

5. The Javelin Missile System hardware and the documentation are UNCLASSIFIED. The missile software which resides in the CLU is considered SENSITIVE. The sensitivity is primarily in the software programs which instruct the system how to operate in the presence of countermeasures. The overall hardware is also considered sensitive in that the infrared wavelengths could be useful in attempted countermeasure development.

6. If a technologically advanced adversary obtains knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

7. A determination has been made that Georgia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary to further the U.S. foreign policy and national security objectives outlined in the Policy Justification.

8. All defense articles and services listed on this transmittal are authorized for release and export to the Government of Georgia.

GAO OPINION LETTER ON EASTERN INTERIOR RESOURCE MANAGEMENT PLAN

Ms. MURKOWSKI. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the U.S. Government Accountability Office, GAO, dated November 15, 2017.

The letter provides notice that the Eastern Interior Resource Management Plan—Eastern Interior Plan—as well as the four resource management plans—RMP—that comprise the Eastern Interior Plan, signed by the Department of the Interior’s Bureau of Land Management, and approved in Records of Decision, December 30, 2016, is a rule subject to the Congressional Review Act, CRA, 5 U.S.C. §801 et seq.

I wrote to GAO on April 13, 2017, asking it to determine whether the Eastern Interior Plan, along with the RMPs for the Draanik Planning Area, the Fortymile Planning Area, the Steese Planning Area, and the White Mountains Planning Area, constitute rules subject to the CRA. In response, as communicated in its letter of November 15, 2017, GAO determined that the Eastern Interior Plan is a rule and does not fall within any of the exceptions provided in the CRA. GAO reached the same conclusion with regard to each of the four RMPs that comprise the Eastern Interior Plan. Accordingly, with this GAO opinion and its publication in the Congressional Record, the Eastern Interior Plan rule, and the rules for each RMP will be subject to a congressional joint resolution of disapproval.

The letter I am now submitting to be printed in the CONGRESSIONAL RECORD is the original document provided by GAO to my office. I will also provide a copy of the GAO letter to the Parliamentarian’s office.

For those who may be interested, GAO’s determination of the Eastern Interior Plan and the four RMPs can be

accessed at <https://www.gao.gov/assets/690/688420.pdf>.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GOVERNMENT
ACCOUNTABILITY OFFICE,
Washington, DC, November 15, 2017.
Subject: Eastern Interior Resource Management Plan.

Hon. LISA MURKOWSKI,
U.S. Senate.

This is a response to your letter requesting our opinion whether the Eastern Interior Resource Management Plan (Eastern Interior Plan), issued on December 30, 2016 by the Bureau of Land Management (BLM) of the Department of the Interior, is a rule under the Congressional Review Act (CRA). The Eastern Interior Plan is comprised of the Resource Management Plans (RMP) for four areas in Alaska: the Draanik Planning Area, the Fortymile Planning Area, the Steese Planning Area, and the White Mountains Planning Area. You also asked us to decide whether these four underlying RMPs are rules for CRA purposes. For the reasons discussed below, we conclude that the Eastern Interior Plan and the four RMPs are rules under CRA.

BACKGROUND

The Resource Management Plan Process

The Eastern Interior Plan was prepared in accordance with the Federal Land Policy and Management Act of 1976 (FLPMA). The FLPMA, as amended, requires the Bureau of Land Management (BLM) to “develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands.” Plans are to “use and observe the principles of multiple use and sustained yield[.]” FLPMA defines “multiple use” to encompass uses such as “recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values[.]” Multiple use management requires balancing various competing uses of land.

All future resource management authorizations and actions, and subsequent more detailed or specific planning, must conform to the approved resource management plan. BLM may amend or revise plans to account for, among other things, new information or changes in circumstances. FLPMA requires BLM to promulgate and follow certain procedures set forth in regulation for the development, amendment, and revision of forest plans. The decision to adopt a land use plan and the rationale for making that decision are made public in a Record of Decision issued pursuant to the National Environmental Policy Act (NEPA).

Below is a brief description of some of the land use and other decisions discussed in each of the four Resource Management Plans (RMP) contained in the Eastern Interior Plan:

White Mountains Planning Area

The White Mountains National Recreation Area comprises over 1 million acres, and had an earlier RMP established in 1986. After analyzing five different alternatives, BLM chose a plan that recommends opening 4,000 acres to new locatable mineral entry and mineral leasing by revocation of public land orders, and identifies lands that are suitable for acquisition, disposal, or retention. The entire area is limited to off-highway vehicles, with snowmobiles permitted in winter months. The plan defers travel management planning to a future rulemaking process to be completed within 5 years.

