U.S. GOVERNMENT ACCOUNTABILITY OFFICE
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Decision

Matter of: U.S. Department of the Interior—Applicability of the Congressional Review Act to Decision Letter on the Acquisition of Land for the Coquille Indian Tribe in Medford, Oregon and its Eligibility for Gaming

File: B-337582

Date: November 20, 2025

DIGEST

In January 2025, the U.S. Department of the Interior (Interior) issued a letter announcing its decision to acquire a 2.42-acre site in Medford, Oregon in trust for the Coquille Indian Tribe, as well as to allow gaming pursuant to the Restored Lands Exception of the Indian Gaming Regulatory Act on that land once acquired (Decision Letter).

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 Administrative Procedure Act (APA) definition of a rule and therefore does not cover those types of agency actions that APA defines separately, including orders. We conclude that Interior's Decision Letter is an order and therefore not a rule subject to CRA's submission requirements. In addition, we note that even if the Decision Letter met the APA definition of a rule, it would fall within CRA's exception for rules of particular applicability and would similarly not be subject to CRA's submission requirements.

DECISION

On January 10, 2025, the U.S. Department of the Interior (Interior) issued a letter explaining its decision to acquire 2.42 acres of land in Medford, Oregon in trust for the Coquille Indian Tribe (Coquille or the Tribe), as well as to allow gaming pursuant to the Restored Lands Exception of the Indian Gaming Regulatory Act (IGRA)[1] on

[1] Pub. L. No. 100-497, 102 Stat. 2467 (Oct. 17, 1988), 25 U.S.C. §§ 2701–2721.

the land once acquired (Decision Letter).[2] We received a request for a decision as to whether the Decision Letter is a rule for purposes of the Congressional Review Act (CRA).[3]

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 June 30, 2025.[5] We received Interior's response on September 18, 2025.[6] In addition, we received a letter from Coquille sharing the Tribe's legal views on the subject of this request.[7] We also received letters from other Tribes on the subject of this request.[8]

[2] Letter from Assistant Secretary–Indian Affairs, Bureau of Indian Affairs, to Chairperson, Coquille Indian Tribe (Jan. 10, 2025), *available at* *https://www.bia.gov/sites/default/files/media_document/2025.01.10_coquille_decision_package.pdf* (last visited Aug. 28, 2025).

[3] Letter from Senator Jeffrey A. Merkley, Senator Ron Wyden, and Representative Cliff Bentz to Comptroller General (Mar. 17, 2025).

[4] 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.

[5] Letter from Assistant General Counsel, GAO, to Acting Solicitor, Interior (June 30, 2025).

[6] Letter from Acting Associate Solicitor, Division of General Law, Interior, to Assistant General Counsel, GAO (Sept. 18, 2025) (Response Letter).

[7] Letter from Chairmen, Coquille Indian Tribe, to Comptroller General (Mar. 20, 2025) (Coquille Letter).

[8] *See* Letter from Chairman, Cow Creek Band of Umpqua Tribe of Indians, to Comptroller General (Aug 19, 2025) (Cow Creek Letter); Letter from Chairperson, Tolowa Dee-ni' Nation, to Comptroller General (Aug. 14, 2025) (Tolowa Dee-ni' Nation Letter); Letter from Chairperson, Lytton Rancheria of California, to Comptroller General (Aug. 13, 2025) (Lytton Letter).

BACKGROUND

Indian Reorganization Act

The Indian Reorganization Act (IRA)[9] authorizes the Secretary of the Interior (Secretary) to acquire land in trust for Tribes in certain circumstances.[10] Through regulations, Interior prescribed three specific conditions under which the Secretary may exercise this authority: (1) when the land is located within the exterior boundaries of the Tribe's reservation or adjacent thereto, or within a tribal consolidation area; (2) when the Tribe already owns an interest in the land; or (3) when the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or housing.[11]

When acquiring land outside of and noncontiguous to a reservation in a non-mandated acquisition, as at issue in the Decision Letter, Interior's regulations required the Secretary to consider a number of factors, including: the existence of statutory authority for the acquisition; the need for additional land; the purposes for which the land would be used; the impact on the state and its political subdivisions resulting from the removal of the land from the tax rolls; jurisdictional problems and potential conflicts of land use; whether the Bureau of Indian Affairs (BIA) was equipped to discharge additional responsibilities resulting from the acquisition; information provided by the applicant to allow Interior to comply with departmental policy on the National Environmental Policy Act of 1969 (NEPA)[12] and hazardous substances; location of land relative to state boundaries and its distance from the boundaries of the Tribe's reservation; the Tribe's plan specifying the anticipated

[9] Ch. 576, 48 Stat. 984 (June 18, 1934), 25 U.S.C. §§ 5101–5129.

