TABLE B—ENGELHARD RETROFIT/REBUILD CERTIFICATION LEVELS FOR 4-STROKE ENGINES [2]

Cummins/ other engine family	Control parts list (CPL)	Manufacture Dates	New Engine PM level	Retrofit PM level with CM	Retrofit PM level with CM & Cummins kit
343B	780	11/20/85 to 12/31/87	0.58	0.44	0.26
343B	0781	11/20/85 to 12/31/87	0.59	0.44	0.26
343C	0774	11/20/85 to 12/31/89	0.46	0.34	0.26
343C	0777	11/20/85 to 12/31/89	0.61	0.46	0.26
343C	0996	12/04/87 to 08/19/88	0.61	0.46	0.26
343C	1226	07/26/88 to 12/31/90	0.50	0.38	0.26
343F	1226	07/12/90 to 08/26/92	0.45	0.34	0.26
343F	1441	12/18/90 to 12/31/92	0.46	0.34	0.26
343F	1622	04/24/92 to 12/31/92	0.46	0.34	0.26
343F	1624	04/24/92 to 12/31/92	0.45	0.34	0.26
Other [3] 4-stroke engines	N/A	Pre-1988	0.50	0.38	N/A
Other 4-stroke engines		1988 To 1993	([4])	25 % reduction from certification PM levels	N/A

[2] The New Engine PM certification levels for Cummins engines are based on the certification level or the average test audit result for each engine family. It is noted that for engine family 343F, although the PM standard for 1991 and 1992 was 0.25 g/bhp-hr and the NOx standard was 5.0 g/bhp-hr, Cummins certified the 1226, 1441, 1622, and 1624 CPLs to a Federal Emission Limit (FEL) of 0.49 g/bhp-hr PM and 5.6 g/bhp-hr NOx under the averaging, banking and trading program.

[3] Applicable to the following 4-stroke engines: Caterpillar 8 cylinder engines, General Motors 6 cylinder and 8 cylinder engines, International Harvester/Navistar 8 cylinder engines, MAN 6 and 8 cylinder engines, Saab-Scania 6 cylinder engines, and Volvo 6 cylinder engines installed in applicable urban buses.

[4] Certification level.

* Not applicable.

At a minimum, EPA expects to evaluate this notification of intent to certify, and other materials submitted as applicable, to determine whether there is adequate demonstration of compliance with: (1) The certification requirements of part 85.1406, including whether the testing accurately proves the claimed emission reduction or emission levels; and, (2) the requirements of part 85.1407 for a notification of intent to certify.

The Agency requests that those commenting also consider these regulatory requirements, plus provide comments on any experience or knowledge concerning: (a) Problems with installing, maintaining, and/or using the candidate equipment on applicable engines; and, (b) whether the equipment is compatible with affected vehicles.

The date of this notice initiates a 45-day period during which the Agency will accept written comments relevant to whether or not the equipment described in the Engelhard notification of intent to certify should be certified pursuant to the urban bus retrofit/rebuild regulations. Interested parties are encouraged to review the notification of intent to certify and provide comment during the 45-day period. Please send separate copies of your comments to each of the above two addresses.

The Agency will review this notification of intent to certify, along with comments received from interested parties, and attempt to resolve or clarify issues as necessary. During the review process, the Agency may add additional documents to the docket as a result of the review process. These documents will also be available for public review and comment within the 45-day period.

Dated: November 20, 1998.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 98–31805 Filed 11–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6195–1]

Notice of Deficiency For Clean Air Act Operating Permits Program in Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency.

SUMMARY: Pursuant to its authority at 40 CFR 70.10(b)(1), EPA is publishing this Notice of Deficiency for the State of Oregon's Clean Air Act Title V Operating Permits Program. The Notice of Deficiency is based upon EPA's finding that the State's requirements for judicial standing to challenge State-issued Title V permits does not meet minimum federal requirements for program approval. Publication of this Notice is a prerequisite for withdrawal of the State's Title V program approval, but does not effect such a withdrawal. Withdrawal of program approval, if necessary, will be accomplished through subsequent rulemaking.

FOR FURTHER INFORMATION CONTACT: Adan Schwartz, U.S. Environmental Protection Agency, 1200 Sixth Avenue, ORC–158, Seattle, Washington 98101, (206) 553–0015.

I. Description of Action

EPA is publishing a Notice of Deficiency for the Clean Air Act (CAA or Act) Title V program for the state of Oregon. This document is being published to satisfy 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a Title V permitting authority is not adequately administering or enforcing a part 70 program. The deficiency being noticed relates to Oregon's requirements for obtaining judicial review of Title V operating permit actions. A recent decision by the Oregon Supreme Court held that organizations do not have standing to represent their members in challenging State-issued environmental permits. Because of this restriction on access to judicial review, the State's program no longer meets the program approval requirements of Title V and 40 CFR part 70.

