



Decision

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

File: B-337503

Date: September 18, 2025

DIGEST

The U.S. Department of the Interior, Bureau of Land Management (BLM) Buffalo Field Office issued a *Record of Decision and Approved Resource Management Plan Amendment* (Buffalo RMPA). The Buffalo RMPA makes areas of public land administered by the Buffalo Field Office unavailable 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 Buffalo RMPA meets APA’s definition of a rule, and that no CRA exception applies. Therefore, the Buffalo RMPA is a rule subject to CRA’s submission requirements.

DECISION

In November 2024, the U.S. Department of the Interior (Interior), Bureau of Land Management (BLM), Buffalo Field Office issued a *Record of Decision and Approved Resource Management Plan Amendment* (Buffalo RMPA).¹ We received a request for a decision as to whether the Buffalo RMPA is a rule for purposes of the

¹ BLM, *Buffalo Field Office Record of Decision and Approved Resource Management Plan Amendment* (Nov. 20, 2024), available at https://eplanning.blm.gov/public_projects/36597/200045647/20124307/251024287/BFO%20RODRMPA_508.pdf (last visited Sept. 2, 2025).

Congressional Review Act (CRA).² As discussed below, we conclude that the Buffalo 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.³ Accordingly, we reached out to Interior to obtain the agency's views.⁴ We received Interior's response on August 8, 2025.⁵

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."⁶ BLM land use plans, referred to as "resource management plans" (RMPs), establish goals and directives to guide future land and resource management actions implemented by BLM.⁷ Pursuant to FLPMA, BLM established procedures for the development, revision, and amendment of RMPs.⁸

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.⁹ An RMP generally

² Letter from Senator John Barrasso and Senator Cynthia Lummis, to Comptroller General, GAO (May. 13, 2025).

³ 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>.

⁴ Letter from Acting Assistant General Counsel for Appropriations Law, GAO, to Acting Solicitor, Interior (Mar. 22, 2025).

⁵ Letter from Acting Associate Solicitor, Division of General Law, Interior, to Assistant General Counsel for Appropriations Law, GAO (Aug. 8, 2025) (Response Letter).

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

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

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

⁹ 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.¹⁰

BLM may amend an RMP to account for, among other things, new data, new or revised policy, or a change in circumstances.¹¹ 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.¹²

Buffalo Field Office Resource Management Plan

In 2015 BLM issued a Record of Decision (ROD) for six approved resource management plan amendments (2015 ROD).¹³ According to BLM, the 2015 ROD reflected a broad and unprecedented effort to address declining ecosystems in the region and concerns about a potentially endangered species.¹⁴ The 2015 ROD included the Buffalo Field Office Approved Resource Management Plan (2015 Buffalo RMP).¹⁵

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).

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

¹¹ 43 C.F.R. § 1610.5-5.

¹² *Id.*

¹³ BLM, Buffalo Field Office, *Record of Decision and Approved Resource Management Plan Amendments for the Rocky Mountain Region*, (Sept. 22, 2015), *available at* https://eplanning.blm.gov/public_projects/lup/36597/20009049/250010641/BFO_AR_MP_2015_0914_full_print.pdf (last visited Sept. 2, 2025).

¹⁴ *Id.* at 2.

¹⁵ *Id.* at Attachment 6; *see also* BLM, Buffalo Field Office, *Approved Resource Management Plan, Including the Greater Sage-Grouse Sub-Regions of Lewistown, North Dakota, Northwest Colorado, and Wyoming; and the Approved Resource Management Plans for Billings, Buffalo, Cody, HiLine, Miles City, Pompeys Pillar National Monument, South Dakota, and Worland* (Sept. 18, 2015), *available at* (continued...)

