

National Primary Drinking Water Regulations.

Dated: June 5, 2007.

**Walter W. Kovalick, Jr.,**

*Acting Regional Administrator, Region 5.*

[FR Doc. E7-12049 Filed 6-20-07; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL ELECTION COMMISSION

### Notice of Sunshine Act Meeting

**DATE AND TIME:** Tuesday, June 26, 2007 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

#### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

#### PERSON TO CONTACT FOR INFORMATION:

Mr. Robert Biersack, Press Officer,  
Telephone: (202) 694-1220.

**Mary W. Dove,**

*Secretary of the Commission.*

[FR Doc. 07-3065 Filed 6-19-07; 12:33 pm]

**BILLING CODE 6715-01-M**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in

writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 16, 2007.

**A. Federal Reserve Bank of San Francisco** (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. *WCB Holdings, Inc.*; to become a bank holding company by acquiring 100 percent of the voting shares of Western Commercial Bank, both of Woodland Hills, California.

Board of Governors of the Federal Reserve System, June 18, 2007.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E7-12014 Filed 6-20-07; 8:45 am]

**BILLING CODE 6210-01-S**

## FEDERAL TRADE COMMISSION

[File No. 061 0229]

### American Petroleum Company, Inc.; Analysis of Agreement Containing Consent Order to Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before July 13, 2007.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to “American Petroleum, File No. 061 0229,” to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text

and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room 135-H, 600 Pennsylvania Avenue, NW., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled “Confidential,” and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).<sup>1</sup> The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to email messages directed to the following email box: [consentagreement@ftc.gov](mailto:consentagreement@ftc.gov). The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at [www.ftc.gov](http://www.ftc.gov). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

**FOR FURTHER INFORMATION CONTACT:** Geoffrey Green (202) 326-2641, Bureau of Competition, Room NJ-6264, 600 Pennsylvania Avenue, NW., Washington, D.C. 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 16, 2007), on the World Wide Web, at <http://www.ftc.gov/os/2007/06/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the ADDRESSES section above, and must be received on or before the date specified in the DATES section.

### Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with American Petroleum Company, Inc. ("American Petroleum" or "Respondent"), an importer and seller of lubricants with its principal place of business located at Road 865 KM 0.2, Barrio Campanillas, Toa Baja, Puerto Rico 00951.

The agreement settles charges that American Petroleum violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, by agreeing with competitors to restrict the importation and sale of lubricants in Puerto Rico. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate comment on the proposed order. The analysis does not constitute an official interpretation of the agreement and proposed order, and does not modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only, and does not constitute an admission by Respondent that it violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

### I. The Complaint

The allegations of the complaint are summarized below:

American Petroleum has for many years been engaged in the business of importing lubricants into, and selling lubricants in, the Commonwealth of Puerto Rico.

Puerto Rico Law 278, enacted in 2004, was intended to create incentives for the safe disposal of used lubricants. The law required all persons in the chain of distribution, from the importer to the end-user, to pay an environmental deposit of fifty cents for each quart of lubricants purchased. The deposit could be recovered after the used lubricating oil was delivered to an authorized collection center. During 2005 and 2006, American Petroleum joined with numerous others in the Puerto Rico lubricants industry to lobby for the delay, modification, and/or repeal of Law 278. These efforts were partially successful. The Legislature postponed the starting date for the law until March 31, 2006.

In March 2006, with the effective date for Law 278 approaching, American Petroleum and several competing importers and sellers of lubricants adopted a new strategy to pressure the Government to repeal Law 278. The companies agreed to cease importing lubricants, beginning on March 31, 2006, and continuing for so long as Law 278 remained in effect. The conspirators issued a public warning that as a result of this joint action, shortages of lubricants would arise throughout the island, and would continue until Law 278 was repealed.

In December 2006, the Puerto Rico Legislature repealed Law 278.

### II. Legal Analysis

In several previous cases, the Commission has challenged under Section 5 of the FTC Act boycott activity where the victim was the government in its capacity as a consumer; that is, the conspiring sellers refused to deal in order to exact higher prices from the government.<sup>2</sup> Here, the lubricant importers are alleged to have used their economic might in order to pressure the government in its role as a regulator. As discussed below, the antitrust laws reach this conduct as well.

The conspiracy alleged in the complaint is per se unlawful. A horizontal agreement to restrict output is inherently likely to harm competition, and there is no legitimate efficiency justification for respondent's conduct. *SCTLA*, 493 U.S. 411; *NCAA v. Board of Regents*, 468 U.S. 85 (1984); *Sandy River*

<sup>2</sup> E.g., *Superior Court Trial Lawyers Ass'n*, 493 U.S. 411 (1990); *Peterson Drug Co.*, 115 F.T.C. 492 (1992); *Michigan State Medical Society*, 110 F.T.C. 191 (1983).

*Nursing Care v. Aetna Casualty*, 985 F.2d 1138 (1st Cir. 1993); *PolyGram Holding, Inc.*, 5 Trade Reg. Rep. (CCH) ¶ 15,453 (FTC 2003) (available at <<http://ftc.gov/os/2003/07/polygramopinion.pdf>>), *aff'd*, 416 F.3d 29 (D.C. Cir. 2005).

