

*de minimis* parties and shall pay a total of approximately \$8 million toward financing the work at the Site. The Consent Decree also resolves the claims against the five agencies of the United States: the Department of the Air Force, the Department of the Army, the Department of the Navy, the Federal Aviation Administration, and the United States Postal Service (“Settling Federal Agencies”). Pursuant to the Consent Decree, the Settling Federal Agencies shall pay approximately \$14 million toward financing the work at the Site.

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, 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. ExxonMobil Corporation, et al.*, Civil Action No. 1:07-cv-00060-PB, D.J. Ref. 90-11-3-07039/11.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of New Hampshire, 53 Pleasant Street, Concord, New Hampshire 03301, and at the United States Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100, Boston, Massachusetts 02114-2023. During the public comment period, the proposed Consent Decree 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 proposed Consent Decree 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. If requesting a copy by mail from the Consent Decree Library, please enclose a check in the amount of \$184.75 (\$0.25 per page reproduction cost) payable to the United States Treasury or, if requesting by e-mail or fax, forward a check in that amount to the consent Decree Library at the stated address. If requesting a copy exclusive of exhibits and/or defendants’ signatures, please enclose a check in the amount of \$32.75 (\$0.25 per page

reproduction cost) payable to the United States Treasury.

**Maureen Katz,**

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

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**DEPARTMENT OF JUSTICE**

**Notice of Lodging of Consent Decree Under the Clean Air Act (CAA)**

In accordance with Seciton 113(g) of the CAA, 42 U.S.C. 7413(g), and 28 CFR 50.7, notice is hereby given that on April 26, 2007, the proposed Consent Decree in *United States v. Rhodia Inc.*, Civil Action No. 2:07CV134 WL, was lodged with the United States District Court for the Northern District of Indiana.

In this action, the United States asserts claims against Rhodia Inc. (Rhodia) under Sections 42 U.S.C. 7475-7477 and 7503, and 42 U.S.C. 7411 of the Clean Air Act (the Act) relating to violations of the New Source Review permitting and control technology requirements, as well as the New Source Performance Standards at six Rhodia sulfuric acid plans in Hammond, Indiana; Baytown and Houston, Texas; Martinez and Dominguez, California; and Baton Rouge, Louisiana.

The Consent Decree requires Rhodia to pay a civil penalty of \$2,000,000 of which \$1,000,000 will be paid to the United States and the rest will be divided amongst the City of Hammond, Indiana; the State of Indiana; the State of Louisiana; and the Bay Area Air Quality Management District of California. The Consent Decree further requires Rhodia to meet certain emission limits for sulfur dioxide and acid mist, and to comply with the NSPS, Subpart H requirements, including performance testing and monitoring.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and National 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. Rhodia Inc.*, D.J. Ref. 90-5-2-1-08500.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 5400 Federal Plaza,

Suite 1500, Hammond, IN 46230, and at U.S. EPA Region V, 77 W. Jackson Blvd., Chicago, IL 60604. During the public comment period, the Consent Decree 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 proposed Consent Decree 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 no. (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$29.00 (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.

**William D. Brighton,**

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

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**BILLING CODE 4410-15-M**

**DEPARTMENT OF JUSTICE**

**Notice of Lodging of Consent Decree Under the Clean Air Act**

Notice is hereby given that on April 19, 2007, a proposed Consent Decree in *United States v. Shan Industries, LLC*, Civil Action No. 2:07-1839 (JLL) was lodged with the United States District Court for the District of New Jersey.

In this action the United States sought civil penalties and injunctive relief relating to alleged violations of the Clean Air Act, 42 U.S.C. 7401, *et seq.*, and the National Emissions Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 CFR Part 63, Subpart N, and the National Emissions Standards for Halogenated Solvent Cleaning, 40 CFR Part 63, Subpart T, arising out of Shan Industries, LLC’s ownership and operation of its Accurate Forming facility, located in Hamburg, New Jersey. Shan uses trichloroethylene and hexavalent chromium to degrease and electroplate “deep drawn” metal parts used in such products as writing implements and automotive fuel filters. The Consent Decree resolves the claims alleged in the Complaint that Shan violated the Act and the pertinent regulations in its operations, and failed to comply with certain design, testing, operating, monitoring and reporting

requirements. Shan has demonstrated that it has brought the facility into compliance. The Consent Decree requires Shan to pay, based on its limited financial ability, a civil penalty of \$101,000 in three annual installments, and provides that Shan will comply with reporting requirements set forth in the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. 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. Shan Industries, LLC*, D.J. Ref. 90-5-2-1-08362/1. Such comments may also be sent by e-mail to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov).

