



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Consent Decree Under The Clean Air Act

On March 6, 2018, the Department of Justice lodged with the United States District Court for the District of Kansas a proposed modification to the consent decree entered by the Court on March 26, 2010 in the lawsuit entitled *United States of America, et al. v. Westar Energy, Inc.*, Civil Action No. 2:09-cv-02059-JAR.

The consent decree resolved claims asserted by the United States against Westar Energy, Inc. (“Westar”) under various provisions of the Clean Air Act (“Act”). Those claims related to Westar’s operation of the Jeffrey Energy Center (“JEC”), a coal-fired power plant in St. Marys, Kansas with three electric generating units, numbered 1 through 3. The United States alleged in primary part that Westar made major modifications to JEC without obtaining a permit under the Prevention of Significant Deterioration program.

The Consent Decree requires Westar, among other things, to install and operate Selective Catalytic Reduction (“SCR”) on one of the JEC units and, at Westar’s election, either install a second SCR or meet a plant-wide 30-day rolling average emission rate of 0.100 lb/mmBTU NO<sub>x</sub>. Westar installed the SCR on JEC Unit 1 and elected to meet a plant-wide 30-day rolling average emission rate of 0.100 lb/mmBTU NO<sub>x</sub>. To meet this limit, Westar must operate JEC Unit 1 (the unit with the SCR) at all times when it is available, even when it would not otherwise be dispatched by the Regional Transmission Organization. This results in unnecessary emissions of NO<sub>x</sub>, sulfur dioxide, particulate matter and other pollutants from JEC.

The proposed modification to the Consent Decree would require Westar to meet a 30-Day Rolling Average Unit Emission Rate for NO<sub>x</sub> of 0.150 lb/mmBTU, on an individual unit

basis, when JEC Unit 1 is not operating. Overall emissions from JEC, including emissions of NOx, are expected to decrease as a result of the change because JEC Unit 1 would no longer be forced to operate to meet the Consent Decree NOx Plant-Wide Operating Day emission limitation. To help ensure that NOx emissions do not increase, the modification would also require Westar to comply with a new NOx 12-Month Rolling Tonnage Limitation for JEC Units 2 and 3.

The publication of this notice opens a period for public comment on the modification to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al. v. Westar Energy, Inc.*, D.J. Ref. No. 90-5-2-1-08242. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the modification to the consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the modification to the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD

P.O. Box 7611  
Washington, D.C. 20044-7611

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