[10] 25 U.S.C. § 5108 (describing authority to acquire land in trust generally); *see also* 25 C.F.R. § 151.12(c) (2023) (specifying that land acquisition decisions made by the Secretary, or the Assistant Secretary—Indian Affairs pursuant to delegated authority, constitute final agency actions). In the Decision Letter, Interior explains that it applied its IRA regulations in effect prior to January 11, 2024, because the Tribe's application was submitted prior to the effective date of its revised regulations and the Tribe did not request the application be processed under the revised regulations. *See* Decision Letter, at 7; *see also* 25 C.F.R. § 151.17(a) (2024) (specifying that requests pending on January 11, 2024, will continue to be processed under the regulations in effect before that date unless a Tribe requests to proceed under the revised regulations).

[11] 25 C.F.R. § 151.3(a) (2023).

[12] Pub. L. No. 91-190, 83 Stat. 852 (Jan. 1, 1970), 42 U.S.C. §§ 4321–4347.

economic benefits associated with the proposed use of the land if it is being acquired for business purposes; and contact with state and local governments.[13]

Indian Gaming Regulatory Act

IGRA established the regulatory structure for Indian gaming on Indian lands in the United States.[14] Among other things, IGRA generally prohibits gaming on lands acquired in trust for a Tribe after October 17, 1988.[15] IGRA carves out several exceptions to the general rule, including an exception known as the "Restored Lands Exception."[16] The Restored Lands Exception allows gaming to take place on lands acquired in trust after October 17, 1988, when the lands are taken into trust as part of "the restoration of lands for an Indian [T]ribe that is restored to [f]ederal recognition."[17]

In order to qualify for the Restored Lands Exception, a Tribe must show: (1) that it qualifies as a restored Tribe,[18] and (2) that the land in question qualifies as restored lands.[19] Interior's regulations establish requirements for lands to qualify as restored lands.[20] Relevant here,[21] where a Tribe was restored by congressional enactment of legislation recognizing, acknowledging, affirming, reaffirming, or restoring the government-to-government relationship between the United States and the Tribe, the Tribe must show that the legislation requires or authorizes the Secretary to take

[13] 25 C.F.R. § 151.11 (2023).

[14] Pub. L. No. 100-497, 102 Stat. 2467 (Oct. 17, 1988), 25 U.S.C. §§ 2701–2721.

[15] 25 U.S.C. § 2719(a).

[16] *See id.* § 2719(b)(1)(B)(iii); Decision Letter, at 4.

[17] 25 U.S.C. § 2719(b)(1)(B)(iii).

[18] 25 C.F.R. §§ 292.7(a)–(c). Interior determined that Coquille qualified as a restored tribe because the Tribe demonstrated that: (i) it was at one time federally recognized; (ii) the United States terminated its government-to-government relationship with the Tribe; and (iii) after it lost its government-to-government relationship, it was restored to Federal recognition. Decision Letter, at 4–6.

[19] 25 C.F.R. § 292.7(d).

[20] *Id.* § 292.11.

[21] Interior's regulations implementing the Restored Lands Exception prescribe different requirements depending on the manner in which a Tribe is "restored." *See* 25 C.F.R. § 292.11.

land into trust for the benefit of the tribe within a specific geographic area and the lands are within the specific geographic area.[22]

Decision Letter

On November 2, 2012, Interior received an application from Coquille requesting that BIA transfer approximately 2.42 acres of land located in Medford, Oregon, known as the Medford Site, into trust on behalf of the Tribe.[23] Coquille also requested a determination as to whether the land is eligible for gaming pursuant to the Restored Lands Exception of IGRA, once acquired.[24]

On May 27, 2020, Interior issued a letter denying Coquille's request on the basis that Coquille's anticipated benefits from the acquisition did not outweigh the potential jurisdictional problems and other concerns raised by the state, county, and municipal governments having regulatory jurisdiction over the Medford Site.[25] Interior later withdrew and remanded the denial noting that it "resulted in the Department's cancellation of the environmental review process, which deprived the decision maker of important information critical to making a final determination, and preempted [Coquille's] effort to negotiate inter-governmental agreements with local authorities."[26]

On January 10, 2025, Interior issued the Decision Letter, explaining its determination, on reconsideration, on Coquille's application with respect to both the acquisition of the Medford Site and its gaming eligibility. First, with respect to the fee-to-trust application, Interior determined that the Coquille application satisfied the criteria in IRA and its regulations, concluding that Interior would acquire the Medford Site "in trust for the Tribe as a restoration of land for a restored [T]ribe."[27] Second, Interior determined the Medford Site was eligible for gaming pursuant to IGRA, once

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[22] 25 C.F.R. § 292.11(a)(1).

