



H. J. Res. 44 - Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976

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FLOOR SCHEDULE:

Expected to be considered on February 7, 2017, subject to a [closed rule](#).

TOPLINE SUMMARY:

[H.J. Res. 44](#) would use the [Congressional Review Act](#) to provide for the disapproval under [chapter 8 of title 5, United States Code](#), of the rule submitted by the Department of the Interior relating to Bureau of Land Management (BLM) regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976.

COST:

A Congressional Budget Office (CBO) estimate is not yet available.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.J. Res. 44 would provide for the disapproval of the [rule](#) submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976 (published at 81 Fed. Reg. 89580 (December 12, 2016)).

The rule established extensive new regulations, all aimed at centralizing the planning process in Washington while marginalizing local community input. Most notably, the rule would move planning decisions from field and state offices to the Director of BLM. The director would be authorized to designate

a deciding official who will select the official to prepare the resource management plan. In plans that cross state boundaries, the director will also determine the planning area. The rule also narrows the definition of officially approved and adopted plans and allows the BLM to disregard a greater number of plans from local and state governments.

Immediately after the rule was enacted, counties in Utah, Wyoming, New Mexico, Idaho, Colorado and California filed [suit](#) challenging the rules in Utah's federal district court. According to a [press release](#) from the American Stewards of Liberty, "The BLM's new rules...allow only limited local government involvement, effectively treating western counties and districts like members of the public. There is no coordination process for local governments that would allow them to effectively discuss and, if necessary, challenge the BLM's plans in an open forum." The suit also argues that the new rules were created in order to help implement the Climate Change Adaption Program at the Department of the Interior.

The [Congressional Review Act](#) provides an expedited legislative process for Congress to disapprove of administrative rules through joint disapproval resolutions. Regulations issued by executive branch departments and agencies, as well as issued by independent agencies and commissions, are all subject to CRA disapproval resolutions. In [order](#) for a regulation to take effect, the issuing agency must produce a report to Congress. Generally, Congress then has 60 days to pass a resolution of disapproval under the CRA. However, this timeline is shifted in circumstances when rules are submitted to Congress within 60 legislative days of adjournment. In this case, the clock for the 60-day consideration timeline will restart 15 days into the 115th Congress, giving Congress the full window for consideration. While the parliamentarian will determine the exact cut off day after which rules may be subject to the CRA, Congress will be able to consider rules going back to roughly mid-May. Regulations that are successfully disapproved of will then either not go into effect or will be looked at as if they have not gone into effect. The CRA also prevents any new regulation that is substantially similar to a disapproved regulation from being promulgated in the future, absent action from Congress. Rules must be disapproved of on a rule-by-rule basis, and must be disapproved of in their entirety.

Under the CRA process, if a joint resolution is introduced in the Senate within the permitted time period and the resolution is not reported from committee on a timely basis, 30 Senators may petition to bring the resolution to the floor. This resolution would not be subject to the filibuster. When debate commences, the Senate must fully consider the resolution before moving on to any other business, with only 10 hours of debate. Finally, enactment of a joint resolution under the CRA would require a majority vote in each chamber and a presidential signature. Though the CRA has only been used once, in 2000 against Clinton-era ergonomic regulations, conditions today are largely the same as they were that year – with Republicans securing control of the House, Senate, and presidency.

COMMITTEE ACTION:

H.J. Res. 44 was introduced on January 30, and referred to the House Committee on Natural Resources.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not yet available.

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, Section I and Article I, Section 8, clause 18.

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