Following its issuance, the 2015 Buffalo 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).¹⁶ The court found that BLM violated NEPA and ordered BLM to complete a new coal screening and remedial NEPA analysis.¹⁷

In response to the court's order, BLM issued an amended Record of Decision and Approved Resource Management Plan (2019 Buffalo RMPA) in November of 2019.¹⁸ The 2019 Buffalo RMPA was also challenged in court.¹⁹ Once again, the court found that BLM violated NEPA.²⁰ 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 area.²¹

https://eplanning.blm.gov/public_projects/lup/36597/20009049/250010641/BFO_ARMP_2015_0914_full_print.pdf. The 2015 ROD also included the Miles City Approved Resource Management Plan. We recently concluded that an amendment to that plan was a rule subject to CRA's submission requirements. B-337163, June 25, 2025.

¹⁶ 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).

¹⁷ *Western Organization of Resource Councils v. BLM*, Docket CV 16-21-GF-BMM (D. Mont. Aug. 1, 2018).

¹⁸ BLM, *Buffalo Field Office: Record of Decision and Approved Resource Management Plan Amendment* (Nov. 22, 2019), available at https://eplanning.blm.gov/public_projects/lup/36597/20009051/250010643/BFO_ROD&RMPA_508.pdf (last visited Sept. 2, 2025).

¹⁹ *Western Organization of Resource Councils v. BLM*, Docket CV 20-76-GF-BMM (D. Mont. Aug. 4, 2022).

²⁰ *Id.*

²¹ *Id.* The planning area includes approximately 800,000 acres of surface lands and 4.7 million acres of the government's mineral estate across three counties within north-central Wyoming. Buffalo RMPA, at 1-1.

On November 20, 2024, in response to the court's order, BLM issued the Buffalo RMPA, which is the subject of this decision.²² The Buffalo RMPA replaced the 2019 Buffalo RMPA's decision regarding the availability of coal resources for leasing.²³ The Buffalo RMPA designates 48.12 billion short tons of coal as unavailable for further consideration for leasing.²⁴ It also precludes the acceptance of new coal lease applications for the duration of the planning period, which extends through 2038.²⁵ However, it permits the development of existing coal leases in accordance with lease terms and conditions.²⁶

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.²⁷ The report must contain a copy of the rule, “a concise general statement relating to the rule,” and the rule’s proposed effective date.²⁸ CRA allows Congress to review and disapprove rules issued by federal agencies for a period of 60 days using special procedures.²⁹ If a resolution of disapproval is enacted, then the new rule has no force or effect.³⁰

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

²² Buffalo RMPA; *see also*, *Notice of Availability of the Record of Decision and Approved Resource Management Plan Amendment for the Buffalo Field Office, Wyoming*, 89 Fed. Reg. 93650 (Nov. 27, 2024).

²³ Buffalo RMPA, at 1-1, 1-2.

²⁴ Buffalo RMPA, at 1-1, 1-8, 2-1.

²⁵ *Id.*

²⁶ *Id.*

²⁷ 5 U.S.C. § 801(a)(1)(A).

²⁸ *Id.*

²⁹ 5 U.S.C. § 802.

³⁰ 5 U.S.C. § 801(b)(1).

an agency.”³¹ 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.³²

Interior did not submit a CRA report to Congress or the Comptroller General on the Buffalo RMPA.³³ In its response to us, Interior provided additional information about the Buffalo RMPA but did not state a position as to whether it is a rule under CRA.³⁴

DISCUSSION

At issue here is whether the Buffalo RMPA meets CRA’s definition of rule, which adopts APA’s definition of a rule, with three exceptions. As explained below, we conclude that it does and that no exceptions apply. Consequently, the Buffalo RMPA is subject to review under CRA.

The Buffalo RMPA is a Rule under APA

Applying APA’s definition of rule, the Buffalo RMPA meets all of the required elements. First, the Buffalo RMPA is an agency statement as it was issued by BLM, a federal agency.³⁵

Second, the Buffalo RMPA is of future effect as it is to be used prospectively to guide and direct the leasing and allocation of coal within the federal government’s mineral estate administered by BLM’s Buffalo Field Office.³⁶ The management decisions made in the Buffalo RMPA became effective November 20, 2024, when

³¹ 5 U.S.C. §§ 551(4), 804(3).

