

38. B-329065, Nov. 15, 2017.  
 39. 5 U.S.C. § 804(3).  
 40. B-238859, Oct. 23, 2017.  
 41. See, e.g., B-335142, May 1, 2024; B-334411, June 5, 2023.  
 42. See 5 U.S.C. § 804(3)(C).  
 43. 5 U.S.C. § 553(b)(A); see B-329926, Sept. 10, 2018.  
 44. *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980).  
 45. See, e.g., B-329916, May 17, 2018.  
 46. B-329926, Sept. 10, 2018.  
 47. B-335629, July 8, 2024.  
 48. B-274505, Sept. 16, 1996.  
 49. B-238859, Oct. 23, 2017.  
 50. B-329926, Sept. 10, 2018.  
 51. *United States Department of Labor v. Kast Metals Corp.*, 744 F.2d 1145, 1153 (5th Cir. 1984).  
 52. See, e.g., B-329065, Nov. 15, 2017; B-238859, Oct. 23, 2017; B-275178, July 3, 1997.  
 53. Miles City RMPA, at 2-1.

## U.S. GOVERNMENT ACCOUNTABILITY OFFICE LEGAL OPINION

Mr. SULLIVAN. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD a letter containing the legal opinion of the Government Accountability Office, no. B-337200, titled “U.S. Department of the Interior, Bureau of Land Management—Applicability of the Congressional Review Act to Central Yukon Record of Decision and Approved Resource Management Plan,” dated June 25, 2025.

The letter provides notification that the U.S. Department of the Interior, Bureau of Land Management *Central Yukon Record of Decision and Approved Resource Management Plan* is a rule subject to the Congressional Review Act, 5 U.S.C. Sec. 801 et seq.

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

### DECISION

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

File: B-337200

Date: June 25, 2025

### DIGEST

The U.S. Department of the Interior, Bureau of Land Management (BLM) issued the Central Yukon Record of Decision and Approved Resource Management Plan (Central Yukon RMP). The Central Yukon RMP provides management direction for 13.3 million acres of BLM-managed public lands within Alaska’s Central Yukon planning area.

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 Central Yukon RMP meets the APA definition of a rule, and no CRA exception applies. Therefore, the Central Yukon RMP 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) issued a record of decision and resource management plan titled, Central Yukon Record of Decision and Approved

Resource Management Plan (Central Yukon RMP).<sup>1</sup> We received a request for a decision as to whether the Central Yukon RMP is a rule for purposes of the Congressional Review Act (CRA).<sup>2</sup> As discussed below, we conclude that the Central Yukon 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.<sup>3</sup> Accordingly, we reached out to Interior to obtain the agency’s legal views.<sup>4</sup> We received Interior’s response on May 5, 2025.<sup>5</sup>

### 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.”<sup>6</sup> 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.<sup>7</sup> Pursuant to FLPMA, BLM established procedures for the development, revision, and amendment of RMPs.<sup>8</sup>

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.<sup>9</sup> An RMP generally 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.<sup>10</sup>

#### Central Yukon Resource Management Plan

The Central Yukon planning area comprises 56 million acres in Central and Northern Alaska.<sup>11</sup> BLM manages about one quarter, or 13 million, of those acres.<sup>12</sup> On November 12, 2024, BLM’s Alaska State Director approved the Central Yukon RMP, which provides a comprehensive land use plan to direct the management of these BLM-managed lands.<sup>13</sup> Ten days later, BLM published a notice of availability in the Federal Register.<sup>14</sup>

The Central Yukon RMP replaces two RMPs approved in 1986 and 1991 and portions of a 1981 management framework plan.<sup>15</sup> It also provides RMP-level decisions for unplanned lands west of Fairbanks, Alaska.<sup>16</sup> In addition, the Central Yukon RMP designates 21 areas of critical environmental concern or research natural areas covering 3.6 million acres.<sup>17</sup>

