencies identified in Secretary’s Order No. 3401 with respect to the environmental impact of the Coastal Plain Oil and Gas Leasing Program.<sup>25</sup> In conjunction with the USFWS and after a public comment period,<sup>26</sup> BLM released the final 2024 SEIS on November 6, 2024.<sup>27</sup> On December 9, 2024, BLM released the final 2024 ROD, which adopted one of the alternatives analyzed in the 2024 SEIS.<sup>28</sup> The 2024 ROD “determines which lands to make available for leasing under the Coastal Plain program and the terms and conditions (*i.e.*, lease stipulations and required operating procedures) to be applied to leases and authorizations for specific oil and gas activities.”<sup>29</sup>

The selected management plan, Alternative D2, makes available for oil and gas leasing the required minimum 400,000 acres of land with the highest potential for

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<sup>23</sup> *Id.* at 2. GAO was previously asked to determine whether the cancellation of the seven leases held by the third lessee, the Alaska Industrial Development and Export Authority, constituted a rule under CRA. B-335781, Feb. 27, 2024. In that decision, GAO only evaluated the cancellation of the leases, rather than any other aspects of the Oil and Gas Leasing Program, and found that the cancellation was an order not subject to CRA. *Id.*

<sup>24</sup> 2024 ROD, at 2.

<sup>25</sup> *Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska*, 86 Fed. Reg. 41989, 41989 (Aug. 4, 2021).

<sup>26</sup> 2024 ROD, at 1–2.

<sup>27</sup> BLM, *BLM National NEPA Register*, available at <https://eplanning.blm.gov/eplanning-ui/project/2015144/570> (last visited Aug. 18, 2025).

<sup>28</sup> 2024 ROD. A Notice of Availability of the 2024 ROD was published in the Federal Register on December 13, 2024. *Notice of Availability of the Record of Decision for the Final Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska*, 89 Fed. Reg. 101042 (Dec. 13, 2024).

<sup>29</sup> 89 Fed. Reg. at 101043.

hydrocarbons, as prescribed by TCJA, and makes the remaining 1,163,500 acres in the Coastal Plain unavailable for leasing or exploration.<sup>30</sup> Of the 400,000 acres made available for leasing, 58 percent was to be subject to “no surface occupancy” stipulations, 21 percent was to be subject to controlled surface use stipulations, 0.78 percent was to be subject to timing limitations, and approximately 20 percent was to be subject to standard lease terms and conditions.<sup>31</sup> Alternative D2 further authorized 995 acres for surface development, in accordance with the limitation in TCJA capping surface development at 2,000 acres.<sup>32</sup> The 2024 ROD adopts the management plan BLM identified as “the best combination of management options to meet the purpose of and need for the Coastal Plain [O]il and [G]as [L]easing [P]rogram in consideration of the statutory requirements and management concerns identified through the Leasing SEIS process.”<sup>33</sup>

In addition to determining what lands are available under the Oil and Gas Leasing Program, the 2024 ROD also prescribes the terms and conditions of oil and gas activities in the program area through lease stipulations and required operating procedures (ROPs).<sup>34</sup> The stipulations generally require lessees to take particular actions in designated parts of the Coastal Plain to minimize effects of the program on wildlife and the environment and prescribes procedures and standards to evaluate compliance.<sup>35</sup> For example, lease stipulations identify the goals of protecting “the water quality, quantity, and diversity of fish and wildlife habitats and populations associated with springs and auefis across the Coastal Plain”<sup>36</sup> and minimizing “disruption to polar bear denning habitat and disturbance to bears using near shore areas.”<sup>37</sup> Similarly, the ROPs identify a variety of objectives and required actions taken to achieve them, such as reducing air quality impacts,<sup>38</sup> ensuring that

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<sup>30</sup> 2024 ROD, at 5.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 6. The 2024 ROD states that this decision corrects a legal deficiency in the 2020 ROD and 2019 EIS, in which BLM treated the provision in TCJA as an instruction to make a *minimum* of 2,000 acres available for surface development. *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 5.

<sup>35</sup> *Id.* at A-1–A-13.

<sup>36</sup> *Id.* at A-4.

<sup>37</sup> *Id.* at A-5.