³² 5 U.S.C. § 804(3).

³³ Response Letter, at 1.

³⁴ Response Letter, at 1. 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.

³⁵ See BLM, *BLM National NEPA Register*, available at <https://eplanning.blm.gov/eplanning-ui/project/36597/570> (last visited Sept 2, 2025); 89 Fed. Reg. 93650 (Nov. 27, 2024); B-337163, June 25, 2025 (finding a similar RMP amendment issued by BLM to be an agency statement).

³⁶ See Buffalo RMPA, at 1-7, 1-8.

the Record of Decision was signed.³⁷ As of that date, the Buffalo RMPA replaced prior decisions on the availability of coal leasing by making certain areas unavailable for such leasing until 2038.³⁸ Any subsequent program- or activity-level management actions must adhere to the directive established in the Buffalo RMPA.³⁹ Therefore, the Buffalo RMPA has future effect.

Finally, the Buffalo 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.⁴⁰ Specifically, the Buffalo RMPA designated approximately 48.12 billion short tons of coal as unavailable for further leasing consideration to help reduce greenhouse gas emissions.⁴¹

Our conclusion here is consistent with our previous decisions finding similar land use plans and RMPs implement, interpret, or prescribe law or policy. *See, e.g.*, B-337163, June 25, 2025; B-337175, June 25, 2025; B-329065, Nov. 15, 2017; B-238859, Oct. 23, 2017; B-274505, Sept. 16, 1996. For example, in B-337163, June 25, 2025, we concluded that BLM's Miles City Resource Management Plan Amendment (Miles City RMPA) implemented law and prescribed policy by foreclosing coal leasing on BLM-administered land pursuant to its duties under FLPMA and other applicable statutes to manage land use and the government's mineral resources.⁴² Similarly in B-337200, June 25, 2025, we concluded that an RMP issued by BLM implemented law and prescribed policy by designating or foreclosing specific activities or land use on BLM-administered land within its Central Yukon planning area (Central Yukon RMP).

Like the Miles City RMPA and the Central Yukon RMP, the Buffalo RMPA carries out BLM's legal mandates related to land use planning and resource allocation. It prescribes policy by modifying prior decisions for the allocation of BLM administered coal and prohibiting all coal leasing within the Buffalo Field Office planning area.⁴³ As such, the Buffalo RMPA meets the third element of the APA definition of rule.

³⁷ *Id.*, at 1-1, 1-11; 89 Fed. Reg. 93650 (Nov. 27, 2024).

³⁸ Buffalo RMPA, at 1-1, 1-2, 1-8, 2-1.

³⁹ *See* 43 U.S.C. § 1732(a); 43 C.F.R. § 1601.0-5(n).

⁴⁰ *See* 43 C.F.R. § 3420.1-4.

⁴¹ Buffalo RMPA, at 1-1, 1-8.

⁴² B-337163, June 25, 2025.

⁴³ Buffalo RMPA, at 2-1.

Having satisfied all the required elements, the Buffalo 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.⁴⁴

(1) Rule of Particular Applicability

Consistent with our previous decisions, the Buffalo RMPA is a rule of general applicability, rather than particular applicability. For example, in B-337163, June 25, 2025, BLM issued the Miles City RMPA that established land use designations to govern all coal activities by any person or entity within the planning area of its Miles City Field Office. Because the Miles City RMPA governed all coal activities by any person within its purview, we concluded that the Miles City RMPA was a rule of general applicability.⁴⁵ Similarly, the Buffalo RMPA establishes land use designations that prohibit coal leasing by any person or entity within the Buffalo planning area, making it a rule of general applicability.⁴⁶

(2) Rule of Agency Management or Personnel

The Buffalo 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 matters.⁴⁷ Because the Buffalo 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.

