

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Cooper Industries, LLC*, DOJ Ref. 90-11-3-08559.

The proposed consent decree may be examined at the office of the United States Attorney, 110 East Court Avenue, Suite 286, Des Moines, IA 50309-2044 and at U.S. EPA Region 7, 901 N. 5th Street, Kansas City, KS 66101. During the comment period, the consent decree may be examined on the following Department of Justice Web site to [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the consent decree also may 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, please enclose a check in the amount of \$4.50 (without attachments) or \$4.75 (with attachments) for *United States v. Cooper Industries, LLC*, (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Robert E. Maher, Jr.,**

*Assistant Section Chief, Environmental Enforcement Section.*

[FR Doc. 06-8741 Filed 10-17-06; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

### Notice of Proposed Agreement Regarding Alleged Non-Compliance With Consent Decree in *United States v. Cummins Engine Company, Inc.*

Notice is hereby given of a proposed Agreement Regarding Alleged Non-Compliance with Consent Decree ("Agreement") in the case of *United States v. Cummins Engine Company, Inc.*, Civil Action No. 98-02546, in the United States District Court for the District of Columbia.

The Agreement resolves four matters involving Cummins' alleged failure to comply with a 1999 Consent Decree settling claims under Title II of the Clean Air Act, 42 U.S.C. 7521 *et seq.* (the "Act"), regarding the alleged use of illegal emission-control "defeat devices" on Cummins' 1998 and prior heavy-duty diesel engines ("HDDs").

The first matter concerns Cummins' use of a computer-based auxiliary emission control device ("AECD") to prevent engine overheating, on approximately 11,600 model years 2000-2003 engines sold for use in school buses and recreational vehicles. The overheat AECD, which required EPA approval, did not operate in the manner described in Cummins' applications to EPA for regulatory "certificates of conformity" permitting the sale of the engines in the United States and as pre-approved in the 1999 Consent Decree. The second matter concerns Cummins' use of 1101 more Averaging, Banking and Trading ("AB&T") Credits than was permitted by the consent Decree. The third matter relates to Cummins' implementation of a Low NO<sub>x</sub> Rebuild Program for which Cummins failed to request the requisite EPA approval (until April 13, 2006). The last matter is Cummins' omission of 26,347 engines from its Low NO<sub>x</sub> Rebuild Program. In addition, the Settlement resolves Cummins' disclosure to the United States that in 2001 it violated provisions of 40 CFR part 86 in connection with certification testing of engines under the Consent Decree by its failure to perform test equipment calibrations within applicable time limits set forth in 40 CFR 86.1321; 1321(b); 1323(a) & (b) and 1324.

These violations are addressed through Cummins' payment of an agreed penalty in the amount of \$950,000, to be shared between the United States and the California Air Resources Board. Cummins will also continue a recall to fix or disable the overheat AECD. Lastly, Cummins will recoup the excess tons of NO<sub>x</sub> emitted by its violations of the Consent Decree, offset by any tons obtained in the ongoing recall. The NO<sub>x</sub> tons must come from one of three sources: (1) Cummins' on-road AB&T accounts; (2) Cummins' off-road AB&T accounts; or (3) currently valid stationary source NO<sub>x</sub> tons purchased on the open market through a licensed broker.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Cummins Engine Company, Inc.*, D.J. Ref. 90-5-2-1-2136A.

During the public comment period, the Agreement may be examined on the following Department of Justice Web

site, <http://www.usdoj.gov/enrd/open.html>.

A copy of the Agreement 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 of the Decree from the Consent Decree Library, please enclose a check in the amount of \$4.50 (25 cents per page reproduction cost for 18 pages) payable to the U.S. Treasury.

**Karen Dworkin,**

*Assistant Chief, Environmental Enforcement Section.*

[FR Doc. 06-8742 Filed 10-17-06; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that on October 4, 2006, a proposed consent decree in *United States and State of Indiana v. City of Indianapolis*, Civ. No. 1:06-cv-1456, was lodged with the United States District Court for the Southern District of Indiana.

In this action the United States sought civil penalties and injunctive relief for alleged violations of Sections 301 and 402 of the Clean Water Act, 33 U.S.C. 1319 and 1342, in connection with the City's operation of its municipal wastewater and sewer system. The City currently discharges approximately eight billion gallons of untreated sewage per year from approximately 133 Combined Sewer Overflows, Sanitary Sewer Overflows, and bypass locations into the White River and its tributaries. The Complaint alleges that the City's discharges, which occur approximately 60 times per year, violate the Clean Water Act either because the discharges violate limitations and conditions in the City's National Pollutant Discharge Elimination System (NPDES) permits, or because the discharges are from point sources not authorized by the City's NPDES permits. The Complaint also asserts claims for violations of comparable State law on behalf of the State of Indiana.

Under the proposed Consent Decree, the City would be required to: (1) Implement a Long Term Control Plan which would greatly reduce Combined Sewer Overflows; (2) implement a plan designed to eliminate Sanitary Sewer Discharges; (3) perform a Supplemental