Title V of the Act provides for the approval of state programs for the issuance of operating permits that incorporate the applicable requirements of the Act. State permitting authorities must submit programs to EPA that meet certain minimum criteria, and EPA must disapprove a program that fails to meet

these criteria. Among these criteria is a requirement that the state program include procedures for ''judicial review in State court of the final permit action by the applicant, any person who participated in the public comment process, and any other person who could obtain judicial review of that action under applicable law.'' CAA section 502(b)(6). This requirement is echoed in the operating permit program approval regulations promulgated at 40 CFR part 70. *See* § 170.4(b)(3)(x).

EPA has interpreted this requirement to mean that a state must provide the same opportunity for judicial review of Title V permitting actions as would be available in federal court under Article III of the U.S. Constitution. This interpretation has been upheld as ''both authorized by Congress and reasonable.'' *Commonwealth of Virginia v. Browner,* 80 F.3rd 869 (4th Cir., 1996).

Article III generally requires that, to obtain judicial review, a person must suffer an actual or threatened injury. However, an organization that does not suffer actual or threatened injury to itself may obtain judicial review on behalf of its members when (1) the members would otherwise have standing to sue in their own right, (2) the interests the organization seeks to protect are germane to its purpose, and (3) neither the claim asserted, nor the relief requested, requires the participation of individual members in the lawsuit. In such a case, the organization itself need not show actual or threatened injury. *See Hunt v. Washington Apple Advertising Comm'n,* 432 U.S. 333, 341–345 (1977). This exception to the Article III requirement for actual or threatened injury is known as ''representational standing.''

On July 18, 1996, the Oregon Supreme Court issued a decision in *Local 290, Plumbers and Pipefitters* v. *Oregon Department of Environmental Quality,* 323 Or. 559, 919 P. 2d 1168 (''*Local 290*''). Interpreting the language of the state Administrative Procedures Act (APA), the Court held that this statute requires that the person seeking judicial review under that statute must be aggrieved (which, under Oregon law, is roughly synonymous with having suffered actual or threatened injury), and that representational standing is therefore not allowed. The Oregon APA governs judicial review for all State environmental permits.

On August 1, 1996, EPA received a petition from a coalition of Oregon environmental groups requesting that EPA withdraw approval of the State's CAA Title V and Clean Water Act National Pollutant Discharge Elimination System (NPDES) programs on the basis that these programs no longer met federal minimum requirements in light of *Local 290.* EPA subsequently received a written opinion from the Oregon Department of Justice, dated October 21, 1996, addressing the question of whether the *Local 290* decision renders the Oregon programs deficient from the standpoint of federal approval. On January 14, 1997, the EPA Region 10 Administrator wrote the Director of the Oregon Department of Environmental Quality informing him that EPA was reviewing the petition for withdrawal. On April 21, 1997, the Regional Administrator again wrote to the Director of ODEQ, informing him that EPA had reviewed the *Local 290* decision, and had reached a preliminary conclusion that the decision rendered the State's Title V program deficient. After noting that *Local 290* appears to preclude an organization from suing on behalf of its members unless the organization itself is aggrieved, the letter inquires whether the State could offer a different opinion regarding the effect of this decision. To date, EPA has not received a formal response to this inquiry.

EPA at this time concludes that the *Local 290* decision should be interpreted to mean that representational standing is not allowed under the State APA. The only analysis of this issue from the state that EPA knows of is the October 21, 1996, opinion from an Assistant Attorney General for the Oregon Department of Justice. While not taking issue with the apparent holding of *Local 290,* the opinion questions whether Title V does in fact require a state program to provide for representational standing. Subsequent to receiving this opinion, EPA has reviewed the question and has again concluded that representational standing is a requirement for Title V approval.

The Oregon Department of Justice opinion also suggests, but does not strongly assert, that Oregon state regulations approved by EPA pursuant to Title V may obviate the effect of *Local 290,* because these regulations provide that any person who submitted comments during the public comment period on a permit is ''adversely affected or aggrieved'' for the purpose of intervening in a contested case hearing under the Oregon APA. *See* Oregon Administrative Rules §§ 340–28–2300(4) and 340–28–2290. The apparent inference is that a party (including an organization representing its members) would be considered ''adversely affected or aggrieved'' in state court merely by virtue of the fact that its submittal of comments gave it standing to intervene in a contested case hearing.

EPA does not believe that this regulatory provision removes the barrier to judicial review created by *Local 290.* First, CAA section 502(b)(6) requires that a state provide an opportunity for judicial review to the permittee *or* to any person who participated in the public comment period. This requirement is not satisfied by merely allowing persons to intervene in a proceeding commenced by the permittee. Second, the State regulation nominally addresses only contested case hearings. The opinion does not explain why a party's standing within the administrative adjudicatory forum would necessarily carry over to State judicial courts. In EPA's opinion, the inference that a party qualifying as ''adversely affected or aggrieved'' in this manner for purposes of a contested case hearing would necessarily have standing in State court is particularly weak given that the State regulation was promulgated prior to *Local 290* and uses the same ''adversely affected or aggrieved'' language employed by the APA provision at issue in the *Local 290* decision. In summary, EPA is not convinced that this or any other existing Oregon regulation obviates the effect of *Local 290* for purposes of State court review of Title V permitting decisions.