⁴⁴ 5 U.S.C. § 804(3).

⁴⁵ B-337163, June 25, 2025.

⁴⁶ Buffalo RMPA, at 1-8.

⁴⁷ See, e.g., B-335142, May 1, 2024; B-334411, June 5, 2023.

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

Lastly, the Buffalo RMPA is not a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.⁴⁸

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.”⁴⁹ 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.⁵⁰

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.⁵¹ 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.⁵²

In contrast, rules that are directed at and primarily concerned with the behavior of non-agency parties do not fall within this category.⁵³ Thus, in B-337163, June 25, 2025, we declined to apply CRA’s third exception to BLM’s Miles City RMPA, because it was not limited to changes in BLM’s internal operations. Instead, the Miles City RMPA foreclosed non-agency parties from leasing coal within designated areas of the government’s mineral estate.⁵⁴ Similarly, in B-337200, June 25, 2025, we declined to apply CRA’s third exception to the Central Yukon RMP because it

⁴⁸ See 5 U.S.C. § 804(3)(C).

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

⁵⁰ *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980).

⁵¹ See, e.g., B-329926, Sept. 10, 2018.

⁵² *Id.*

⁵³ E.g., B-337163, June 25, 2025; B-337175, June 25, 2025; B-337059 May 28, 2025.

⁵⁴ B-337163, at 10.

foreclosed certain actions by non-agency entities, through the establishment of land use designations and delineation of the activities that may be undertaken in the planning area.

Here, the Buffalo RMPA does entail some changes to agency procedure in that BLM will no longer consider coal leasing applications within the designated planning area. However, like the Miles City RMPA and the Central Yukon RMP, the Buffalo RMPA is not limited to changes to internal agency operations. Instead, the Buffalo RMPA is directed at, and concerns itself primarily with, regulating the allocation of coal and coal leasing by non-agency parties. Therefore, the Buffalo RMPA does not qualify as a rule of agency organization, procedure or practice.

We must also consider whether the Buffalo 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."⁵⁵ 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."⁵⁶

In previous decisions, we have concluded that where an RMP designates use by non-agency parties in the areas it governs, it has a substantial effect. See, e.g., B-337163, June 25, 2025; B-337175, June 25, 2025; B-329065, Nov. 15, 2017; B-238859, Oct. 23, 2017; B-274505, Sept. 16, 1996. For instance, in B-337163, June 25, 2025, we explained that the Miles City RMPA altered substantive rights and obligations of non-agency parties by excluding 1,745,040 acres of BLM-administered land from coal leasing, effectively precluding these parties from pursuing coal leases within the Miles City planning area. Similarly, in B-337200, June 25, 2025, we concluded that the Central Yukon RMP substantially affected non-agency parties by imposing, among other things, land use restrictions, such as designating areas of critical environmental concern and closing certain tracts for land for mineral extraction and recreational use.⁵⁷

Consistent with our prior decisions concerning other RMPs, the Buffalo RMPA has a substantial effect on non-agency parties. The Buffalo RMPA designates approximately 481,000 acres of subsurface federal coal mineral estate as closed to coal leasing by any person or entity. This action removes an estimated 48.12 billion short tons of federal coal from future leasing. As a result, BLM has precluded non-agency parties from pursuing new federal coal leases in the planning area, thereby

⁵⁵ B-329926, Sept. 10, 2018, at 6.

⁵⁶ *United States Department of Labor v. Kast Metals Corp.*, 744 F.2d 1145, 1153 (5th Cir. 1984).

⁵⁷ B-337200, June 25, 2025.

altering their substantive rights and obligations. Accordingly, the Buffalo RMPA fails to meet CRA's third exception.

CONCLUSION

The Buffalo 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 Buffalo RMPA is subject to 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 signature is written in a cursive, flowing style.

Edda Emmanuelli Perez
General Counsel