<sup>38</sup> *Id.* at A-16.

permitted activities do not create human health risks by contaminating subsistence foods,<sup>39</sup> and protecting grizzly bear, polar bear, and seal denning and birthing locations.<sup>40</sup>

Finally, the 2024 ROD was signed by the Acting Deputy Secretary of Interior and states that it is a final agency action.<sup>41</sup> The 2024 ROD notes that future on-the-ground actions associated with exploration for or development of oil and gas resources in the program area will require further NEPA analysis based on specific proposals and would be addressed in separate decisions.<sup>42</sup>

### Recent Actions Regarding the Coastal Plain Oil and Gas Leasing Program

After issuance of the 2024 ROD, the statutorily mandated second lease sale for the Coastal Plain was held and no bids were received by the deadline, January 6, 2025.<sup>43</sup>

On January 20, 2025, President Trump signed Executive Order No. 14153, entitled, *Unleashing Alaska's Extraordinary Resource Potential*.<sup>44</sup> In the Executive Order, the President directed the Secretary of the Interior to, among other things, withdraw Secretary's Order No. 3401, rescind the cancellation of leases within the Arctic National Wildlife Refuge, and initiate additional leasing through the Coastal Plain Oil and Gas Leasing Program.<sup>45</sup> The Executive Order also states that the Secretary shall rescind the 2024 SEIS, place a moratorium on any activities and privileges granted under the 2024 ROD, and reinstate the 2019 EIS and 2020 ROD.<sup>46</sup>

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<sup>39</sup> *Id.* at A-18.

<sup>40</sup> *Id.* at A-20.

<sup>41</sup> *Id.* at 27.

<sup>42</sup> *Id.* at 5.

<sup>43</sup> Interior, *Arctic Refuge Lease Sale Yields No Interest* (Jan. 8, 2025), available at <https://www.doi.gov/pressreleases/arctic-refuge-lease-sale-yields-no-interest> (last visited Aug. 18, 2025). Notice of the lease sale was published in the Federal Register. *Notice of Lease Sale and Notice of Availability of the Detailed Statement of Sale for the Coastal Plain 2025 Oil and Gas Lease Sale*, 89 Fed. Reg. 99270 (Dec. 10, 2024).

<sup>44</sup> Exec. Order No. 14153, 90 Fed. Reg. 8347 (Jan. 29, 2025).

<sup>45</sup> *Id.* at 8348.

<sup>46</sup> *Id.*

To implement the Executive Order, the Secretary of the Interior issued Secretary's Order No. 3422, revoking Secretary's Order No. 3401 and requiring the Assistant Secretaries of the Department of the Interior to submit an action plan describing the steps necessary to effectuate the provisions of the Executive Order relating to the Coastal Plain Oil and Gas Leasing Program.<sup>47</sup>

On July 4, 2025, the One Big Beautiful Bill Act (OBBBA) was enacted. Section 50104 of OBBBA states that in addition to the oil and gas lease sales required by TCJA, the Secretary is also required to conduct not fewer than four additional lease sales under the program within 10 years of enactment of OBBBA.<sup>48</sup> Such section further specifies that in conducting these lease sales, the Secretary shall offer the same terms and conditions as contained in the 2020 ROD.<sup>49</sup> In a response to GAO, Interior stated that it is currently taking action to comply with the directives in the OBBBA.<sup>50</sup>

### The 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>51</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>52</sup> CRA allows Congress to review and disapprove of federal agency rules for a period of 60 days using special

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<sup>47</sup> Interior, Secretary's Order No. 3422, *Unleashing Alaska's Extraordinary Resource Potential*, §§ 4, 6(a) (Feb. 3, 2025), available at [https://www.doi.gov/sites/default/files/document\\_secretarys\\_orders/so-3422-signed.pdf](https://www.doi.gov/sites/default/files/document_secretarys_orders/so-3422-signed.pdf) (last visited Aug. 18, 2025).

<sup>48</sup> Pub. L. No. 119-21, § 50104(b)(1) (July 4, 2025).

<sup>49</sup> *Id.* § 50104(b)(2).

<sup>50</sup> Email from Attorney-Advisor, Division of General Law, Office of the Solicitor, Interior, to Assistant General Counsel, GAO, *Subject: Ext. Request: B-337330* (July 31, 2025).

<sup>51</sup> 5 U.S.C. § 801(a)(1)(A).

<sup>52</sup> *Id.*



procedures.<sup>53</sup> If a resolution of disapproval is enacted, then the new rule has no force or effect.<sup>54</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>55</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>56</sup>

Interior did not submit a CRA report to Congress or the Comptroller General on the 2024 ROD.

## DISCUSSION

To determine whether the 2024 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 2024 ROD falls within any CRA exceptions. We conclude that it does not. Therefore, the 2024 ROD is a rule subject to review under CRA.

### The 2024 ROD is a Rule Under APA

Applying APA’s definition of “rule,” the 2024 ROD meets all of the required elements. First, the 2024 ROD is an agency statement as it was issued by BLM, a federal agency.<sup>57</sup>

Second, the 2024 ROD is of future effect as it is to be used to guide future oil and gas leasing activities in the Coastal Plain program area.<sup>58</sup> The 2024 ROD designates the land to be subject to future lease sales under the program, as well as the lease stipulations and ROPs that will apply to future leases and authorizations

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<sup>53</sup> See *id.* § 802.

