



Decision

Matter of: U.S. Department of the Interior, Bureau of Land Management—
Applicability of the Congressional Review Act to the Bears Ears
National Monument Record of Decision and Approved Resource
Management Plan

File: B-338306

Date: August 17, 2026

DIGEST

The U.S. Department of the Interior, Bureau of Land Management (BLM) issued the *Bears Ears National Monument Record of Decision and Approved Resource Management Plan* (Bears Ears RMP). The Bears Ears RMP designates BLM-administered lands within the decision area as available or unavailable for certain uses while ensuring the protection and restoration of Monument objects, as well as the historical, cultural, natural, scientific, and paleontological resources.

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 a rule under the Administrative Procedure Act (APA) but excludes certain categories of rules from coverage. We conclude that the Bears Ears RMP meets APA's definition of a rule and that no CRA exception applies. Therefore, the Bears Ears RMP is a rule subject to CRA's submission requirements.

DECISION

On January 13, 2025, the U.S. Department of the Interior (Interior), Bureau of Land Management (BLM) approved the *Bears Ears National Monument Record of Decision and Approved Resource Management Plan* (Bears Ears RMP).¹ We received a request for a decision about whether the Bears Ears RMP is a rule for

¹ Bears Ears RMP, at 24.

purposes of the Congressional Review Act (CRA).² As discussed below, we conclude that the Bears Ears RMP 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 June 10, 2026.⁵

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 objectives 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 Michael S. Lee to Acting Comptroller General (Apr. 8, 2026).

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 Managing Associate General Counsel for Appropriations Law, GAO, to Solicitor, Interior (Apr. 29, 2026).

⁵ Letter from Acting Associate Solicitor, Division of General Law, Interior, to Managing Associate General Counsel for Appropriations Law, GAO (June 10, 2026) (BLM Response).

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. pt. 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, conditions, goals, and objectives; program constraints and general management practices; areas to be covered by more specific plans; and other related information.¹⁰

The Antiquities Act of 1906

The Antiquities Act of 1906 grants the President authority to designate national monuments on federal lands that contain historic landmarks, structures, or other objects of historic or scientific interest.¹¹ The President may also reserve parcels of land as part of the national monuments, but the statute mandates that such reservations be confined to the smallest area compatible with the proper care and management of the protected objects.¹² Proclamations under the Act are generally self-executing and do not require further action by Congress.¹³

The President has designated monuments to be overseen by federal land agencies including, for example, BLM and the United States Department of Agriculture Forest Service.¹⁴ While the Antiquities Act empowers the President to create and shape national monuments, Congress retains its own constitutional authority over federal property and has acted on that authority in several ways,¹⁵ for example, converting certain presidentially designated monuments into national parks administered by the National Park Service or abolishing monuments and assigning BLM to manage the public land.¹⁶

combination that will best meet the present and future needs of the American people. . . .” 43 U.S.C. § 1702(c). 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. . . .” *Id.*

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

¹¹ 54 U.S.C. § 320301.

¹² *Id.* § 320301(b).

¹³ See *id.* § 320301.

¹⁴ 54 U.S.C. §§ 320301–320303 (President’s authority); see Bears Ears RMP, at 1.

¹⁵ U.S. Const. art IV, § 3, cl. 2 (Congressional authority).

¹⁶ National Park Service, *National Monument Facts and Figures*, <https://www.nps.gov/subjects/archeology/national-monument-facts-and-figures.htm> (last visited July 31, 2026).

Bears Ears RMP

The Bears Ears RMP aims to provide a framework to guide the management of the Bears Ears National Monument (Bears Ears Monument or Monument) consistent with the protection of Bears Ears objects and other applicable laws, regulations, and policies.¹⁷ BLM prepared the Bears Ears RMP in response to Proclamation 10285, which restored conditions and boundaries of the Bears Ears Monument to its original configuration established under Proclamation 9558¹⁸ and retained approximately 11,200 acres added by Proclamation 9681, resulting in a Monument reservation of roughly 1.36 million acres of land administered by the federal government.¹⁹ Among other things, Proclamation 10285 also withdrew all federal lands within the Monument from disposition under all laws relating to mineral and geothermal leasing, subject to valid existing rights.²⁰

BLM initiated development of the Bears Ears RMP in August of 2022 and completed the process with the issuance of the Bears Ears RMP on January 13, 2025.²¹ In developing the Bears Ears RMP, BLM created and analyzed six management alternatives, Alternatives A–E and the Proposed Plan, addressing land and resource use and other measures for the protection of the Bears Ears Monument.²² BLM adopted the Proposed Plan as the Bears Ears RMP, incorporating modifications and clarifications made following internal reviews, protests submitted during the protest period, and recommendations provided during the Governor’s Consistency Review.²³

¹⁷ Bears Ears RMP, at 1.