On January 20, 2025, the President issued Executive Order No. 14153, Unleashing Alaska’s Extraordinary Resource Potential, which in part directed the Secretary of the Interior to rescind the Central Yukon RMP and “reimplement the draft resource management plan and environmental impact statement referenced in the National Park Service notice entitled ‘Notice of Availability for the Central Yukon Draft Resource Management Plan/Environmental Impact Statement, Alaska,’ 85 Fed. Reg. 80143 (December 11, 2020).”<sup>18</sup> On February 3, 2025, the Secretary of the Interior issued an order that, among other things, directed the submission of an action plan outlining the steps to execute those executive order provisions.<sup>19</sup> In its response to us, Interior stated that the Central Yukon RMP is in effect and BLM is reviewing it for consistency with the executive order and Secretary’s order.<sup>20</sup>

#### 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>21</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>22</sup> CRA allows Congress to review and disapprove rules issued by federal agencies for a period of 60 days using special procedures.<sup>23</sup> If a resolution of disapproval is enacted, then the new rule has no force or effect.<sup>24</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>25</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>26</sup>

Interior did not submit a CRA report to Congress or the Comptroller General on the Central Yukon RMP. In its response to us, Interior provided additional information about the Central Yukon RMP but did not state a position as to whether it is a rule under CRA.<sup>27</sup>

### DISCUSSION

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

#### The Central Yukon RMP is a Rule Under APA

Applying APA’s definition of rule, the Central Yukon RMP meets all of the required elements. First, the Central Yukon RMP is an agency statement as it was issued by BLM, a federal agency.<sup>28</sup>

Second, the Central Yukon RMP is of future effect as it is to be used prospectively to guide the management of the Central Yukon planning area and later site-specific projects.<sup>29</sup> Decisions made in the Central Yukon RMP became effective on November 12, 2024, when the ROD was signed.<sup>30</sup> As of that date, according to BLM, the Central Yukon RMP will guide management of BLM-managed public lands in the planning area for the next 15 to 20 years for the benefit of current and future generations.<sup>31</sup> Therefore, the Central Yukon RMP has future effect.

Finally, the Central Yukon RMP implements, interprets, or prescribes law or policy because it prescribes and implements a consolidated direction under one plan to address land and resource use and development on BLM-managed public lands within the planning area in accordance with FLPMA.<sup>32</sup>

Our conclusion here is consistent with our previous decisions finding that similar land use programs and RMPs implement, interpret, or prescribe law or policy.<sup>33</sup> For instance, in B-238859, Oct. 23, 2017, we found that an 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. 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.<sup>34</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

for the areas that each RMP covered. We noted that each RMP implemented provisions of FLPMA and other applicable statutory and regulatory provisions.<sup>35</sup> The same can be said of the Central Yukon RMP here. The Central Yukon RMP implements FLPMA and prescribes policy by designating or foreclosing specific activities or land use on BLM-administered land. As such, the Central Yukon RMP meets the third element of the APA definition of rule. Having satisfied all the required elements, the Central Yukon RMP 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.<sup>36</sup>

##### (1) Rule of Particular Applicability

Consistent with our previous decisions, the Central Yukon RMP 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, all projects approved to take place, and all persons or entities using the forest. As such, it was a rule of general applicability.<sup>37</sup> Likewise, the Central Yukon RMP addresses land and resource use and development by any person or entity on BLM-managed public lands within the Central Yukon planning area, making it a rule of general applicability.

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

The Central Yukon RMP 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.<sup>38</sup> Because the Central Yukon RMP 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.

