



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Second Amendment to Consent Decree under the Clean Air Act

On February 7, 2018, the Department of Justice lodged a proposed Second Amendment to Consent Decree (“Second Amendment”) with the United States District Court for the Southern District of Illinois in the lawsuit entitled *United States, et al. v. Gateway Energy & Coke Company, et al.*, Civil Action No. 3:13-cv-00616-DRH-SCW.

The United States, on behalf of the U.S. Environmental Protection Agency, filed a complaint under the Clean Air Act asserting claims relating to two Midwestern heat recovery coking facilities, one of which is located in Granite City, Illinois (the “Gateway Facility”), and the other of which is located in Franklin Furnace, Ohio (the “Haverhill Facility”). The United States sought civil penalties and injunctive relief against the owners and operators of the Gateway and Haverhill Facilities, the Haverhill Coke Company, LLC, SunCoke Energy, Inc., and the Gateway Energy & Coke Company, LLC. The States of Illinois and Ohio are co-plaintiffs in this action, and sought injunctive relief and civil penalties under corresponding state laws as to the Gateway Facility and Haverhill Facility, respectively.

On November 10, 2014, the Court entered a Consent Decree that, *inter alia*, required (1) installation of heat recovery steam generators (“HRSGs”) to provide redundancy that will allow hot coking gases to be routed to a pollution control device instead of vented directly to the atmosphere in the event of equipment downtime, and (2) installation of continuous emissions monitors for sulfur dioxide at one bypass vent per process unit (two at the Haverhill Facility and one at the Gateway Facility).

The Consent Decree allows Defendants 720 hours of “tie-in” time to complete installation of the Redundant HRSGs. Defendants have represented that installation and operation of the Redundant HRSGs have exacerbated corrosion-related issues at the spray dryer absorbers (“SDAs”); therefore, Defendants need to replate the SDAs to upgrade their metallurgy and to make them more corrosion-resistant, as well as assist in effective operation of the SDAs. To that end, the Second Amendment would allow Defendants to use tie-in hours to address the corrosion at the SDAs, while at the same time requiring Defendants to mitigate the excess emissions associated with the replating project.

As to mitigation, the Second Amendment requires Defendants to: (1) meet lower bypass venting emissions limits relating to sulfur dioxide at both the Gateway and Haverhill Facilities than were required by the Consent Decree, and seek to incorporate such lower limits into construction permit(s) and Title V operating permits; and (2) continue to operate the flue gas desulfurization units at the two facilities to over-control sulfur dioxide, particulate matter, lead, and, as to the Haverhill Facility, hydrochloric acid emissions from the main stacks by, among other things, injecting excess lime slurry into the SDAs. The proposed Second Amendment would also streamline reporting obligations under the Consent Decree, and add reporting requirements relating to mitigation of excess emissions resulting from the SDA replating project.

The publication of this notice opens a period for public comment on the Second Amendment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al. v. Gateway Energy & Coke Company, et al.*, D.J. Ref. No. 90-5-2-1-10065. 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:

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| <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 Second Amendment 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 Second Amendment 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

Please enclose a check or money order for \$4.75 (25 cents per page reproduction cost) payable to the United States Treasury.

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[FR Doc. 2018-02914 Filed: 2/12/2018 8:45 am; Publication Date: 2/13/2018]