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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

- - - - - - - - - - - - - - - - - -X

UNITED STATES OF AMERICA,

Plaintiff,

- against -

SHAN INDUSTRIES, LLC,

Defendant.

- - - - - - - - - - - - - - - - - -X

COMPLAINT

Civil Action No.

The United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this Complaint and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for injunctive relief and for the imposition of civil penalties brought pursuant to Section 113(b) of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. (the "Act"), against defendant Shan Industries, LLC. Shan Industries, LLC violated the Act and the National Emissions Standards for Halogenated Solvent Cleaning, ("Halogenated Solvent MACT Standard"), 40 C.F.R. Part 63, Subpart T, and the National Emissions Standards for Chromium Emissions for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks ("Chromium MACT Standard"), 40 C.F.R. Part 63, Subpart N.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355, and Section 113(b) of the Act, 42 U.S.C. § 7413(b).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1395(a) and under Section 113(b) of the Act, 42 U.S.C. § 7413(b), because the alleged violations took place in this district and Shan Industries, LLC is doing business in this district.

NOTICES

4. The United States has notified the New Jersey Department of Environmental Protection ("NJDEP") of the

that emits or has the potential to emit, considering controls in the aggregate, ten (10) tons or more of any hazardous air pollutant ("HAP") or twenty-five (25) tons per year or more of any combination of HAPs.

9. Section 112(a)(3) of the Act, 42 U.S.C. § 7412(a)(3), defines "stationary source" as any building, structure, facility, or installation which emits or may emit any air pollutant.

10. Section 112(a)(9) of the Act, 42 U.S.C. § 7412(a)(9), defines "owner or operator" as any person who owns, leases, operates, controls or supervises a stationary source.

11. Section 112(d) of the Act, 42 U.S.C. § 7412(d), directs the Administrator to promulgate regulations establishing emission standards for each category or subcategory of major and area sources of HAPs.

12. Section 112(i)(3) of the Act, 42 U.S.C. § 7412(i)(3), provides that after the effective date of any emissions standard, limitation or regulation promulgated pursuant to Section 112 and applicable to a source, no person may operate such source in violation of such standard, limitation or regulation, except in the case of an existing source. In the case of an existing source, EPA shall establish a compliance date or dates for each standard, which provides for compliance as

expeditiously as practicable, but in no event later than three years after the effective date of such standard.

13. Section 302(e) of the Act, 42 U.S.C. § 7602(e), defines the term "person" as an individual, corporation, partnership, association, State municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

14. Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes EPA to commence a civil action for injunctive relief and civil penalties against any person who has violated any requirement or prohibition of the Act or regulations promulgated thereunder, such as violations of a NESHAP, or who has violated any applicable permit or implementation plan.

15. Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), authorizes EPA to commence a civil action against any person who has violated or who is in violation of any requirement or prohibition of the Act other than a State Implementation Plan or permit, such as violations of MACT standards and orders issued under the Act, such as in this case.

16. EPA may bring a civil action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), for injunctive relief and/or civil penalties of up to $25,000 per day for each violation of the Act. The Debt Collection Improvement Act, 31

U.S.C. 3701 *et seq.*, requires EPA to periodically adjust its civil penalties for inflation. On December 31, 1996 and February 13, 2004, EPA adopted regulations entitled "Adjustment of Civil Monetary Penalties for Inflation," 40 C.F.R. Part 19, which provide that the maximum civil penalty should be adjusted up to $27,500 per day for each violation that occurs from January 30, 1997 through March 14, 2004 and $32,500 per day for each violation that occurs on or after March 15, 2004.

* * *

Halogenated Solvent MACT Standards

17. On December 2, 1994, pursuant to the authority of Sections 112 and 114 the Act, 42 U.S.C. §§ 7412 and 7414, EPA promulgated the Halogenated Solvent MACT Standard. Pursuant thereto, for an existing source, an owner or operator must have achieved compliance with the Halogenated Solvent MACT Standard on or before December 2, 1997 unless an extension was granted by the Administrator as provided by Section 112(i)(3) of the Act, 42 U.S.C. § 7412(i)(3), and 40 C.F.R. § 63.6(i).

18. 40 C.F.R. § 63.460(a) specifies that each batch vapor, in-line vapor, in-line cold and batch cold solvent cleaning machine that uses any solvent as a cleaning and drying agent and which contains one or any combination of the halogenated HAP solvents listed in § 63.463(a), in a total

concentration greater than five percent by weight, is subject to the Halogenated Solvent MACT Standard.