[23] Decision Letter, at 3.

[24] Letter from Principal Deputy Assistant Secretary—Indian Affairs, to Chairperson, Coquille Indian Tribe (May 27, 2020), *available at* https://www.bia.gov/sites/default/files/media_document/2020.05.27_coquille_disapproval_letter.pdf (last visited Aug. 28, 2025).

[25] *Id*.

[26] Letter from Assistant Secretary—Indian Affairs, to Chairperson, Coquille Indian Tribe (Dec. 22, 2021), *available at* https://www.bia.gov/sites/default/files/media_document/508_compliant_2021.12.22_coquille_withdraw_remand_letter_to_tribe_fina_asia.pdf (last visited Aug. 28, 2025).

[27] Decision Letter, at 15.

acquired.[28] Interior noted that it would immediately acquire the Medford Site in trust, and that its decision was a final agency action.[29]

As required by NEPA when a federal agency proposes to take a "major federal action" that is "determined to significantly affect the quality of the human environment,"[30] the Decision Letter also incorporates a Record of Decision (ROD) and Final Environmental Impact Statement.[31] The ROD explains that BIA evaluated a range of alternatives to meet the purpose and need of the proposed land acquisition and gaming determination, "including an alternative site, and expansion of the Tribe's existing casino."[32] The ROD describes BIA's decision to adopt a plan, Alternative A, that transfers the Medford Site into trust status for gaming purposes and authorizes the "subsequent remodeling by the Tribe of the former 23,300-square-foot Roxy Ann Lanes into a 30,300-square-foot gaming facility with 650 Class II gaming machines."[33]

The ROD also identifies a variety of potential environmental impacts of the proposed gaming activities on the Medford Site and prescribes mitigation measures for those and other impacts to be taken by Coquille, along with an accompanying mitigation monitoring and compliance plan.[34] The ROD states, "[t]he Tribe has committed to the implementation of these mitigation measures as a matter of Tribal Law."[35]

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.[36] The report must contain a copy of the rule, "a concise general statement relating to

[28] Decision Letter, at 7, 15.

[29] Decision Letter, at 15.

[30] Environmental Protection Agency, *National Environmental Policy Act Review Process*, *available at* https://www.epa.gov/nepa/national-environmental-policy-act-review-process (last visited Aug 28, 2025).

[31] Decision Letter, Enclosure 3.

[32] Decision Letter, Enclosure 3, at 3.

[33] *Id.* at 1.

[34] *See* Decision Letter, Enclosure 3, Attachment 1.

[35] Decision Letter, Enclosure 3, at 19.

[36] 5 U.S.C. § 801(a)(1)(A).

the rule," and the rule's proposed effective date.[37] CRA allows Congress to review and disapprove of federal agency rules for a period of 60 days using special procedures.[38] If a resolution of disapproval is enacted, then the new rule has no force or effect.[39]

CRA adopts the definition of rule under the Administrative Procedure Act (APA),[40] 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."[41] 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.[42]

Interior did not submit a CRA report to Congress or the Comptroller General on the Decision Letter. In its response to us, Interior stated that the Decision Letter applies only to a closed class, Coquille, and does not substantially affect the rights or obligations of outside parties.[43]

In its letter to the Comptroller General, Coquille stated that the Decision Letter's case-specific and immediately effective nature classifies it as an agency adjudication rather than a rule.[44] In contrast, in their letters to the Comptroller General, other Tribes stated that the Decision Letter was a rule under CRA because it reflects Interior's revised interpretation of IGRA's Restored Lands Exception to permit gaming operations on lands acquired in trust without a Tribe demonstrating a historical connection to that land.[45]

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[37] *Id.*

[38] *See id.* § 802.

[39] *Id.* § 801(b)(1).

[40] *Id.* § 551(4).

[41] *Id.* § 804(3).

[42] *Id*.

[43] Response Letter, at 2.

[44] Coquille Letter, at 2.

[45] Tolowa Dee-ni Nation Letter, at 1; *see also* Cow Creek Letter at 1, Lytton Letter, at 2–3.