<sup>54</sup> *Id.* § 801(b)(1).

<sup>55</sup> *Id.* §§ 551(4); 804(3).

<sup>56</sup> *Id.* § 804(3).

<sup>57</sup> See 2024 ROD, at 1.

<sup>58</sup> *Id.* at 5.

for specific oil and gas activities in the program area.<sup>59</sup> While the 2024 ROD notes that it does not authorize “specific on-the-ground oil and gas exploration or development activities,” decisions made with respect to those future activities will be governed by the decisions made in the 2024 ROD.<sup>60</sup> Therefore, the 2024 ROD has future effect.

Finally, the 2024 ROD implements, interprets, or prescribes law or policy. The 2024 ROD implements and prescribes policy by defining a new area for oil and gas leasing under the program—reducing the available land from 1,563,500 acres, as outlined in the 2020 ROD,<sup>61</sup> to 400,000 acres.<sup>62</sup> The 2024 ROD also addresses the use of the program area, identifying stipulations and ROPs to be applied to leases and authorizations for specific oil and gas activities in the program area.<sup>63</sup> We have previously determined that where an agency action goes beyond mere restatement of existing policy, it satisfies this element of the definition.<sup>64</sup> While some lease stipulations and ROPs have not significantly changed from the 2020 ROD to the 2024 ROD, others have been amended to include additional requirements, or have been newly added altogether. For example, the 2024 ROD includes Lease Stipulation 12, which focuses on the effects of oil and gas activities on ice-rich soils and yedoma deposits.<sup>65</sup> This lease stipulation is not found in the 2020 ROD. These changes to the program area and limitations on program activities implement and prescribe policy.

Our conclusion here is consistent with our previous decisions finding that similar land use programs and resource management plans (RMPs) implement, interpret, or prescribe law or policy.<sup>66</sup> For instance, in B-238859, Oct. 23, 2017, we found that an

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<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 2.

<sup>61</sup> 2020 ROD, at 4.

<sup>62</sup> 2024 ROD, at 5.

<sup>63</sup> *Id.*

<sup>64</sup> *E.g.*, B-336512, Aug. 29, 2024.

<sup>65</sup> 2024 ROD, at A-11.

<sup>66</sup> *See, e.g.*, B-238859, Oct. 23, 2017; B-275178, July 3, 1997; B-274505, Sept. 16, 1996. We note that the 2024 ROD is not itself an RMP under the Federal Land Policy and Land Management Act of 1976 (FLPMA), Pub L. No. 94-579, 90 Stat. 2743 (Oct. 21, 1976), which are also administered by BLM. However, the 2024 ROD is similar to an RMP in several respects, including the requirement that a

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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, including by directing the areas of the forest in which timber harvest may occur. 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 of 1976.<sup>67</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>68</sup> The same can be said of the 2024 ROD at issue here. The 2024 ROD implements the requirements of the Coastal Plain Oil and Gas Leasing Program laid out in TCJA by designating the statutorily required minimum 400,000 acres with the highest potential for hydrocarbons available for future lease sale.<sup>69</sup> The 2024 ROD itself states that it "continues implementation of the Congressional directive to the Secretary in [TCJA] to establish and administer a competitive oil and gas program."<sup>70</sup> The 2024 ROD also prescribes policy by authorizing or foreclosing specific activities or land use within the program area and by establishing the boundaries of the area available for oil and gas activities. As such, the 2024 ROD meets the third element of APA's definition of "rule." Having satisfied all the required elements, the 2024 ROD meets the APA definition of a 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>71</sup>

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management decision be published in an ROD pursuant to NEPA. See B-329065, Nov. 15, 2017.

<sup>67</sup> B-238859, Oct. 23, 2017.

<sup>68</sup> B-329065, Nov. 15, 2017.

<sup>69</sup> 2024 ROD, at 5.

<sup>70</sup> *Id.* at 2.

<sup>71</sup> 5 U.S.C. § 804(3).

### (1) Rule of Particular Applicability

Consistent with our previous decisions, the 2024 ROD 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 in the forest, all projects approved to take place, and all persons or entities using the forest. As such, it was a rule of general applicability.<sup>72</sup>

The 2024 ROD is likewise not a rule of particular applicability. The 2024 ROD, like the Tongass Amendment, only applies to one defined program area: the Coastal Plain. However, the 2024 ROD governs all oil and gas activities in the program area and will govern all leases and permits for the Oil and Gas Leasing Program. While we have previously explained that specific actions taken with respect to individual leases under the Coastal Plain Oil and Gas Leasing Program may constitute rules of particular applicability,<sup>73</sup> the decisions made in the 2024 ROD apply to the program as a whole and do not make specific determinations based on the facts or circumstances of any individual lessee. The 2024 ROD describes the bounds of the project area, the environmental priorities of the agency in administering the program, and the terms and conditions to be applied to all leases and authorizations under the program through lease stipulations and ROPs.<sup>74</sup> Therefore, the 2024 ROD is a rule of general applicability, rather than particular applicability.