As noted above, the barriers to standing created by *Local 290* apply to all environmental permits for which judicial review is governed by the State APA. This includes permits issued pursuant to the State's NPDES program. This decision requires interpretation of the recently promulgated regulation addressing standing for judicial review in state NPDES programs, codified at 40 CFR 123.30. *See* 61 FR 20972 (May 8, 1996). EPA plans to hold a public hearing on this issue if representational standing is not restored for NPDES permits during the next Oregon legislative session. The primary purpose of this hearing would be to gather information regarding the extent to which *Local 290* interferes with public participation in the permitting process. Gathering this information would enable EPA to make a more informed decision regarding whether to proceed with NPDES program withdrawal. For the present, EPA notes that restoring representational standing to challenge State NPDES permits will obviate the need for further inquiry into whether *Local 290* poses a problem for continued EPA approval of the State's NPDES program.

40 CFR 70.10(c)(1) provides that EPA may withdraw a part 70 program approval, in whole or in part, whenever

the approved program no longer complies with the requirements of part 70. This section goes on to list a number of potential bases for program withdrawal, including the case where the permitting authority's legal authority no longer meets the requirements of part 70 because a court has struck down or limited state authorities to administer the program. 40 CFR 70.10(c)(1)(I)(B).

40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal that the permitting authority be notified of any finding of deficiency by the Administrator and that the document be published in the **Federal Register**. Today's document satisfies this requirement and constitutes a finding of program deficiency. If the permitting authority has not taken ''significant action to assure adequate administration and enforcement of the program'' within 90 days after publication of a notice of deficiency, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, or promulgate, administer, and enforce a federal Title V program. 40 CFR 70.10(b)(2). Part 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18 months after the date of finding of deficiency, EPA must promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding.

This document is not a proposal to withdraw the State's Title V program. Consistent with part 70.10(b)(2), EPA will wait at least 90 days, at which point it will determine whether the State has taken significant action to correct the deficiency. Any proposal to withdraw approval of the State's Title V program will occur after the end of the 90-day period.

II. Administrative Requirements

As noted above, publication of this notice of deficiency does not effect a withdrawal of the State's Title V program. Program withdrawal, if necessary, will be accomplished through a subsequent notice-and-comment rulemaking. This action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). The Office of Management and Budget has exempted this action from review under Executive Order 12866 (58 FR 51735, October 4, 1993). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

This action is a Notice of Deficiency and does not constitute a rule; therefore Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks does not apply. For the same reason, section 112(d) of the National Technology Transfer Advancement Act of 1995 also does not apply.

Dated: November 20, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–31800 Filed 11–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6194–7]

The Freelove Valley Home Meth Lab Superfund Site; Notice of Proposed Agreement for Payment Future Costs and Recovery of Past Response Costs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA), notice is hereby given that a proposed CERCLA section 122(h)(i) Agreement for Payment of Past Costs associated with the Freelove Valley Home Meth Lab Superfund Site (Site) was executed by EPA and the Mr. Ramon Cercas. The proposed Agreement would resolve certain claims of EPA under section 107 of CERCLA, 42 U.S.C. 9607. The proposed Agreement would require Mr. Ramon Cercas to pay to EPA $12,000 for the work conducted by EPA at the Site.

For thirty (30) days following the date of publication of this document, EPA will receive written comments relating to the settlement. If requested prior to the expiration of this document, EPA will provide an opportunity for a public meeting in the affected area. EPA's response to any comments received will be available for inspection at the U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before December 30, 1998.

AVAILABILITY: A copy of the proposed Agreement may be obtained from David Rabbino, Assistant Regional Counsel (RC–3), 75 Hawthorne Street, San Francisco, California 94105. Comments should reference the Freelove Valley Home Meth Lab Superfund Site and EPA Docket No. 99–02, and should be addressed to David Rabbino at the above address.

FOR FURTHER INFORMATION CONTACT: David Rabbino, Office of Regional Counsel, U.S. EPA, Region IX, 75 Hawthorne Street, (RC–3), San Francisco, California 94105; E-mail: Rabbino.David@epamail.epa.gov; Telephone: (415) 744–1336.

Keith Takata,

Acting Deputy Director, Superfund Division, Region IX.

[FR Doc. 98–31804 Filed 11–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRC–6194–6]

Southern Wood Piedmont Superfund, Wilmington, New Hanover, North Carolina; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement.

SUMMARY: Pursuant to section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) proposes to enter into an Agreement for the Recovery of Past Response Costs with Southern Wood Piedmont, Inc. and its parent company, Rayonier, Inc. (Settling Parties). Pursuant to the Agreement, the Settling Parties will reimburse EPA all response costs expended at the Site, excluding interest that has accrued such costs.

EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the