19. 40 C.F.R. § 63.460(b) provides that Halogenated Solvent MACT Standard affected sources are subject to Subpart A, the general MACT provisions, located at 40 C.F.R. § 63, with exceptions not applicable hereto.

20. 40 C.F.R. § 63.463 provides that each owner or operator of an affected source shall conform to the design requirements specified in paragraphs (a)(1) through (7) of this Section.

21. 40 C.F.R. § 63.2 defines "affected source" as the collection of equipment, activities, or both within a single contiguous area and under common control that is regulated by a relevant standard or other requirement established pursuant to Section 112 of the Act, 42 U.S.C. § 7412.

22. 40 C.F.R. § 63.467(a)(4) provides that the owner or operator of an affected source comply with the idling emission limit standards of § 63.463(b)(1)(ii), (b)(2)(ii), (c)(1)(ii), or (c)(2)(ii), and shall maintain records of the initial performance test, including the idling emission rate and values of the monitoring parameters measured during the test.

23. 40 C.F.R. § 63.467(c) provides that the owner or operator of an affected source shall maintain records specified

in the Section at paragraphs (c)(1) through (3), either in electronic or written form for a period of five years.

24. 40 C.F.R. § 63.468(f) provides that the owner or operator of an affected source shall submit an annual report by February 1st of the year following the one for which the reporting is being made. The Section also provides that this report shall include the requirements specified in it at paragraphs (f)(1) through (3).

25. 40 C.F.R. § 63.468(h) provides that the owner or operator of an affected source shall submit an exceedance report to the Administrator quarterly once an exceedance has occurred, and be delivered or postmarked by the thirtieth day following the end of each calendar quarter. The Section provides that the exceedance report shall include the information specified in it at paragraphs (h)(1) through (3).

* * *

Chromium MACT Standard

26. On January 25, 1995, pursuant to the authority of Sections 112 and 114 of the Act, 42 U.S.C. §§ 7412 and 7414, EPA promulgated the Chromium MACT Standard. For an existing source, as defined at § 7412(a)(10), an owner or operator must have achieved compliance with the Chromium MACT Standard on or before January 25, 1997 for a hard chromium electroplating tank, and on or before January 26, 1996 for a decorative chromium

electroplating tank, unless an extension was granted by the Administrator as provided by Section 112(i)(3) of the Act, 42 U.S.C. § 7412(i)(3), and 40 C.F.R. §§ 63.6(i) and 63.343(a)(6).

27. 40 C.F.R. § 63.340(a) specifies that each chromium electroplating tank or chromium anodizing tank at a facility performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing is subject to the Chromium MACT Standard.

28. 40 C.F.R. § 63.340(b) provides that Chromium MACT Standard affected sources are subject to Subpart A, the general HAP provisions, located at 40 C.F.R. § 63, as identified by Table 1 of the Chromium MACT Standard.

29. 40 C.F.R. § 63.342(c)(1) provides that hard chromium electroplating tanks are subject to the emission limitations provided in § 63.342(c)(1)(i) or (ii).

30. 40 C.F.R. § 63.342(d) specifies the standard for decorative chromium electroplating tanks.

31. 40 C.F.R. § 63.342(f) provides that owners and operators of facilities subject to § 63.342(c) or (d) shall comply with good air pollution control practices consistent with an operation and maintenance plan to be prepared and implemented by the compliance date (specified for, each type of affected source in § 63.343) as required by § 63.342(f)(3). In addition, the Section requires that the owner or operator of such

facilities correct malfunctions in accordance with the required plan.

32. 40 C.F.R. § 63.343(b) provides that an owner or operator of an affected source shall conduct an initial performance test using the test methods and procedures specified in Section 63.344 and Section 63.7.

33. 40 C.F.R. § 63.343(c) identifies the monitoring required by the Chromium MACT Standard according to the type of air pollution control equipment that is used to comply with the emission limitation.

34. 40 C.F.R. § 63.344(a) provides that performance test reports shall be documented in complete reports that contain the information required by paragraphs (a)(1) through (9) of § 63.344.

