

CSAPR Update for the 2008 Ozone NAAQS” that is included in the docket for the CSAPR Update final rule and has been posted on the EPA’s Web site at <https://www.epa.gov/airmarkets/final-cross-state-air-pollution-rule-update>. The spreadsheet contains the default allocations of allowances for each control period starting with 2017. For EGUs in all covered states except Arkansas, the unit-level allocations in the spreadsheet are the same for each year. For EGUs in Arkansas, the unit-level allocations for many EGUs are higher for the 2017 control period because Arkansas’ 2017 ozone season NO<sub>x</sub> emissions budget is higher than its emissions budget for the control period in 2018 and subsequent years. The spreadsheet also contains the data used to compute the allocations and describes how the computations are performed. The EPA is not requesting comment on the allocations, underlying data, or allocation methodology.

The EPA notes that an allocation or lack of allocation of emission allowances to a given EGU does not constitute a determination that CSAPR does or does not apply to the EGU.<sup>5</sup> The EPA also notes that allocations are subject to potential correction under the rule.<sup>6</sup>

In accordance with the allowance recordation deadlines set forth in the regulations, the EPA will record allocations of CSAPR NO<sub>x</sub> Ozone Season Group 2 allowances to existing units for the 2017 control period by January 3, 2017 (the first business day after January 1, 2017).<sup>7</sup> The EPA will also record allocations for the 2018 control period by that same date except in instances where a state has provided the EPA with timely notice of the state’s intent to submit a SIP revision with state-determined allowance allocations replacing the EPA’s default allocations for the 2018 control period.<sup>8</sup>

For units commencing commercial operation on or after January 1, 2015, termed “new” units for purposes of the CSAPR NO<sub>x</sub> Ozone Season Group 2

Trading Program, the EPA’s default allocations for each control period are annually determined during and after the control period based on current and prior year emission data, using a methodology set out in the regulatory text.<sup>9</sup>

Dated: September 22, 2016.

**Reid P. Harvey,**

*Director, Clean Air Markets Division.*

[FR Doc. 2016–23434 Filed 9–29–16; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 435**

[EPA–HQ–OW–2016–0598; FRL–9953–26–OW]

RIN 2040–AF68

**Effluent Limitations Guidelines and Standards for the Oil and Gas Extraction Point Source Category—Implementation Date Extension**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to extend the implementation deadline for certain facilities subject to the final rule establishing pretreatment standards under the Clean Water Act (CWA) for discharges of pollutants into publicly owned treatment works (POTWs) from onshore unconventional oil and gas (UOG) extraction facilities (81 FR 41845; June 28, 2016). EPA is making this revision in response to new information suggesting that there are likely facilities subject to the final rule not presently meeting the zero discharge requirements in the final rule.

**DATES:** This direct final rule is effective on November 29, 2016 without further notice, unless EPA receives adverse comment by October 31, 2016. If EPA receives adverse comment, we will

publish a timely withdrawal in the **Federal Register** informing the public that the direct final rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. [EPA–HQ–OW–2016–0598], at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** For more information, see EPA’s Web site: <https://www.epa.gov/eg/unconventional-oil-and-gas-extraction-effluent-guidelines>. For technical information, contact Karen Milam, Engineering and Analysis Division (4303T), Office of Water, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone: 202–566–1915; email: [milam.karen@epa.gov](mailto:milam.karen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Does this action apply to me?**

Entities potentially regulated by this final action include:

Category	Example of regulated entity	North American Industry Classification System (NAICS) code
Industry .....	Crude Petroleum and Natural Gas Extraction .....	211111
Industry .....	Natural Gas Liquid Extraction .....	211112

**II. Why is EPA issuing a direct final rule?**

EPA is publishing this direct final rule without a prior proposed rule

because we view this as a noncontroversial action and anticipate no adverse comment. This direct final rule merely extends the implementation

deadline for existing onshore UOG extraction facilities that were discharging to POTWs on or between the date of the **Federal Register** Notice

<sup>5</sup> See 40 CFR 97.811(a)(1).

<sup>6</sup> See 40 CFR 97.811(c).