¹⁸ *Id.* at 1. See Proclamation 10285 of October 8, 2021, *Bears Ears National Monument*, 86 Fed. Reg. 57321, 57331 (Oct. 15, 2021); Proclamation 9681 of December 4, 2017, *Modifying the Bears Ears National Monument*, 82 Fed. Reg. 58081 (Dec. 8, 2017); Proclamation 9558 of December 28, 2016, *Establishment of the Bears Ears National Monument*, 82 Fed. Reg. 1139 (Jan. 5, 2017).

¹⁹ See Bears Ears RMP, at 24; Proclamation 10285, at 57331.

²⁰ Proclamation 10285, at 57331; Bears Ears RMP, at app. C-1. The FLPMA provides BLM with the authority to develop land-use plans. See 43 U.S.C. § 1712(a); BLM Response, at 1.

²¹ BLM Response, at 2; Bears Ears RMP, at 1, 2, 24.

²² See Bears Ears RMP, at 1, 3–10. The Proposed Plan was based on Alternative E and incorporated components drawn from the other alternatives. *Id.* at 9.

²³ *Id.* at 2.

According to BLM, the Bears Ears RMP represents final decisions that establish a comprehensive framework for the allocation of resources and management of lands within the Bears Ears Monument.²⁴ The Bears Ears RMP provides for a variety of activities within the Monument while ensuring the protection and restoration of Monument objects and its historical, cultural, natural, scientific, and paleontological resources.²⁵ For example, the Bears Ears RMP designates 591,185 acres as closed to off-highway vehicle use and 483,917 acres as limited to off-highway vehicle use on BLM-administered lands, and requires permits in certain areas.²⁶ It allocates an additional 27,208 acres as unavailable to livestock grazing and 11,130 acres as limited to trailing only.²⁷ The RMP prohibits rock stacking, entering the interior structures of archaeological sites, and certain aerial recreation to protect cultural resources and viewsheds.²⁸ It also closes campgrounds, developed recreation sites, rock writing sites, and structural cultural sites to recreational shooting.²⁹

Taken together, these measures establish the Bears Ears RMP as BLM's final decision governing how the Monument will be managed and how public use will be regulated to protect Monument objects and achieve other management goals and objectives.³⁰

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.³¹ The report must contain a copy of the rule, "a concise general statement relating to the rule," and the rule's proposed effective date.³² CRA allows Congress to review and disapprove rules issued by federal agencies for a period of 60 days using

²⁴ Bears Ears RMP, at 2, 10.

²⁵ *Id.* at 11.

²⁶ *Id.* at 2, 13.

²⁷ *Id.* at 13.

²⁸ *Id.* at 16.

²⁹ *Id.*

³⁰ See Bears Ears RMP, at 2.

³¹ 5 U.S.C. § 801(a)(1)(A).

³² *Id.*

special procedures.³³ If a resolution of disapproval is enacted, then the new rule has no force or effect.³⁴

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.”³⁵ 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.³⁶

Interior did not submit a CRA report to Congress or the Comptroller General on the Bears Ears RMP.³⁷ In its response to us, Interior stated that it notified Congress in accordance with “section 202(e)(2) of FLPMA, 43 U.S.C. § 1712(e)(2), regarding management decisions in the RMP that exclude a principal or major use (as defined in 43 U.S.C. § 1702(1)) for more than two years on a tract of land of at least 100,000 acres.”³⁸ However, Interior did not state a position as to whether the Bears Ears RMP is a rule under CRA.³⁹

DISCUSSION

At issue here is whether the Bears Ears RMP meets CRA’s definition of a 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 Bears Ears RMP is subject to review under CRA.

The Bears Ears RMP is a Rule under APA

Applying APA’s definition of a rule, the Bears Ears RMP meets all the required elements. First, the Bears Ears RMP is an agency statement as it was issued by

³³ 5 U.S.C. § 802.

³⁴ 5 U.S.C. § 801(b)(1).

³⁵ 5 U.S.C. §§ 551(4), 804(3).

³⁶ 5 U.S.C. § 804(3).

³⁷ BLM Response, at 1.