35. 40 C.F.R. § 63.344(c) provides that owners or operators of affected sources who are required to perform initial performance tests shall use the test methods identified in § 63.343 to demonstrate continuous compliance with § 63.342 and to set up compliant operating parameter values in accordance with § 63.343(c).

36. 40 C.F.R. § 63.346(a) provides that owners or operators of affected sources subject to the Chromium MACT Standard shall comply with the record keeping requirements of § 63.346 and the General Provisions of Part 63. These include

records of: inspection and maintenance of source and add-on air pollution controls and monitoring equipment; occurrence, duration, cause of, responses to and information on excess emissions resulting from malfunctions of such equipment; operation and maintenance records; performance test reports and compliance monitoring data.

37. 40 C.F.R. § 63.346(c) provides that the owner or operator shall maintain, for five years, the records required by 40 C.F.R. § 63.346(b).

38. 40 C.F.R. Part 63 Subpart A, as well as, 40 C.F.R. § 63.347 of the Chromium MACT Standard contain the reporting requirements for the Chromium MACT Standard affected facilities.

39. 40 C.F.R. § 63.347(g)(1) provides that the owner or operator of an affected source that is located at a major source site shall prepare a summary report to document the ongoing compliance status of the affected source which contains the information identified in § 63.347(g)(3).

40. 40 C.F.R. § 63.347(g)(1) also provides that the owner or operator shall prepare the report semiannually, unless more frequent reporting is warranted, then until the conditions of Section 63.347(g)(2) are met, and retain the report on site and make it available to the Administrator upon request.

FACTUAL ALLEGATIONS

41. Shan is an owner or operator of the Plant located at 24 Ames Boulevard, Hamburg, New Jersey 07419.

42. Shan began operations at the Plant in January 2000.

43. Shan manufactures "deep drawn" metal components that form various metal parts and applies chromium finishes on them at the Plant.

44. As part of its operations, Shan operated and continues to operate three degreasers subject to the Halogenated Solvent MACT Standard, 40 C.F.R. § 63.460, and two chromium plating units subject to the Chromium MACT Standard, § 63.340.

45. Shan's operations emit the HAPs trichloroethylene ("TCE") and chromium and have the potential to emit, facility-wide, well over the major source thresholds of ten (10) tons per year of a single HAP, or a combination of twenty-five (25) tons per year of a combination of more than one HAP.

46. Shan submitted the initial notifications of operation for the Bulk Degreaser and the Conveyer Degreaser to EPA in December 2003.

47. Shan operated its Bulk Degreaser out of compliance with the Halogenated Solvent MACT Standard from at least 2000 until in or about January 2004.

48. Shan operated its Conveyor Degreaser out of compliance with the Halogenated Solvent MACT Standard during the summer of 2003.

49. Shan operated its Refill Degreaser out of compliance with the Halogenated Solvent MACT Standard from at least 2000 through about July 2006.

50. Shan submitted the initial notifications of the facility's operation of the chromium electroplating units to EPA in December 2003.

51. Shan operated its two chromium electroplating units out of compliance with the Chromium MACT Standard until the summer of 2004.

52. Shan's degreasers use TCE to clean metal parts.

53. Shan's tanks use chromium for coating metal parts.

54. Shan is a major source within the meaning of Section 112(a) of the Act.

55. Shan is a stationary source within the meaning of Section 112(a) of the Act, 42 U.S.C. § 7412(a).

56. Shan is an affected source within the meaning of 40 C.F.R. § 63.2.

CLAIMS FOR RELIEF

HALOGENATED SOLVENT MACT STANDARD VIOLATIONS

First Claim for Relief: Operation of a Batch Vapor Solvent Cleaning Machine (Refill Degreaser) That Fails to Meet Basic Design Requirements

57. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

58. 40 C.F.R. § 63.463(a) provides that an owner or operator of a solvent cleaning machine subject to Subpart T shall ensure that each such machine conforms to the design requirements specified in paragraphs (a)(1) through (a)(7) of that section.

59. Shan has operated and continues to operate its Refill Degreaser, which is a batch vapor solvent cleaning machine subject to Subpart T out of compliance with § 63.463(a).