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

The 2024 ROD is not a rule of agency management or personnel. We have previously held that rules that fall into this category relate to purely internal matters.<sup>75</sup> Because the 2024 ROD is concerned with the administration of the Coastal Plain Oil and Gas Leasing Program, including the authorization and limitation of activities taking place in the program area, rather than management of BLM itself or its personnel, it does not meet CRA's second exception.

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<sup>72</sup> B-238859, Oct. 23, 2017.

<sup>73</sup> See B-335781, Feb. 27, 2024 (finding that even if the cancellation of a lease under the Oil and Gas Leasing Program were a rule, it would be a rule of particular applicability not subject to CRA's submission requirements).

<sup>74</sup> See 2024 ROD, at 5–10.

<sup>75</sup> See, e.g., B-335142, May 1, 2024; B-334411, June 5, 2023.

(3) Rule of Agency Organization, Procedure, or Practice with No Substantial Effect on Non-Agency Parties

Lastly, the 2024 ROD is not a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. 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>76</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>77</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>78</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>79</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>80</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 standards by which program determinations would be made, thus directly affecting the area for and number of timber sales that would result in contracts. 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>81</sup>

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<sup>76</sup> 5 U.S.C. § 553(b)(A); see B-329926, Sept. 10, 2018.

<sup>77</sup> *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980).

<sup>78</sup> See, e.g., B-329916, May 17, 2018.

<sup>79</sup> B-329926, Sept. 10, 2018.

<sup>80</sup> B-337059, May 28, 2025.

<sup>81</sup> B-238859, Oct. 23, 2017.

Here, the 2024 ROD does entail some changes to agency procedure. For example, the 2024 ROD establishes the terms under which BLM would conduct future lease sales.<sup>82</sup> The 2024 ROD also notes that in order to administer the program, BLM shall coordinate with USFWS, appropriate federal, state, and North Slope Borough agencies, tribal governments, and others.<sup>83</sup> These elements of the 2024 ROD may be considered to have a purely internal effect on BLM. However, like the Forest Service memorandum in B-274505, Sept. 16, 1996 and the Tongass Amendment in B-238859, Oct. 23, 2017, the 2024 ROD is not limited to changes in internal agency operations. The 2024 ROD circumscribes the behavior of non-agency parties that choose to participate in the program, including by limiting the areas of the Coastal Plain available for oil and gas activities and by imposing terms and conditions on those activities through lease stipulations and ROPs.<sup>84</sup> These elements of the 2024 ROD are primarily focused on non-agency parties rather than BLM's internal operations.

We must also consider whether the 2024 ROD substantially affects the rights and obligations of non-agency parties. When analyzing this prong of the exception, we have previously stated that “the critical question is whether the agency action alters the rights or interests of the regulated entities.”<sup>85</sup> Along similar lines, courts have determined that “[a]n agency rule that modifies substantive rights and interests can only be nominally procedural, and the exemption for such rules of agency procedure cannot apply.”<sup>86</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>87</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

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<sup>82</sup> See 2024 ROD, at 5.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> B-329926, Sept. 10, 2018.

<sup>86</sup> *United States Department of Labor v. Kast Metals Corp.*, 744 F.2d 1145, 1153 (5th Cir. 1984).

<sup>87</sup> See, e.g., B-329065, Nov. 15, 2017; B-238859, Oct. 23, 2017; B-275178, July 3, 1997.

use of public land and prescribed where mining and off-highway vehicles were permitted in the areas they governed.

Consistent with this caselaw, the 2024 ROD has a substantial effect on non-agency parties. Its purpose is to “continue[] implementation of the Congressional directive to the Secretary in [TCJA] to establish and administer a competitive oil and gas program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain area of the Arctic Refuge.”<sup>88</sup> It does this by establishing the scope of the program area and by outlining the lease stipulations and ROPs to be imposed on future use of the land. The 2024 ROD reduces the area available for the program from 1,563,500 acres to 400,000 acres, foreclosing non-agency parties from new oil and gas leasing in those areas and thereby altering their substantive rights and obligations.

Although the 2024 ROD would only affect non-agency parties that voluntarily choose to bid for and enter into leases for the program, rather than the public at large, we have previously concluded that rules establishing requirements for voluntary programs may still substantially affect non-agency parties that choose to participate.<sup>89</sup> Accordingly, the 2024 ROD fails to meet CRA’s third exception.

## CONCLUSION

The 2024 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 2024 ROD 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>88</sup> 2024 ROD, at 2.

<sup>89</sup> B-337059, May 28, 2025.