DISCUSSION

At issue here is whether the Decision Letter meets CRA's definition of a rule, which adopts APA's definition of a rule with three exceptions. We conclude that the Decision Letter is an order, not a rule under APA, and therefore is not subject to CRA's submission requirements. In addition, we conclude that even were the Decision Letter to meet the APA definition of a rule, it would fall within CRA's first exception for rules of particular applicability and would similarly not be subject to CRA's submission requirements.

The Decision Letter is an Order

APA provides for two mutually exclusive ways to implement agency actions, either rules or orders.[46] Any agency action meeting the definition of an order cannot be a rule under APA, and thus cannot be a rule for purposes of CRA.[47] APA defines an order as "the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing."[48] Orders result from adjudications, which are "case-specific, individual determination[s] of a particular set of facts that ha[ve] immediate effect on the individual(s) involved."[49] We have explained that adjudications apply existing criteria and processes from an agency's regulations and the statutes they implement to a given set of facts.[50]

We previously determined that a revision to the U.S. Food and Drug Administration's (FDA's) risk evaluation and mitigation strategy (REMS) for the drug mifepristone was an order because "FDA's process involved a review and approval of applications submitted by specific companies, and the resulting REMS had an immediate effect on those companies, as they became directly responsible for implementation and compliance with the REMS upon its approval."[51] Similarly, we concluded that a Federal Housing Finance Agency (FHFA) determination to approve two new credit score model applications for use by Fannie Mae and Freddie Mac was an order

[46] *See* 5 U.S.C. §§ 551(4)–(6); *see also* B-334995, July 6, 2023.

[47] B-334995, July 6, 2023.

[48] 5 U.S.C. § 551(6).

[49] B-334309, Nov. 30, 2023, at 5 (citing *United States v. Florida East Coast Railway Co.*, 410 U.S. 224, 245–246 (1973); *Neustar, Inc. v. FCC*, 857 F.3d 886, 893 (D.C. Cir. 2017).

[50] B-334995, July 6, 2023.

[51] *Id.* at 5.

because FHFA applied the standards in its existing regulations to the facts of the applications before it.[52]

Here, like in B-336260, Oct. 1, 2024, and B-334995, July 6, 2023, the Decision Letter reflects Interior's application of the existing statutory and regulatory framework established by IGRA and IRA to the facts and circumstances of the Tribe and the Medford Site.[53] For example, Interior's regulations implementing the Restored Lands Exception of IGRA require the Tribe to show that legislation requires or authorizes the Secretary to take land into trust for the benefit of the Tribe within a specific geographic area and the lands are within that specific geographic area.[54] In the Decision Letter, Interior concluded that the Tribe met this criteria because section 5(a) of the Coquille Restoration Act[55] provides the Secretary both mandatory and discretionary trust land acquisition authority within the Service Area and that the Medford Site is a discretionary trust acquisition within that area.[56] In addition, section 5(a) subjects discretionary trust acquisitions in the Service Area to IRA. Interior's regulations implementing IRA required the Secretary to consider, among other things, the Tribe's need for additional land.[57] In the Decision Letter, Interior applied these regulations to find that the facts and circumstances of Coquille sufficiently demonstrated a need for the Medford Site to be acquired in trust.[58]

Additionally, the determination made in the Decision Letter is a case-specific determination, which we have said is characteristic of an order.[59] Here, the Decision Letter only has effect with respect to Coquille, as evidenced by the ROD incorporated therein, which prescribes particular actions that the Tribe must take with respect to mitigation of environmental and economic impacts on the

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[52] B-336260, Oct. 1, 2024.

[53] Interior's conclusions in the Decision Letter are being challenged in court. *See, Cow Creek Tribe of Umpqua Band of Indians, et al. v. United States Department of the Interior, et al.*, No. 1:24-c-v-03594-APM (D.D.C. 2025). GAO takes no position on the conclusions reached by Interior in applying its regulations.

[54] 25 C.F.R. § 292.11(a)(1).

[55] *See* Pub. L. No. 101-42, 103 Stat. 91, 92 (June 28, 1989).

[56] Decision Letter, at 6.

[57] 25 C.F.R. § 151.11(a) (2023).

[58] Decision Letter, at 9.

[59] *See, e.g.,* B-336260, Oct. 1, 2024.

surrounding area.[60] Because the Decision Letter involves a case-specific determination of a specific set of facts using existing statutory and regulatory criteria, it constitutes an order under APA.