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

Lastly, the Central Yukon RMP is not a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.<sup>39</sup>

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>40</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>41</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. 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. 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>42</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>43</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. In essence the memorandum went beyond how the Forest Service organized its internal operations.<sup>44</sup> 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>45</sup>

Here, the Central Yukon RMP does entail some changes to agency procedure. For example, it describes the mitigation measures BLM will apply to BLM-authorized activities within the planning area, which include an adaptive management process for implementing the RMP.<sup>46</sup> Appendix E of the Central Yukon RMP sets forth detailed standard operating procedures and fluid mineral leasing stipulations.<sup>47</sup> And the Central Yukon RMP discusses how BLM will develop an implementation plan, monitor the RMP's implementation, and periodically evaluate the needs for revisions or amendments at least every five years.<sup>48</sup> However, like the Forest Service memorandum in B-274505 and the Tongass Amendment in B-238859, the Central Yukon RMP is not limited to changes in internal agency operations. Instead, the Central Yukon RMP is directed at, and concerns itself primarily with, the behavior of non-agency parties. Therefore, the Central Yukon RMP does not qualify as a rule of agency organization, procedure or practice.

We must also consider whether the Central Yukon RMP substantially affects the rights or obligations of non-agency parties.<sup>49</sup> When analyzing this aspect of CRA's third exception, "the critical question is whether the agency action alters the rights or interests of regulated entities."<sup>50</sup> Along similar lines, courts have determined that "[a]n agency rule that modifies substantive rights and obligations can only be nominally procedural, and the exemption for such rules of agency procedure cannot apply."<sup>51</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>52</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 use of public land and prohibited mining and operation of off-highway vehicles in the areas they governed.

Consistent with our caselaw on other RMPs, the Central Yukon RMP has a substantial effect on non-agency parties. For example, the Central Yukon RMP recommends that the Secretary of the Interior make 11.1 million acres of land eligible for selection by Alaska Native Vietnam-era veterans through the partial revocation of certain withdrawals under the Alaska Native Claims Settlement Act, and prescribes actions veterans may take on those allotments.<sup>53</sup> The Central Yukon RMP also makes land use designations and describes what activities may be conducted on the land, such as designating land as areas of critical environmental concern, to protect fish habitat, and closing off

certain of these areas to mineral materials disposal or mineral extraction.<sup>54</sup> The Central Yukon RMP also takes additional actions such as implementing mitigation management actions, including increased collaboration and coordination with other agencies and landowners,<sup>55</sup> and designating backcountry conservation areas.<sup>56</sup> As a result, BLM has foreclosed non-agency parties from mineral disposal and extraction and certain recreational activities in the Central Yukon planning area. Accordingly, the Central Yukon RMP fails to meet CRA's third exception.

#### CONCLUSION

The Central Yukon 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 Central Yukon RMP is subject to CRA's requirement that it be submitted to Congress and the Comptroller General before it can take effect.

EDDA EMMANUELLI PEREZ,  
General Counsel.

#### ENDNOTES

1. BLM, Central Yukon Record of Decision and Approved Resource Management Plan (Nov. 12, 2024), available at [https://eplanning.blm.gov/public\\_projects/35315/200040776/20123105/251023085/C\\_YRMP\\_RMP.pdf](https://eplanning.blm.gov/public_projects/35315/200040776/20123105/251023085/C_YRMP_RMP.pdf) (last visited June 20, 2025); Letter from Acting Associate Solicitor, Division of General Law, Interior, to Assistant General Counsel, GAO, at 2 (May 5, 2025) (Response Letter). Although the record of decision approved the Central Yukon RMP, we refer primarily to the Central Yukon RMP throughout this decision.

2. Letter from Senator Lisa Murkowski, Senator Dan Sullivan, and Representative Nick Begich to Comptroller General (Feb. 28, 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/pRMPucts/gao-24-107329>.

4. Letter from Assistant General Counsel, GAO, to Senior Advisor to the Secretary, Delegated the Authority of the Solicitor, Interior (Mar. 19, 2025).

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

11. Central Yukon RMP, at 2-1; Notice of Availability of the Record of Decision and Approved Resource Management Plan for the Central Yukon Resource Management Plan/Environmental Impact Statement, Alaska, 89 Fed. Reg. 92716 (Nov. 22, 2024).

