



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 435

[EPA-HQ-OW-2014-0598; FRL-9955-65-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: Withdrawal of direct final rule.

SUMMARY: Because the Environmental Protection Agency (EPA) received comments that could be construed as adverse, the EPA is withdrawing the direct final rule issued on September 30, 2016, to extend the implementation date for certain facilities subject to the EPA's final rule establishing pretreatment standards under the Clean Water Act (CWA) for discharges of pollutants into publicly-owned treatment works (POTWs) from unconventional oil and gas extraction.

DATES: Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the EPA withdraws the direct final rule published September 30, 2016 (81 FR 67191).

FOR FURTHER INFORMATION CONTACT: For more information, see EPA's website: <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; e-mail: milam.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

On September 30, 2016, the EPA published a direct final rule that extended the

implementation date for certain facilities to meet the requirements of the final pretreatment standards rule for unconventional oil and gas extraction. (81 FR 67191; September 30, 2016). In that direct final rule, the EPA stated that if we received adverse comments by October 31, 2016, the EPA would publish a timely withdrawal and address the comments in a final rule based on the proposed rule also published on September 30, 2016. (81 FR 67266; September 30, 2016).

The direct final rule specifically indicated that “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.” (81 FR 67192; September 30, 2016). Commenters supported the compliance date being extended; the EPA did not receive any comments opposing the extension of the compliance date, and thus maintains that there were no adverse comments on the direct final rule. As indicated in the direct final rule, the EPA considers any comments on topics other than the extension of the compliance date – including comments submitted on the applicability of the underlying final pretreatment standards rule – to be outside the scope of this rulemaking. However, to the extent that any of the comments could be broadly interpreted as seeking an alternative compliance period, and thus arguably within scope, the EPA, in its discretion, is withdrawing the direct final rule and instead will issue a final action to address the compliance date, which will be based on the parallel proposed rule also published on September 30, 2016. (81 FR 67266; September 30, 2016). For purposes of this withdrawal, compliance date and implementation date are used interchangeably. As stated in the parallel proposal, we will not

institute a second comment period on this proposed action.

Withdrawal of this direct final rule removes the extension of the compliance date for the subset of facilities identified in the direct final rule. It does not withdraw, or otherwise impact, the underlying final pretreatment standards rule for unconventional oil and gas extraction, which continues to apply to all facilities that meet the definition of “unconventional” in that rule.

List of Subjects in 40 CFR Part 435

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

Dated: November 17, 2016.

Michael H. Shapiro,

Deputy Assistant Administrator.

Accordingly, the direct final rule, published in the Federal Register on September 30, 2016, at 81 FR 67191, is withdrawn as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

[FR Doc. 2016-28566 Filed: 11/25/2016 8:45 am; Publication Date: 11/28/2016]