60. Each day of Shan's operation of the Refill Degreaser is a separate violation of Section 112 of the Act, 42 U.S.C. § 7412, and the applicable regulations, and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

61. Unless restrained by order of this Court, Shan will continue to violate 40 C.F.R. § 63.463(a) and the Act.

Second Claim for Relief:
Failure to Maintain Records

62. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

63. 40 C.F.R. § 63.467(a) provides that owners and operators of batch vapor and in-line solvent cleaning machines subject to § 63.463 shall comply with the record-keeping requirements set forth in Paragraphs (a)(1) through (a)(7) of this section.

64. 40 C.F.R. § 63.467(c) provides that owners and operators of batch vapor and in-line solvent cleaning machines subject to § 63.464 shall comply with the record-keeping requirements set forth in Paragraphs (c)(1) through (c)(3) of that section.

65. Shan failed to maintain records as required by 40 C.F.R. § 63.467(a)(4) and (c).

66. Shan failed to maintain required records for its in-line degreaser operations from in or about January 2000 until in or about November 2002.

67. Shan failed to maintain required records for its batch vapor degreaser from in or about January 2000 until in or about December 2004.

68. Each day that Shan failed to maintain records, in accordance with Section 114 of the Act, 42 U.S.C. § 7414, and each applicable regulation, is a separate violation of Section

113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

69. Unless restrained by order of this Court, Shan will continue to violate 40 C.F.R. § 63.467(a)(4) and (c) and the Act.

Third Claim for Relief:
Failure to Submit Annual Reports

70. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

71. 40 C.F.R. § 63.468(f) provides that the owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of § 63.463 shall submit an annual report that includes the requirements of Paragraphs (f)(1) through (f)(3) of that section.

72. Shan failed to submit annual reports, pursuant to § 63.468(f), for the period commencing January 2000 through at least January 2004 for both types of its degreasers.

73. Each day that Shan failed to submit an annual report, in accordance with Section 114 of the Act and the applicable regulations, is a separate violation of Section 113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per

day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

Fourth Claim for Relief:
Failure to Submit Quarterly Reports

74. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

75. 40 C.F.R. § 63.468(h) provides that the owner or operator of a batch vapor or in-line solvent cleaning machine shall submit an exceedance report to the Administrator semiannually.

76. Shan failed to submit quarterly reports, pursuant to § 63.468(h), for the period commencing January 2000 through at least January 2004 for both types of its degreasers.

77. Each day that Shan failed to submit such reports, in accordance with Section 114 of the Act and the applicable regulations, is a separate violation of Section 113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

CHROMIUM MACT STANDARD VIOLATIONS

Fifth Claim for Relief:
Failure to Meet Initial Performance Testing Requirements

78. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

79. 40 C.F.R. § 63.343(b) provides that an owner or operator of an affected source subject to Subpart N shall conduct an initial performance test using the test methods and procedures specified in §§ 63.344 and 63.7.

80. 40 C.F.R. § 63.344(a) provides that performance test reports shall be documented in complete reports that contain the information required by paragraphs (a)(1) through (a)(9) of this section.

81. Shan failed to timely meet the performance test requirements of 40 C.F.R. § 63.344, for each source subject to subpart N, specifically the hard chromium and decorative chromium electroplating tanks.

82. Each day of Shan's failure to meet the performance test requirements of 40 C.F.R. § 63.343 for each source, in accordance with Section 114 of the Act, 42 U.S.C. § 7414, is a separate violation of Section 113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500

per day for each violation that occurred or occurs on or after March 14, 2004.

Sixth Claim for Relief:
Failure to Operate Using
Parameters Established During Performance Tests

83. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

84. 40 C.F.R. § 63.344(c) and (d) provide that owners and operators who are required to conduct initial performance tests shall use the test methods identified in § 63.344 to demonstrate continuous compliance with the standards in Section 63.342 and to set up site-specific operating parameter values that correspond to compliance standards.

85. Shan failed to operate using properly established parameters commencing in January 2000.

86. Each failure by Shan to operate using parameters established during performance tests or use parameters provided, in accordance with Section 114 of the Act, 42 U.S.C. § 7414, and the applicable regulations, is a separate violation of Section 113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

Seventh Claim for Relief:
Failure to Operate and Maintain Control Equipment in Accordance with an Operations and Maintenance Plan

87. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

88. 40 C.F.R. § 63.342(f) provides that owners and operators of facilities subject to § 63.342(c) or (d) shall comply with good air pollution control practices consistent with an operations and maintenance plan required by § 63.342(f)(3). In addition, this section requires that the owner and operator of such facilities correct malfunctions in accordance with the required plan.