<sup>7</sup> See 40 CFR 97.821(a).

<sup>8</sup> See 40 CFR 52.38(b)(7) and 97.821(b).

<sup>9</sup> See 40 CFR 97.812.

of the proposed rule (April 7, 2015) and the date of the **Federal Register** Notice of the final rule (June 28, 2016) to the default three year period provided in the General Pretreatment Regulations. This direct final rule does not otherwise amend the final pretreatment standards rule in any way. In the “Proposed Rules” section of today’s **Federal Register**, however, we are publishing a separate document that will serve as the proposed rule to extend the implementation date if we receive adverse comments on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this direct final rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

### III. Supplementary Information

#### A. Background

EPA promulgated revisions to Effluent Guidelines and Standards for the Oil and Gas Extraction Point Source Category which established pretreatment standards for onshore unconventional oil and gas extraction facilities (81 FR 41845, June 28, 2016). In this final rule, EPA established pretreatment standards prohibiting the discharge of pollutants in UOG extraction wastewater to POTWs, and established an effective date of August 29, 2016. In the preamble to the final rule, EPA indicated that because UOG facilities were currently meeting this zero discharge requirement, the implementation deadline for these pretreatment standards would be the same as the effective date of the final rule. After promulgation of the final rule, EPA received two letters indicating that there are likely facilities discharging UOG wastewater to POTWs; this is new information to EPA.

#### B. Description of EPA’s Action

Based on this post-promulgation information submitted to EPA suggesting that there are likely facilities subject to the final pretreatment standards rule that are currently discharging UOG wastewater to POTWs, EPA is extending the implementation deadline for existing sources that were lawfully discharging to POTWs on or between April 7, 2015 and June 28, 2016 to three years from the effective date of

the rule—to August 29th, 2019. This direct final rule does not change the compliance date for all other facilities subject to the final onshore UOG extraction pretreatment standards rule. The final pretreatment standards did not specify a compliance date in the regulatory text; rather, EPA included a compliance date equal to the effective date of the rule in the preamble to the rule, based on the Agency’s record indicating that no facilities were discharging UOG wastewater to POTWs. Because of post-promulgation information indicating that some facilities are likely discharging UOG wastewater to POTWs, EPA is extending the compliance date for these facilities. EPA notes that specifying a compliance date of three years from the effective date of the final pretreatment standards rule is consistent with EPA’s General Pretreatment Regulations, which require existing sources to meet categorical pretreatment standards within three years of the effective date of such standards, unless a shorter compliance time is specified therein. 40 CFR 403.6(b). For purposes of this direct final rule, compliance date and implementation date are used interchangeably.

EPA will not consider any comment submitted on the direct final rule published today on any topic other than the appropriateness of an extension of the compliance date; any other comments will be considered to be outside the scope of this rulemaking.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), this action is not a “significant regulatory action” and is therefore not subject to OMB review. With respect to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), this action will not have a significant economic impact on a substantial number of small entities—as this direct final relieves regulatory burden by extending the compliance date for any business (including small businesses) that were discharging UOG wastewater to POTWs at the time of issuance of the pretreatment standard. For the Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4), this action does not significantly or uniquely affect small governments. The action imposes no incremental enforceable duty on any state, local or tribal governments or the private sector. This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175 (65

FR 67249, November 9, 2000). This action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

### Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 435

Environmental protection, Pretreatment, Waste treatment and disposal, Water pollution control, Unconventional oil and gas extraction.

Dated: September 22, 2016.

**Gina McCarthy**,  
Administrator.

Therefore, 40 CFR part 435 is amended as follows:

### PART 435—OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

- 1. The authority citation for part 435 continues to read as follows:

**Authority:** 33 U.S.C. 1251, 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

#### Subpart C—Onshore Subcategory

- 2. Add paragraph (a)(3) to § 435.33 to read as follows:

#### § 435.33 Pretreatment standards for existing sources (PSES).

(a) \* \* \*

(3) *Compliance deadline for existing sources.* Existing sources lawfully discharging into publicly owned treatment works on or between April 7, 2015 and June 28, 2016 shall comply with the PSES by August 29, 2019. All other existing sources shall comply by August 29, 2016.