³⁸ *Id.*

³⁹ *Id.*

BLM, a federal agency.⁴⁰ Even though BLM prepared the Bears Ears RMP in response to Proclamation 10285, the Bears Ears RMP reflects BLM's exercise of its independent authority under FLPMA to develop land-use plans that provide a framework for allocating resources and managing the use of public land, expressed through goals, objectives, allowable uses, and management decisions.⁴¹ Because the Monument's legal status exists independently of the Bears Ears RMP,⁴² provisions that acknowledge or implement protections for the Monument and the objects therein do not change the RMP's fundamental character as an agency-level administrative action.⁴³ Accordingly, the Bears Ears RMP constitutes an agency statement for purposes of CRA.

Second, the management decisions are of future effect. The Bears Ears RMP became effective January 13, 2025, when the Record of Decision was signed.⁴⁴ And as of that date, the Bears Ears RMP established the framework upon which further decisions will be made.⁴⁵ Accordingly, the Bears Ears RMP is a rule of general applicability and future effect because, as of its effective date, it directs the long-term allocation of resources and the use of public land by non-agency parties, and it establishes the conditions and constraints that will govern future planning decisions, project approvals, and management actions within the Monument.⁴⁶

⁴⁰ *E.g.*, B-337705, Jan. 15, 2026 (concluding that the Grand Staircase RMP is an agency statement as it was issued by BLM, a federal agency).

⁴¹ Bears Ears RMP, at 1–2; see 43 U.S.C. §§ 1712(a), 1731(a) (FLPMA provision requiring BLM to develop land-use plans “which provide by tracts or areas for the use of the public lands”).

⁴² Proclamations under the Antiquities Act are generally self-executing and do not require further action by Congress. See 54 U.S.C. § 320301 (vesting the President with authority to designate monuments and reserve the land upon which it sits).

⁴³ See B-337705, Jan. 15, 2026 (concluding that the provisions of an RMP that affirm relevant proclamations do not alter its fundamental character as an agency-level administrative action).

⁴⁴ Although notice of the Bears Ears RMP's availability was published in the *Federal Register* on January 16, 2025, the document was signed on January 13, 2025, and states that it became effective on the date it was signed. Bears Ears RMP, at 2, 24; 90 Fed. Reg. 4778 (Jan. 16, 2025).

⁴⁵ See Bears Ears RMP, at 2.

⁴⁶ See *generally id.* at 1–3.

Finally, the Bears Ears RMP implements, interprets, or prescribes law or policy. The Bears Ears RMP implements and restates certain provisions in the Proclamations.⁴⁷ We have recognized that “a statement by an agency that simply restates an established interpretation ‘tread[s] no new ground’ and ‘le[aves] the world just as it found it, and thus cannot be fairly described as implementing, interpreting, or prescribing law or policy.’”⁴⁸ Even so, as explained above, the Bears Ears RMP also establishes a framework for allocating resources and expresses new allowable uses and management decisions necessary to achieve desired outcomes.⁴⁹

Our conclusion here is consistent with our previous decisions finding similar land-use plans and RMPs implement, interpret, or prescribe law or policy.⁵⁰ Accordingly, the Bears Ears RMP satisfies the third element of the APA definition of a “rule.” Having met all required elements, the Bears Ears RMP constitutes a rule under APA.

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.⁵¹

(1) Rule of Particular Applicability

The Bears Ears RMP is a rule of general applicability, rather than particular applicability. In our Grand Staircase-Escalante National Monument (Grand Staircase) Decision, B-337705, Jan. 15, 2026, we concluded that the Grand Staircase RMP was a rule of general applicability because it, among other things, allocated resources and imposed conditions on land usage that applied to any

⁴⁷ See Bears Ears RMP, at 1, 11, 25–26.

⁴⁸ B-336217, Aug. 6, 2024 (quoting *Golden & Zimmerman, LLC v. Domenech*, 599 F.3d 426, 432 (4th Cir. 2010) (alterations in original)).

⁴⁹ Bears Ears RMP, at 2.

⁵⁰ See, e.g., B-337705, Jan. 15, 2026; 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.

