

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ENVIRONMENTAL DEFENSE,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 03-01737 (RMU)
)	
STEPHEN L. JOHNSON, Acting)	
Administrator, United States)	
Environmental Protection Agency, ^{1/} and)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY)	
)	
Defendants.)	

**STIPULATED MODIFICATION
OF CONSENT DECREE**

WHEREAS, the Court entered a Consent Decree in this matter on August 3, 2004, pursuant to motions filed by plaintiff Environmental Defense (“ED”) and defendants Stephen L. Johnson, Acting Administrator of the United States Environmental Protection Agency, and the United States Environmental Protection Agency (collectively “EPA”);

WHEREAS, Paragraph 2.b.i. of the Consent Decree provides that, no later than April 15, 2005, EPA must sign for publication in the Federal Register a notice of final rulemaking setting forth the final “BART Rule,” which is defined in Paragraph 1 of the Consent Decree as the final regulations and guidelines that are required to be promulgated and published in the Federal Register by the Administrator pursuant to sections 169A(a)(4), 169A(b) and 169B(e) of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7491(a)(4), 7491(b) and 7492(e);

^{1/} Pursuant to Fed. R. Civ. 25(d)(1), Mr. Johnson is substituted for his predecessor in office, Michael O. Leavitt.

WHEREAS, Paragraph 3 of the Consent Decree provides that ED and EPA may extend the deadlines established in Paragraph 2 by written stipulation executed by counsel for the Parties and filed with the Court;

WHEREAS, EPA intends to take final action by November 8, 2005, in response to the D.C. Circuit's remand in *Center for Energy and Economic Development v. EPA*, 398 F.3d 653 (D.C. Cir. 2005);

WHEREAS, EPA has committed to conduct additional technical analyses in developing the final BART Rule;

NOW THEREFORE, ED and EPA agree and stipulate that Paragraph 2.b.i. of the Consent Decree shall be modified as follows to extend the deadline for EPA's signature from April 15, 2005, to June 15, 2005;

2.b. i. No later than June 15, 2005, EPA shall sign for publication in the Federal Register a notice of final rulemaking setting forth its final BART Rule.

SO AGREED:

Date: April 15, 2005

KELLY A. JOHNSON
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/s/ Eileen T. McDonough
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Date: April 15, 2005

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