\* \* \* \* \*

[FR Doc. 2016-23456 Filed 9-29-16; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R3-ES-2015-0145; 4500030113]

RIN 1018-BA98

#### Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Eastern Massasauga Rattlesnake

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the eastern massasauga rattlesnake (*Sistrurus catenatus*), a rattlesnake species found in 10 States and 1 Canadian Province. The rule adds this species to the Federal List of Endangered and Threatened Wildlife. We have also determined that the designation of critical habitat for the eastern massasauga rattlesnake is not prudent due to an increased risk of collection and persecution.

**DATES:** This rule is effective October 31, 2016.

**ADDRESSES:** This final rule is available on the Internet at <http://www.regulations.gov> and <http://www.fws.gov/midwest/endangered/reptiles/eama/index.html>. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at <http://www.regulations.gov> or by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Chicago Ecological Services Field Office, 230 South Dearborn, Suite 2938, Chicago, IL 60604; telephone 312-216-4720.

**FOR FURTHER INFORMATION CONTACT:** Louise Clemency, Field Supervisor, U.S. Fish and Wildlife Service, Chicago Ecological Services Field Office, 230

South Dearborn, Suite 2938, Chicago, IL 60604; telephone 312-216-4720. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Executive Summary

*Why we need to publish a rule.* Under the Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered species or threatened species can only be completed by issuing a rule. Additionally, under the Act, critical habitat shall be designated, to the maximum extent prudent and determinable, for any species determined to be an endangered species or threatened species under the Act. We have determined that designating critical habitat is not prudent for the eastern massasauga rattlesnake due to an increased risk of collection and persecution.

*This rule makes final the listing of the eastern massasauga rattlesnake (*Sistrurus catenatus*) as a threatened species.*

*The basis for our action.* Under the Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Although there are several factors that are affecting the eastern massasauga rattlesnake's status, the loss of habitat was historically, and continues to be, the primary threat, either through development or through changes in habitat structure due to vegetative succession.

Peer review and public comment. A Species Status Assessment (SSA) team prepared an SSA report (Szymanski *et al.* 2016) for the eastern massasauga rattlesnake. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA represents a compilation of the best available scientific and commercial data concerning the biological status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the eastern massasauga rattlesnake. We sought comments on the SSA from independent specialists to ensure that

our determination is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all comments and information we received during the comment period.

The SSA report underwent independent peer review by 21 scientists with expertise in eastern massasauga rattlesnake biology, habitat management, and stressors (factors negatively affecting the species) to the species. The SSA report and other materials relating to this determination can be found on the Midwest Region Web site at <http://www.fws.gov/midwest/Endangered/> and at <http://www.regulations.gov> under Docket No. FWS-R3-ES-2015-0145.

##### Previous Federal Actions

On September 30, 2015, the Service published a proposed rule (80 FR 58688) to list the eastern massasauga rattlesnake as a threatened species under the Act (16 U.S.C. 1531 *et seq.*). We accepted public comments on the proposed rule for 60 days, ending November 30, 2015. Please refer to the proposed rule (80 FR 58688; September 30, 2015) for a detailed description of previous Federal actions concerning this species.

##### Background

Please refer to the proposed listing rule (80 FR 58688; September 30, 2015) for a summary of species information.

##### Summary of Biological Status and Threats

The Act directs us to determine whether any species is an endangered species or a threatened species because of any factors affecting its continued existence. We completed a comprehensive assessment of the biological status of the eastern massasauga rattlesnake, and prepared the SSA report, which provides a thorough description of the species' overall viability. We generally defined viability as the ability of the species to maintain self-sustaining populations over the long term. We used the conservation biology principles of resiliency, representation, and redundancy in our analysis. Briefly, resiliency is the ability of the species to withstand environmental stochasticity (unpredictable fluctuations in environmental conditions (for example, wet or dry, warm or cold years)); redundancy is the ability of the species to withstand catastrophic events (for example, droughts, hurricanes); and representation is the ability of the species to adapt over time to long-term