Steese Planning Area

This planning area comprises about 1.3 million acres, and its RMP replaces an ear-

lier plan approved in 1986. The BLM again considered five alternative plans, and the selected option would designate that 98 percent of the planning area remain closed to mineral leasing and mineral location. A limited off-highway vehicles area designation would be in place for the entire planning area, and a more detailed transportation management plan would be developed within the next 5 years. The Steese Special Recreation Management Area is designated under the Plan, and two Research Natural Areas remain in place.

Fortymile Planning Area

The Fortymile Planning Area comprises nearly 1.9 million acres of land, and the RMP replaces an earlier planning effort approved in 1980. The area includes a Wild and Scenic River designated by statute. Five alternative plans were considered by BLM, and the plan chosen would recommend that 40 percent of the area remain closed to mineral leasing and mineral location, and recommends a new Area of Critical Environmental Concern. A limited off-highway vehicles designation would apply to the entire planning area.

Draanik Planning Area

This planning area, formerly known as the Upper Black River Area, comprises about 2.4 million acres. There was no prior planning document for this region. After studying five alternative plans, BLM decided, among other things, to designate the Salmon Fork River as an Area of Critical Environmental Concern to protect anadromous fish habitat, bald eagle nesting, and rare plant habitats. The RMP also recommended that 77 percent of the land be closed to mineral leasing and mineral location (previously no mineral leasing or mining claims were allowed). Certain lands near the town of Circle, Alaska, would be available for disposal through exchange and would have limited access to off-highway vehicles; no off-highway vehicles access was designated prior to this planning process.

Congressional Review Act

The CRA, codified at 5 U.S.C. 801–808 (2012), establishes a process for congressional review of agency rules and special expedited procedures whereby the Congress may pass a joint resolution of disapproval to overturn a rule. Congressional review is assisted by the Act’s requirement that all federal agencies submit each rule to both Houses of Congress and to the Comptroller General before it can take effect. The report must contain a copy of the rule, “a concise general statement relating to the rule,” and the rule’s proposed effective date. In addition, the agency must submit to the Comptroller General a complete copy of the cost-benefit analysis of the rule, if any, and information concerning the agency’s actions relevant to specific procedural rulemaking requirements set forth in various statutes and executive orders governing the regulatory process. The agencies (Interior and BLM) did not send a report on the Eastern Interior Plan to Congress or the Comptroller General.

ANALYSIS

On October 23, 2017, we issued an opinion on whether the 2016 Amendment to the Tongass National Forest Land and Resource Management Plan (2016 Tongass Amendment), approved on December 9, 2016, is a rule under CRA. In our Tongass opinion, we analyzed the 2016 Tongass Amendment in light of CRA’s definition of a rule, found that it fit within that definition, and concluded that it was a rule for CRA purposes. As explained below, we reach the same conclusion with regard to the Eastern Interior Plan and each of the four RMPs it contains.

The first step in analyzing whether the Eastern Interior Plan is a rule is to look at

how CRA defines a rule. CRA adopts the definition of a rule in section 551 of the Administrative Procedure Act (APA), with three exceptions. The APA defines a rule, in relevant part, as “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.” Thus a rule has three key components: it must (1) be an agency statement, (2) have future effect, and (3) be designed to either implement, interpret, or prescribe law or policy or describe the agency’s organization, procedure, or practice requirements.

First, since the Eastern Interior Plan was issued by BLM, a federal agency, the first part of the definition is met. Second, the Eastern Interior Plan clearly states that it “provide[s] overall direction for management of all resources on BLM-managed lands” within the four planning areas it includes. In three of those areas, it replaces plans implemented 30 or more years ago; and in the fourth area it establishes an initial Management Plan for an area that previously had no approved plan. All four RMPs make recommendations and designate future uses of their respective areas. Therefore, the Plan has future effect and the second part of the definition is also met.

Third, the agency statement must be designed to implement, interpret, or prescribe law or policy. Each of the four RMPs prescribes policies for future use of the areas they cover, such as where mining or off-highway vehicles are permitted; and two of the RMPs identify Areas of Critical Environmental Concern. Each of the RMPs implements the provisions of FLPMA and other applicable statutory and regulatory provisions. Implementation required extensive consultation with parties that have interests in that region through notice and public comment; public hearings; and then an opportunity for the Governor of Alaska to provide final comments. Therefore, the third part of the definition is also met.

As noted above, CRA provides that three types of rules are not subject to its requirements. The three exceptions are for: (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. We conclude that these exceptions do not apply.

First, as we determined in our recent Tongass decision, a resource management plan is a rule of general applicability, since it governs all natural resource management activities, all projects approved to take place, and all persons or entities that engage in uses permitted by those projects. Second, the Eastern Regional Plan does not relate to agency management or personnel, since it is concerned with management of uses of the areas it governs by the public rather than management of BLM itself or its personnel. Additionally, as we also concluded in the Tongass decision, when a resource management plan has a substantial effect on non-agency parties, it cannot be considered to be a rule of agency organization, procedure or practice. Because the Eastern Interior Plan designates uses by non-agency parties that may take place in the four areas it governs, it is not a rule of agency organization, procedure or practice.

