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B-338109

February 25, 2026

The Honorable Shelley Moore Capito
Chairman
The Honorable Sheldon Whitehouse
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Brett Guthrie
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; CCR Management Unit Deadline Extension Rule*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Environmental Protection Agency (EPA) entitled “Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; CCR Management Unit Deadline Extension Rule” (RIN: 2050-AH36). We received the rule on February 6, 2026. It was published in the *Federal Register* on February 10, 2026. 91 Fed. Reg. 5806. The stated effective date of the rule is February 9, 2026.

According to EPA, this rule extends the existing deadlines for owners and operators of active coal combustion residual facilities or inactive coal combustion residual facilities with a legacy coal combustion residual surface impoundment to comply with the facility evaluation requirements for identifying coal combustion residual management units. 91 Fed. Reg. 5806. EPA stated that the rule also extends the existing deadline for owners and operators of coal combustion residual management units to comply with the groundwater monitoring provisions and the remaining provisions for coal combustion residual management units. *Id.* Finally, EPA stated that it is taking final action on several rule amendments that were proposed on January 16, 2025, to correct errors and clarify the coal combustion residual regulations. *Id.*

The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The House of Representatives received the rule on February 6, 2026. 171 Cong. Rec. H2184 (daily ed. Feb. 11, 2026). The Senate received the rule on February 9, 2026. 171 Cong. Rec. S608 (daily ed. Feb. 12, 2026). The rule was published in the *Federal Register* on February 10, 2026. The stated effective date of the rule is February 9,

2026. Therefore, the stated effective date is less than 60 days from the date of receipt of the rule by Congress and publication in the *Federal Register*.¹

Enclosed is our assessment of EPA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me (202) 512-8156.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

¹ CRA's 60-day delay in effective date for major rules does not apply if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 5 U.S.C. § 808(2). APA also requires a 30-day delay in effective date of a rule, except where a substantive rule grants or recognizes an exemption or relieves a restriction. 5 U.S.C. § 553(d)(1). EPA stated in the rule that it was making the rule effective immediately under § 553(d)(1) because the rule satisfies the APA exception, but it did not make a finding and incorporate a brief statement of reasons in the rule relating to whether notice and public procedure are impracticable, unnecessary, or contrary to the public interest. See 5 U.S.C. §§ 553(b)(B), 808(2). EPA stated that it solicited comments on both sets of direct final and proposed rules finalized in the rule. See 91 Fed. Reg. at 5812, 5821. Therefore, the CRA exception at 5 U.S.C. § 808(2) does not apply.

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
ENVIRONMENTAL PROTECTION AGENCY
ENTITLED
“HAZARDOUS AND SOLID WASTE MANAGEMENT SYSTEM:
DISPOSAL OF COAL COMBUSTION RESIDUALS FROM ELECTRIC UTILITIES;
CCR MANAGEMENT UNIT DEADLINE EXTENSION RULE”
(RIN: 2050-AH36)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared an analysis of the costs and benefits for this rule. See 91 Fed. Reg. 5806, 5823 (Feb. 10, 2026). According to EPA, the annualized cost savings of this action will be approximately \$8.1 to \$9.5 million per year at a three percent discount rate and \$25 to \$30 million per year at a seven percent discount rate. *Id.* EPA estimated that the annualized reduction in benefits of the rule will be approximately \$0.8 to \$2 million at a three percent discount rate and \$1.3 to \$3.3 million per year at a seven percent discount rate. *Id.* Overall, EPA estimated that the net annualized cost savings of the rule will be \$7.3 to \$7.5 million per year at a three percent discount rate and \$24 to \$27 million per year at a seven percent discount rate. *Id.*

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

EPA stated that the EPA Administrator has certified that this rule will not have a significant economic impact on a substantial number of small entities. 91 Fed. Reg. at 5823.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

EPA determined that this rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. See 91 Fed. Reg. at 5823. According to EPA, the rule imposes no enforceable duty on any state, local, or tribal governments or on the private sector. *Id.*

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

EPA published two sets of direct final and proposed rules. The first set of direct final and proposed rules was published on January 16, 2025. 90 Fed. Reg. 4635; 90 Fed. Reg. 4707. According to EPA, it withdrew the direct final rule on March 20, 2025, due to receipt of adverse comment. See 90 Fed. Reg. 13084; 91 Fed. Reg. at 5809. EPA stated that it received comments from various parties on this set of actions and responded to comments in the rule. See 91 Fed. Reg. at 5821.

The second set of actions was published on July 22, 2025. 90 Fed. Reg. 34358; 90 Fed. Reg. 34409. According to EPA, it withdrew the direct final rule on September 4, 2025, due to

receipt of adverse comment. See 90 Fed. Reg. 42708; 91 Fed. Reg. at 5809. EPA stated that in response to comments, it reopened the comment period for the notice of proposed rulemaking and held a public hearing. See 91 Fed. Reg. at 5810. EPA stated that it received comments from various parties on this set of actions and responded to comments in the rule. See 91 Fed. Reg. at 5812.

EPA stated in the rule that APA's 30-day delayed effective date requirement did not apply because the rule fell into APA's exception for substantive rules that grant or recognize an exemption or relieve a restriction. 5 U.S.C. § 553(d)(1); 91 Fed. Reg. at 5822. According to EPA, this rule relieves restrictions by revising certain of the 2024 Legacy CCR Surface Impoundments Final Rule's compliance deadlines. 91 Fed. Reg. at 5822. EPA did not address CRA's 60-day delay requirement or its exceptions in the rule. See 5 U.S.C. §§ 801(a)(3), 808.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

EPA determined that this rule contains no new information collection burdens under the Act. 91 Fed. Reg. at 5823.

Statutory authorization for the rule

EPA promulgated this rule pursuant to sections 1345(d) and (e) of title 33; and sections 6907(a)(3), 6912(a)(1), 6927, 6944, and 6945(a) and (d) of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA stated that this rule is significant under the Order and was submitted to the Office of Management and Budget for review. 91 Fed. Reg. at 5823.

Executive Order No. 13132 (Federalism)

EPA determined that this rule does not have federalism implications. 91 Fed. Reg. at 5823.