In the Request Letter, the requester made note that we have previously found that in certain circumstances, an ROD—like the one incorporated into the Decision Letter here—is a rule subject to CRA's submission requirements.[61] While we have previously determined RODs are rules subject to CRA, those actions are distinguishable from the action at issue in this decision.[62] For example, in B-337059, May 28, 2025, we determined that the Bureau of Land Management's (BLM's) ROD for the Barred Owl Management Strategy was a rule because it applied to any federal, state, or tribal government agency, or private landowner engaged in barred owl management within Washington, Oregon, and California. We also found that the Barred Owl ROD was intended to set new barred owl management policy.[63] In contrast, the Decision Letter applies only to Coquille.[64] Additionally, the Decision Letter evaluates facts and circumstances of the Tribe and the Medford Site through an existing regulatory framework, rather than establishing new law or policy. Therefore, the Decision Letter is more similar to actions that we have said constitute orders under APA.

Rule of Particular Applicability

We note that even if the Decision Letter met the APA definition of a rule, it would still not be subject to CRA as it would fall within CRA's first exception for rules of particular applicability. We have explained that rules of particular applicability are those rules that are addressed to an identified entity and also address actions that entity may or may not take, taking into account facts and circumstances specific to that entity.[65]

Applying this principle, we concluded that even if FDA's REMS for mifepristone met the APA definition of a rule, it would be a rule of particular applicability because it

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[60] *See* Decision Letter, Enclosure 3, at 19–24; *see also* Response Letter, at 2 (stating that the Decision Letter "applies only to the request submitted by the Coquille Tribe for acquisition of the Medford Site and defines the present rights of the Coquille Tribe").

[61] Request Letter, at 4 (citing B-287557, May 14, 2001).

[62] *See, e.g.*, B-337059, May 28, 2025.

[63] *Id.*

[64] Decision Letter, at 15; Response Letter, at 2.

[65] B-330843, Oct. 22, 2019.

was addressed to specific parties, and addressed specific actions the parties may take based on specific facts and circumstances.[66] Similarly, the Decision Letter applies only to Coquille and the ROD prescribes specific actions Coquille must take. Therefore, if it were a rule, it would be a rule of particular applicability, which is also not subject to CRA's submission requirements.

In reaching the conclusion that the Decision Letter would alternatively fall within CRA's first exception for rules of particular applicability, we note that we're aware the Decision Letter may affect parties other than Coquille. For example, Interior determined in the ROD that the adoption of Alternative A [taking the land into trust and allowing Class II gaming on it] would result in increased demands for law enforcement services, which may necessitate additional facilities and equipment for the Medford Police Department.[67] Interior also noted that the acquisition of the land in trust for the Tribe would result in a loss of property tax revenue and business taxes from the existing bowling alley with a bar and grill.[68] Furthermore, Interior acknowledged that competing tribal casinos are expected to experience substitution effects, but that such effects are "expected to stabilize after the first year of operation and would not threaten the viability of affected facilities or their ability to provide essential services to tribal members."[69]

However, we have previously determined that rules of particular applicability are not limited to those actions that exclusively affect the subject of agency action. For example, we concluded that FDA's REMS for mifepristone would constitute a rule of particular applicability "although the REMS appears to impose duties and obligations on pharmacies, doctors and patients" because only the mifepristone sponsors were subject to it.[70] Likewise here, the Decision Letter only applies to Coquille, even if downstream effects from the determinations may extend to additional parties, such as state, county, and local governments, as well as other tribes in the surrounding area. Additionally, as described in the ROD, the mitigation measures put in place to limit the environmental and other impacts of the proposed gaming activities apply only to Coquille.[71] Therefore, if the Decision Letter were to meet the APA definition

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[66] B-334995, July 6, 2023.

[67] Decision Letter, Enclosure 3, at 18. The Decision Letter notes that mitigation measures "would reduce impacts to less-than-significant levels." *Id*. at 13.

[68] Decision Letter, at 11. The Decision Letter also notes that the loss of those tax revenues is expected to be offset by increased revenue from the project related indirect and induced activity. *Id*.

[69] Decision Letter, Enclosure 3, at 12.

[70] B-334995, July 6, 2023, at 6.

[71] *See* Decision Letter, Enclosure 3, Attachment 1.

of a rule, it would fall under CRA's first exception for rules of particular applicability, which are not subject to CRA's submission requirements.

CONCLUSION

The Decision Letter is an order, and therefore not a rule subject to CRA's submission requirements. We note that even were the Decision Letter to meet the APA definition of a rule, it would fall under CRA's first exception for rules of particular applicability and would similarly not be subject to CRA's submission requirements.

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