CONCLUSION

The Eastern Interior Resource Management Plan and the four RMPs it contains are rules subject to the requirements of the CRA.

If you have any questions about this opinion, please contact Robert J. Cramer, Associate General Counsel, at (202) 512-7227.

Sincerely yours,

SUSAN A. POLING,
General Counsel.

USS “JACKSONVILLE”

Mr. NELSON. Mr. President, I would like to recognize the Los Angeles-class attack submarine USS *Jacksonville* prior to her decommissioning. On August 10, the USS *Jacksonville* returned to homeport at Joint Base Pearl Harbor-Hickam after completing her final deployment in the Western Pacific.

The completion of this mission marked the USS *Jacksonville*’s 15th deployment since the ship’s commissioning in May 1981. Over her lifespan, the USS *Jacksonville* has completed two around-the-world cruises, visited ports in nearly every continent, and completed countless critical missions. While assigned to the Enterprise battle group on September 11, 2001, the *Jacksonville* provided critical intelligence support as the Nation prepared to respond to the horrific attacks.

In a tribute to its namesake, the *Jacksonville*’s nickname is “The Bold One,” based on the city of Jacksonville, Florida’s slogan of “The Bold New City of the South.” I am sure the entire city of Jacksonville, with its rich naval tradition, is honored today by this submarine’s legacy, and the outstanding service provided by her crew and their dedication to our great Nation.

Current and former crew will be hosting a reunion this November in Hawaii to say one final good-bye to the USS *Jacksonville*. I invite my colleagues to join me in honoring the boat, her current crew, and all of our Nation’s courageous sailors who have served on board in years past.

PUBLIC HEALTH THANK YOU DAY

Mr. BOOKER. Mr. President, today I wish to express my gratitude for a community of individuals who are unfailing in their commitment to protecting the public health in my home State of New Jersey, across the United States, and abroad. From preventing chronic disease to responding to pandemics, epidemics, and natural disasters, to ensuring our Nation is prepared in the event of bioterrorist attacks, to reducing health disparities in ways that promote access, participation, and opportunity, the extraordinary and diverse contributions of public health professionals have profound impacts on American lives.

The breadth of functions for which public health departments are responsible and the depth of expertise the public health workforce possesses are truly remarkable. Among their many responsibilities include Zika response and awareness; ensuring restaurants, local parks, and other venues are safe and clean; monitoring air and water

quality; tracing and containing disease outbreaks; conducting health screenings; providing health education; investigating potential cancer clusters; fielding questions on everything from animal welfare to newborn screening, and the list goes on.

The importance of public health research and practice is clearly evident as neglected diseases of poverty emerge and spread in the U.S. While these bacterial and parasitic infections primarily affect low- and middle-income countries in Africa, Asia, and Latin America, they are increasingly evident in the U.S. In fact, illnesses including Zika, toxoplasmosis, and Chagas disease have collectively impacted millions of Americans. Despite significant gaps in awareness and resources, our public health workforce has made great strides in monitoring and preventing these diseases; their efforts benefit both Americans and communities across the globe.

Placing a high priority on public health not only improves quality of life, it helps drive economic growth. By preventing disease and promoting healthy behaviors, we can reduce both direct healthcare costs and economic losses due to reduced productivity. The fiscal benefits of public health are clear—according to the American Public Health Association, every dollar we spend on childhood vaccinations saves \$16.50 in future health costs. Additionally, an estimated 75 percent of health spending in the U.S. is related to preventable chronic diseases—investing in community health initiatives that reduce the rates of obesity, heart disease, and diabetes saves both money and lives.

It is with gratitude for their invaluable contributions to the health and security of communities across New Jersey, our Nation, and the world, that I recognize Public Health Thank You Day on Monday, November 20, 2017.

NATIONAL HOSPICE AND PALLIATIVE CARE MONTH AND 40TH ANNIVERSARY OF CAPITAL CARING

Mrs. CAPITO. Mr. President, I would like to take time today to acknowledge that November is National Hospice and Palliative Care Month and to honor Capital Caring, a nonprofit hospice, on its 40th anniversary. In the 12 counties of the Mountain State, the organization is known as West Virginia Caring.

Capital Caring, with its headquarters in Falls Church, VA, provides daily inpatient and home care to thousands of patients and families across the mid-Atlantic region—West Virginia, Virginia, Maryland, and the District of Columbia. Malene Davis, MBA, MSN, RN, CHPN, is president and CEO of Capital Caring. In 2016, she and her team offered hospice care to 6,980 patients and palliative care to an additional 1,892 individuals. In addition, 1,000 people are employed by Capital Caring and West Virginia Caring.

This is a year of milestones for Malene. She is currently serving as