The Consent Decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, 7th Floor, Newark, NJ 07102, and at U.S. EPA Region 2, 290 Broadway, New York, NY 10007-1866. During the public comments period, the Consent Decree 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 Consent Decree 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 \$6.50 (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.

**Maureen Katz,**

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

[FR Doc. 07-2161 Filed 5-2-07; 8:45 am]

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**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

[Docket No. 05-3]

**John J. Fotinopoulos; Revocation of Registration**

On October 7, 2004, the Deputy Assistant Administrator, Office of

Diversion Control, Enforcement Administration, issued an Order to Show Cause to John J. Fotinopoulos (Respondent) of Gainesville, Florida. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, 002964JTY, as a distributor of listed chemicals, on the ground that his continued registration would be inconsistent with the public interest. See 21 U.S.C. 824(a)(4) & 823(h). The Show Cause Order also proposed the denial of Respondent's pending applications for modification and renewal of his registration.

The Show Cause Order alleged that Respondent distributed listed chemicals to the non-traditional market. More specifically, the Show Cause Order alleged that in July 2003, Respondent moved his business from SW 47th St., Gainesville, Florida, to a trailer park located at SW Archer Road, Gainesville, Florida, but failed to request a modification of his registered location as required by DEA regulations until January 15, 2004. Show Cause Order at 2-3. The Show Cause Order further alleged that from July 2003 through January 2004, Respondent violated federal law by distributing listed chemicals from his new location which was not registered. *Id.* at 3.

The Show Cause Order also alleged that in 2001, a DEA investigator had inspected Respondent and found his recordkeeping and customer identification practices to be inadequate. *Id.* The Show Cause Order further alleged that during a May 2004 inspection, DEA investigators had again determined that Respondent's recordkeeping was inadequate, that he was unable to identify whether certain products were regulated because they contained listed chemicals, and that he was unfamiliar with the regulations pertaining to thresholds and regulated transactions. *Id.* Relatedly, the Show Cause Order alleged that Respondent told investigators that he kept information pertaining to his customers in his head. *Id.* Finally, the Show Cause Order alleged that Respondent's security arrangements were inadequate. See *id.*

Respondent, through his counsel, timely requested a hearing. The matter was assigned to Administrative Law Judge (ALJ) Gail Randall, who conducted a hearing in Gainesville, Florida, on April 19 and 20, 2005. At the hearing, both parties introduced documentary evidence and called witnesses to testify; both parties also submitted post-hearing briefs.

On October 11, 2006, the ALJ issued her decision.<sup>1</sup> In her decision, the ALJ found that four of the five statutory factors, see 21 U.S.C. 823(h), supported the revocation of Respondent's registration and the denial of his pending applications for renewal and modification of the registration. ALJ at 41. Neither party filed exceptions.

Having reviewed the record as a whole, I hereby issue this decision and final order. I adopt the ALJ's findings of fact and conclusions of law except as expressly noted herein. I further adopt the ALJ's recommendation that Respondent's registration should be revoked and his pending applications for renewal and modification should be denied and make the following findings.

**Findings of Fact**

Respondent distributes assorted products including maps, cigarette lighters, rolling papers, prophylactics, batteries, and over-the-counter drug products to convenience stores, gas stations and liquor stores in northern Florida and southern Georgia. Gov. Ex. 27. Respondent is the holder of DEA Certificate Registration, No. 002964JTY, which authorizes him to distribute list I chemical products. ALJ at 3. Since 1998, Respondent has held a registration at his former residence which was located at 4000 SW 47th Street, Gainesville, Florida. *Id.* In early July 2003, Respondent moved from this address to a mobile home park located at 7117 SW Archer Road, Gainesville, Florida. Tr. 286.

On November 10, 2003, Respondent filed an application to renew his registration and paid the fee. Gov. Ex. 3; Tr. 289. On the application, Respondent sought to distribute pseudoephedrine and ephedrine from his new address. Gov. Ex. 3, at 2.

As explained in numerous DEA final orders, both pseudoephedrine and ephedrine currently have therapeutic uses. See, e.g., *Tri-County Bait Distributors*, 71 FR 52160, 52161 (2006).<sup>2</sup> Both chemicals are, however, regulated under the Controlled Substances Act because they are precursor chemicals which are easily extracted from non-prescription products and used in the illicit manufacture of methamphetamine, a Schedule II controlled substance. See 21 U.S.C. 802(34); 21 CFR 1308.12(d).

Methamphetamine is a powerful and highly addictive central nervous system

<sup>1</sup> The ALJ's Decision will be cited as "ALJ."

<sup>2</sup> The FDA is, however, currently proposing to remove combination ephedrine-guaifenesin products from its over-the-counter (OTC) drug monograph and to declare them not safe and effective for OTC use. See 70 FR 40232 (2005).