89. Shan failed to operate and maintain control equipment in accordance with an operations and maintenance plan as required by 40 C.F.R. § 63.342(f).

90. Each day that Shan failed to operate and maintain control equipment in accordance with an operations and maintenance plan, under Section 114 of the Act, 42 U.S.C. § 7414, and the applicable regulations, is a separate violation of Section 113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

91. Unless restrained by order of this Court, Shan will continue to violate 40 C.F.R. § 63.342(f) and the Act.

Eighth Claim for Relief:
Failure to Monitor in Order to Demonstrate Continuous Compliance

92. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

93. 40 C.F.R. § 63.343(c) provides that owners and operators of affected sources subject to Subpart N shall conduct monitoring according to the type of air pollution control technique used to comply with the emission limitation.

94. Shan failed to conduct monitoring of its decorative chromium and hard chromium electroplating tanks as required by § 63.343(c).

95. Each day that Shan failed to conduct monitoring is a separate violation of Section 114 of the Act, 42 U.S.C. § 7414, and the applicable regulations is a separate violation of Section 113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

96. Unless restrained by order of this Court, Shan will continue to violate 40 C.F.R. § 63.343(c) and the Act.

Ninth Claim for Relief:
Failure to Maintain Records

97. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

98. 40 C.F.R. § 63.346(a) provides that owners and operators of affected sources subject to Subpart N shall comply with the record-keeping requirements of § 63.346 and the General Provisions to Part 63.

99. 40 C.F.R. § 63.346(b) provides that the records required to be maintained include records of: inspection and maintenance of source and add-on air pollution controls and monitoring equipment; occurrence, duration, cause of, responses to and information on excess emissions resulting from malfunctions of such equipment; operation and maintenance records; performance test reports; and compliance monitoring data.

100. 40 C.F.R. § 63.346(c) provides that the owner or operator shall maintain, for five years, the records required by Section 63.346(b).

101. Shan failed to maintain Subpart N records, which include requirements to develop and maintain records of performance tests, daily pressure drop readings, operations and maintenance, inspection, malfunction, and air pollution control equipment, as required by § 63.346(a),(b) and (c).

102. Each day that Shan failed to maintain records, in accordance with Section 114 of the Act, 42 U.S.C. § 7414, and the applicable regulations, is a separate violation of Section 113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

103. Unless restrained by order of this Court, Shan will continue to violate 40 C.F.R. § 63.346(a), (b), and (c) and the Act.

Tenth Claim for Relief:
Failure to Maintain Annual Compliance Status Reports

104. Paragraphs 1 through 56 are repeated and realleged with the same force and effect as if fully set forth herein.

105. 40 C.F.R. § 63.347(g)(1) provides that the owner or operator of an affected source that is located at a major source site shall prepare a summary report to document the ongoing compliance status of the affected source which contains the information identified in paragraph (g)(3) of the section. This section also provides that the owner or operator shall prepare this report semiannually, unless the conditions of Section 63.347(g)(2) are met, and retain this report on site and make it available to the Administrator upon request.

106. Shan failed to prepare and maintain annual ongoing compliance status reports as required by 40 C.F.R. §§ 63.347(g)(1) and (g)(2).

107. Each day that Shan failed to maintain ongoing compliance status reports, in accordance with Section 114 of the Act, 42 U.S.C. § 7414, and the applicable regulations, is a separate violation of Section 113(b) of the Act, 42 U.S.C. § 7413(b), and entitles the United States to a civil penalty in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

108. Unless restrained by order of this Court, Shan will continue to violate 40 C.F.R. § 63.347(g)(1) and (g)(2) and the Act.

PRAYER FOR RELIEF

WHEREFORE, the United States of America respectfully requests that this Court:

1. Order Shan to achieve, demonstrate, and thereafter maintain compliance with the Act and its applicable regulations at the Plant;

2. Order Shan to pay a civil penalty for each violation of the Act and the applicable regulations promulgated pursuant to the Act, in an amount not to exceed $27,500 per day for each violation that occurred from January 31, 1997 through March 14, 2004 and $32,500 per day for each violation that occurred or occurs on or after March 14, 2004.

3. Award the United States its costs and disbursements of this action; and

4. Grant the United States such other and further relief as it deems just and proper.

Dated: , 2007

ELLEN M. MAHAN
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

_____

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