

having a direct or indirect financial interest in underground or surface coal mining operations.

*Bureau Form Number:* OSM-23.

*Frequency of Collection:* Entrance on duty and annually.

*Description of Respondents:* Any State regulatory authority employee or member of advisory boards or commissions established in accordance with State law or regulation to represent multiple interests who performs any function or duty under the Surface Mining Control and Reclamation Act.

*Total Annual Responses:* 3,540

*Total Annual Burden Hours:* 1,184.

Dated: February 1, 2008.

**John R. Craynon,**

*Chief, Division of Regulatory Support.*

[FR Doc. 08-598 Filed 2-11-08; 8:45 am]

**BILLING CODE 4310-05-M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Modification in *United States v. East Kentucky Power Cooperative, Inc.* Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on February 5, 2008, a proposed modification ("Modification") to a consent decree ("Consent Decree") between East Kentucky Power Cooperative, Inc. ("EKPC") and the United States, Civil Action No. 04-34-KSF, was lodged with the United States District Court for the Eastern District of Kentucky.

The original Consent Decree was lodged with the United States District Court for the Eastern District of Kentucky on July 2, 2007, and entered by the Court on September 24, 2007. The Consent Decree resolved claims asserted by the United States against EKPC pursuant to Sections 113(b) and 167 of the Clean Air Act (the "Act"), 42 U.S.C. 7413(b) and 7477, seeking injunctive relief and the assessment of civil penalties for EKPC's violations of:

(a) The Prevention of Significant Deterioration ("PSD") provisions in Part C of Subchapter I of the Act, 42 U.S.C. 7470-92;

(b) The New Source Performance Standards ("NSPS") provisions of the Act, 42 U.S.C. 7411;

(c) Title V of the Act, 42 U.S.C. 7661, *et seq.*; and

(d) The federally-enforceable State Implementation Plan ("SIP") developed by the Commonwealth of Kentucky. See 72 FR 37797 (July 11, 2007).

EKPC operates three coal-fired power plants in Kentucky: the Spurlock Plant, located near Maysville, Kentucky, the

Dale Plant, located near Winchester, Kentucky, and the Cooper Plant, located near Somerset, Kentucky. The complaint filed by the United States alleged that EKPC modified Spurlock Unit 2 and Dale Units 3 and 4 without complying with PSD (including the requirements to first obtain a PSD permit authorizing the modifications and to install and operate the best available technology to control emissions of sulfur dioxide ("SO<sub>2</sub>"), nitrogen oxides ("NO<sub>x</sub>"), and/or particulate matter ("PM")), and modified Dale Units 3 and 4 without complying with NSPS. The Complaint also alleged that EKPC violated Title V of the Act by failing to include the PSD and NSPS requirements triggered by its modifications in its Title V operating permits for the Spurlock and Dale plants. Finally, the Complaint alleged that EKPC illegally operated Spurlock Unit 2 at heat input capacities that were higher than allowed by its operating permit.

The Consent Decree entered by the Court on September 24, 2007 requires, *inter alia*, that EKPC reduce SO<sub>2</sub>, NO<sub>x</sub> and PM emissions at its plants through the installation and operation of state-of-the-art pollution control technologies and/or the retirement or re-powering of certain units. The proposed Modification would extend by up to 60 days the time for EKPC to comply with the Consent Decree's 30-day rolling average emission rates for NO<sub>x</sub> applicable to Spurlock Unit 1. The extension relates to a transformer failure at the Spurlock Plant that altered EKPC's scheduled installation of a third catalyst layer for selective catalytic reduction ("SCR") controls at Spurlock Unit 1, which resulted in EKPC's inability to operate the SCR in time to meet the applicable 30-day rolling average emission rates for NO<sub>x</sub>. The Modification also requires EKPC to mitigate the effect of the excess emissions caused by the delay, by retiring NO<sub>x</sub> allowances equal to the amount of excess emissions, plus a premium of ten percent.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. East Kentucky Power Cooperative*, D.J. Ref. No. 90-5-2-1-08085.

The Modification may be examined at the Office of the United States Attorney, Eastern District of Kentucky, 260 West Vine Street, Suite 300, Lexington, Kentucky, 40507-1612, and at U.S. EPA Region IV, 61 Forsyth Street, SW., Atlanta, Georgia, 30303-8960. During the public comment period, the Modification may also be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Modification may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$1.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**W. Benjamin Fisherow,**

*Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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**BILLING CODE 4410-CW-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

Under the policy set out at 28 CFR 50.7, notice is hereby given that on February 7, 2008, the United States lodged with the United States District Court for the District of Montana a proposed consent decree ("Consent Decree") in the case of *United States v. Atlantic Richfield Company, et al.*, Civil Action No. CV-89-39-BU-SEH. The Consent Decree pertains primarily to the Clark Fork River Operable Unit (the "Clark Fork Site") in southwestern Montana. The settlement would resolve the claims brought by the United States against the Atlantic Richfield Company under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9607, for the recovery of costs incurred and to be incurred in responding to releases and threatened releases of hazardous substances at the Clark Fork Site. Under the terms of the proposed Consent Decree, Atlantic