⁵¹ 5 U.S.C. § 804(3).

person or entity within the Grand Staircase National Monument.⁵² Similarly, here, the Bears Ears RMP is a rule of general applicability because it establishes land-use designations, allocates resources, and imposes conditions on the use of Monument lands that apply broadly to any person or entity within the Bears Ears Monument.⁵³

(2) Rule of Agency Management or Personnel

The Bears Ears RMP is not a rule of agency management or personnel. We have previously found that rules that fall into this category relate to purely internal agency matters.⁵⁴ Because the Bears Ears RMP primarily governs the public's use of Monument lands by protecting Monument objects, allocating resources, and delineating how the public may use those lands, rather than addressing BLM's internal management or personnel matters, the Bear Ears RMP 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 Bears Ears RMP is not a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.⁵⁵ 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."⁵⁶ 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.⁵⁷

Following this principle 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

⁵² B-337705, Jan. 15, 2026.

⁵³ Bears Ears RMP, at 2–3, 9–10 (summarizing the Proposed Plan).

⁵⁴ See, e.g., B-335142, May 1, 2024; B-334411, June 5, 2023.

⁵⁵ See 5 U.S.C. § 804(3)(C).

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

⁵⁷ *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980).

processing and adjudicating benefits claims.⁵⁸ 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.⁵⁹

In contrast, rules that are directed at and primarily concerned with the actions of non-agency parties do not fall within this exception.⁶⁰ Thus, in B-337705, Jan. 15, 2026, we concluded that the Grand Staircase RMP did not fall within CRA's third exception because it established land-use designations, imposed conditions, and allocated resources that applied to any person or entity within the Grand Staircase National Monument, rather than solely addressing the organization of the agency's internal operations.⁶¹

Although the Bears Ears RMP establishes and directs internal agency practices and procedures, such as monitoring cultural resources, collaborating with Tribal Nations, and conducting travel planning, these elements implement management decisions in the Bears Ears RMP that concern the allocation of resources, delineation of land-use, and the regulation of the conduct of non-agency parties.⁶² Like the Grand Staircase RMP, the Bears Ears RMP is not primarily focused on making changes to internal agency operations.⁶³ Instead, the Bears Ears RMP is directed at, and concerns itself with, the preservation and management of the Bears Ears Monument by delineating the use of public land and resources and the activities that non-agency parties may engage in within the Monument.⁶⁴

Accordingly, we must also consider whether the Bears Ears RMP 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

⁵⁸ B-329926, Sept. 10, 2018.

⁵⁹ *Id.*

⁶⁰ *E.g.*, B-337705, Jan. 15, 2026; B-337163, June 25, 2025; B-337175, June 25, 2025; B-329065, Nov. 15, 2017; B-274505, Sept. 16, 1996.

⁶¹ *See also* B-337200, June 25, 2025 (concluding that an RMP establishing land-use designations and delineating the activities that may be undertaken in the decision area did not fall within CRA's third exception); B-337163, June 25, 2025 (concluding that an RMP did not fall within the third exception because it foreclosed the leasing of mineral resources in designated areas).

⁶² *See* Bears Ears RMP, at 1–2 and apps. B, E, and H.

⁶³ *See* B-337705, Jan. 15, 2026.

⁶⁴ *Id.*

the rights or interests of the regulated entities.”⁶⁵ 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.”⁶⁶

In prior decisions, we have concluded that where an RMP designates use by non-agency parties in the areas it governs, it has a substantial effect.⁶⁷ For example, in B-337705, Jan. 15, 2026, we explained that the Grand Staircase RMP substantially affected non-agency parties by establishing land-use designations, foreclosing certain activities, allocating resources, and imposing conditions upon land-use.

Consistent with our prior decisions concerning other RMPs, the Bears Ears RMP has a substantial effect on non-agency parties. The Bears Ears RMP substantially affects the rights and obligations of non-agency parties by, for example, establishing land-use zones across the Monument, designating Areas of Critical Environmental Concern,⁶⁸ allocating resources such as grazing and recreation access, and foreclosing certain activities through restrictions on off-highway vehicle use, mineral development, and cultural sites.⁶⁹ Accordingly, the Bears Ears RMP has a substantial impact on non-agency parties and does not fall within CRA’s third exception.

CONCLUSION

The Bears Ears RMP is a rule for purposes of CRA because it meets the definition of a rule under APA and no CRA exception applies. Therefore, the Bears Ears RMP is

⁶⁵ B-329926, Sept. 10, 2018, at 6.

⁶⁶ *United States Department of Labor v. Kast Metals Corp.*, 744 F.2d 1145, 1153 (5th Cir. 1984).

⁶⁷ *E.g.*, B-337705, Jan. 15, 2026; 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.

⁶⁸ Areas of Critical Environmental Concern are areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards. 43 C.F.R. § 1601.0-5.

⁶⁹ See Bears Ears RMP, at 2–3, 16, 31–32.

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