12. Central Yukon RMP, at 2-1.

13. Central Yukon RMP, Record of Decision (ROD), at 1-2; Response Letter, at 2.

14. 89 Fed. Reg. at 92716.

15. 89 Fed. Reg. at 92716.

16. 89 Fed. Reg. at 92716.

17. Central Yukon RMP, at 2-44; 89 Fed. Reg. at 92717.

18. Exec. Order No. 14153, §3(b)(xvii)–(xviii), 90 Fed. Reg. 8347, 8350 (Jan. 29, 2025) (emphasis omitted).

19. Interior, Secretary's Order No. 3422, Unleashing Alaska's Extraordinary Resource Potential, §6(a) (Feb. 3, 2025), available at <https://www.doi.gov/document-library/secretary-order/so-3422-unleashing-alaskas-extraordinary-resource-potential> (last visited June 20, 2025). It does not appear that Interior has taken any subsequent action to actually rescind the Central Yukon RMP, which thus remains in effect.

20. Response Letter, at 2.

21. 5 U.S.C. §801(a)(1)(A).

22. *Id.*

23. See 5 U.S.C. §802.

24. 5 U.S.C. §801(b)(1).

25. 5 U.S.C. §§551(4), 804(3).

26. 5 U.S.C. §804(3).

27. Response Letter. However, Interior did state the Central Yukon RMP “is not a final implementation decision on actions that require further plans, process, or decisions.” *Id.* at 2.

28. 89 Fed. Reg. at 92716. See, e.g., B-334644, Mar. 17, 2023 (actions were published on agency webpage and in the Federal Register); B-329065, Nov. 15, 2017, at 5 (finding a similar resource management plan issued by BLM to be an agency statement).

29. Central Yukon RMP, at 2-1.

30. Central Yukon, ROD, at 1-2, 1-30.

31. 89 Fed. Reg. at 92716.

32. See 89 Fed. Reg. at 92716; Central Yukon RMP, ROD, at 1-2.

33. See, e.g., B-329065, Nov. 15, 2017, B-238859, Oct. 23, 2017; B-275178, July 3, 1997.

34. B-238859, Oct. 23, 2017.

35. B-329065, Nov. 15, 2017.

36. 5 U.S.C. §804(3).

37. B-238859, Oct. 23, 2017.

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

39. See 5 U.S.C. §804(3)(C).

40. 5 U.S.C. §553(b)(A); see B-329926, Sept. 10, 2018.

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

42. B-329926, Sept. 10, 2018.

43. B-337059, May 28, 2025, at 9 (citing B-335629, July 8, 2024).

44. B-274505, Sept. 16, 1996.

45. B-238859, Oct. 23, 2017.

46. Central Yukon RMP, ROD, at 1-3; Central Yukon RMP, at 2-56. Appendix F sets forth the adaptive management framework.

47. Central Yukon RMP, Appendix E.

48. Central Yukon RMP, ROD, at 1-21; Central Yukon RMP, at 2-53, 2-55.

49. B-336217, Aug. 6, 2024; B-334045, July 5, 2023.

50. B-336512, Aug. 29, 2024, at 9 (quoting B-329926, Sept. 10, 2018).

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

52. See, e.g., B-329065, Nov. 15, 2017; B-238859, Oct. 23, 2017; B-275178, July 3, 1997.

53. Pub. L. No. 92-203, 85 Stat. 688 (Dec. 18, 1971). Central Yukon RMP, ROD, at 1-8; Appendix M, at M-8; BLM, Secretary of the Interior Opens Additional 11 Million Acres for Alaska Native Veterans (Nov. 22, 2024), available at <https://www.blm.gov/press-release/secretary-interior-opens-additional-11-million-acres-alaska-native-veterans> (last visited June 20, 2025) (BLM Press Release). The Alaska Native Claims Settlement Act was enacted in 1971 to resolve long-standing aboriginal land claims and to foster economic development for Alaska Natives. GAO, *Alaska Native Issues: Federal Agencies Could Enhance Support for Native Village Efforts to Address Environmental Threats*, GAO-22-104241 (Washington, D.C.: May 18, 2022), at 15 n.24. After the Central Yukon RMP's approval, the Secretary signed an order open-

ing 11.1 million acres for selection. BLM Press Release.

54. Central Yukon RMP, at 2-45.

55. Central Yukon RMP, ROD, at 1-20 to 1-21.

56. Central Yukon RMP, Appendix J, at J-1.

## U.S. GOVERNMENT ACCOUNTABILITY OFFICE LEGAL OPINION

Mr. CRAMER. Mr. President, I ask unanimous consent to have printed in the RECORD the Government Accountability Office opinion letter dated June 25, 2025.

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

### DECISION

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

File: B-337175

Date: June 25, 2025

### DIGEST

The U.S. Department of the Interior, Bureau of Land Management (BLM) issued the North Dakota Field Office Record of Decision and Approved Resource Management Plan (North Dakota RMP). The North Dakota RMP replaced the 1988 North Dakota Resource Management Plan and provides directives and guidance for the management of BLM-administered lands across North Dakota.

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 North Dakota RMP meets the APA definition of a rule, and no CRA exception applies. Therefore, the North Dakota RMP is a rule subject to CRA's submission requirements.

### DECISION

On January 14, 2025, the U.S. Department of the Interior (Interior), Bureau of Land Management (BLM), issued the North Dakota Field Office Record of Decision and Approved Resource Management Plan (North Dakota RMP).<sup>1</sup> We received a request for a decision as to whether the North Dakota RMP is a rule for purposes of the Congressional Review Act (CRA).<sup>2</sup> As discussed below, we conclude that the North Dakota 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.<sup>3</sup> Accordingly, we reached out to Interior to obtain the agency's views.<sup>4</sup> We received Interior's response on April 18, 2025.<sup>5</sup>

### 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.”<sup>6</sup> 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.<sup>7</sup> Pursuant to FLPMA, BLM established procedures for the development, revision, and amendment of RMPs.<sup>8</sup>

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.<sup>9</sup> An RMP generally 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.<sup>10</sup>

#### North Dakota Resource Management Plan

BLM determined that its 1988 North Dakota RMP needed revision to address significant changes in resource conditions, evolving demands for land use, advances in technology, updated policies and program guidance, and the availability of new scientific data since the original RMP was developed in 1988.<sup>11</sup> On July 28, 2020, BLM issued a notice in the Federal Register initiating the process to revise the 1988 North Dakota RMP.<sup>12</sup>

On January 8, 2025, following a comprehensive planning process, including public scoping and comment, data analysis, alternative development, environmental review, stakeholder engagement, and selection of a preferred management approach, BLM approved the North Dakota RMP through a Record of Decision (ROD) incorporated into the document.<sup>13</sup> The ROD states that it represents the agency's final decision, issued after completing procedures required by FLPMA, environmental reviews in accordance with the National Environmental Policy Act (NEPA), and considering public comments.<sup>14</sup>

The North Dakota RMP provides directives and guidance on how 58,500 acres of BLM-administered surface land and 4.1 million acres of BLM-administered mineral estate, mostly split estate, across North Dakota will be used and managed over the next 20 years.<sup>15</sup> More specifically, it establishes various land uses for recreation, motorized vehicles, oil and gas leasing, renewable energy projects, grazing, wildlife habitat protection, and cultural preservation.<sup>16</sup>

#### 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>17</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>18</sup> CRA allows Congress to review and disapprove rules issued by federal agencies for a period of 60 days using special procedures.<sup>19</sup> If a resolution of disapproval is enacted, then the new rule has no force or effect.<sup>20</sup>

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 an agency.”<sup>21</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>22</sup>

Interior did not submit a CRA report to Congress or the Comptroller General on the North Dakota RMP.<sup>23</sup> In its response to us, Interior provided additional information about the North Dakota RMP but did not state a position as to whether it is a rule under CRA.<sup>24</sup>