Ordinarily, members of a cartel reduce output across the market in order to force consumers to bid up prices. Here the strategy was to impose pain on consumers in order to coerce the Government of Puerto Rico to accede to the industry's demand that Law 278 be repealed. This raises the possibility of viewing the alleged conspiracy as a form of petitioning activity that arguably is immune from antitrust sanctions. As the Supreme Court has held, it is not the purpose of the antitrust laws to regulate traditional petitioning activity aimed at securing anticompetitive governmental action. *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961).

On the other hand, where competitors coordinate their commercial activity, conspiring in a manner that harms consumers directly, the fact that the conspirators intended thereby to motivate governmental action is not a defense to liability. *SCTLA*, 493 U.S. 411. An exception to this latter rule governs group boycotts that seek a purely political objective (that is, an objective that involves no special pecuniary benefit for the conspirators). A politically motivated boycott is protected by the First Amendment, and is not subject to antitrust liability. *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 914 (1982) (The First Amendment protects "a nonviolent, politically motivated boycott designed to force governmental and economic change to effectuate rights guaranteed by the Constitution itself.")<sup>3</sup>

The conduct alleged in the complaint would not be immune from antitrust sanctions under these precedents. In *Noerr*, the alleged restraint of trade (legislation favoring the conspirators) was the consequence of governmental action, and for this reason was exempt from antitrust review. In the present investigation, the alleged restraint of trade (a constriction in the supply of lubricants) was the means by which the conspirators sought to obtain favorable legislation. It follows that the *Noerr* defense is not applicable.<sup>4</sup> The

<sup>3</sup> See also *Allied International, Inc. v. International Longshoremen's Ass'n*, 640 F.2d 1368, 1380 (1st Cir. 1981), *aff'd*, 456 U.S. 212 (1982); *Missouri v. National Organization for Women, Inc.*, 620 F.2d 1301 (8th Cir. 1980).

<sup>4</sup> See *In re Brand Name Prescription Drugs Antitrust Litig.*, 186 F.3d 781, 789 (7th Cir. 1999)

*Claiborne Hardware* defense is also inapplicable because the Puerto Rico conspiracy was an effort to escape regulation and advance the parochial economic interests of the importers. This was not a politically motivated boycott, as that term is used in the case law.

The present case is similar to *Sandy River Nursing Care v. Aetna Casualty*, 985 F.2d 1138. A group of insurance companies agreed to cease offering workers' compensation policies in Maine in order to coerce the legislature into authorizing higher rates. The Court of Appeals concluded that this concerted refusal to sell insurance was a per se violation of the Sherman Act, and that the legislative agenda of the insurance companies afforded them no defense to liability. The opinion explains: "[P]rivate actors who conduct an economic boycott violate the Sherman Act and may be held responsible for direct marketplace injury caused by the boycott, even if the boycotters' ultimate goal is to obtain favorable state action." 985 F.2d at 1142.

It is not a legitimate antitrust defense to claim that Law 278 is inefficient, and that the repeal thereof would enhance consumer welfare. The legality of an otherwise anticompetitive restraint cannot turn on the wisdom or efficiency of the governmental policy that is targeted by the conspirators.<sup>5</sup>

**III. The Proposed Consent Order**

American Petroleum has signed a consent agreement containing the proposed consent order. The proposed consent order enjoins American Petroleum from conspiring with competitors to restrict output.

More specifically, American Petroleum would be enjoined from agreeing or attempting to agree with any other seller of lubricants: (i) to restrain, restrict, limit or reduce the import or sale of lubricants; or (ii) to deal with, refuse to deal with, threaten to refuse to deal with, boycott, or threaten to boycott any buyer or potential buyer of lubricants.

The proposed order would not interfere with the company's Constitutional right to engage in legitimate petitioning activity. The proposed order includes a safe harbor provision expressly permitting American Petroleum to exercise rights under the First Amendment to petition any government body concerning legislation, rules, or procedures.

The proposed order will expire in 20 years.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

FR Doc. E7-12033 Filed 6-20-07; 8:45 am]

**BILLING CODE 6750-01:P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Proposed Information Collection Activity; Comment Request**

**Proposed Projects**

*Title:* Provision of Services in Interstate Child Support Enforcement: Standard Forms.

*OMB No.:* 0970-0085.

*Description:* Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, amended 42 U.S.C. 666 to require State and Territory Child Support Enforcement (CSE) IV-D agencies to enact the Uniform Interstate Family Support Act (UIFSA) into State and Territory law by January 1, 1998. Section 311(b) of UIFSA requires States and Territories to use standard interstate forms. 45 CFR 303.7 also requires CSE IV-D agencies to transmit child support case information on standard interstate forms when referring cases to other States and Territories for processing. These forms are expiring in January 2008 and the Administration for Children and Families is taking this opportunity to make some revisions as requested by States and Territories during the 60-day comment period.

*Respondents:* State and Territory agencies administering the Child Support Enforcement program under title IV-D of the Social Security Act.

**ANNUAL BURDEN ESTIMATES**

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Transmittal 1 .....	54	19,278	.25	260,253
Transmittal 2 .....	54	14,458	.08	62,459
Transmittal 3 .....	54	964	.08	4,164
Uniform Petition .....	54	9,639	.08	41,640
General Testimony .....	54	11,567	.33	206,124
Affidavit—Paternity .....	54	4,819	.17	44,238
Locate Data Sheet .....	54	375	.08	1,620
Notice of Controlling Order .....	54	964	.08	4,164
Registration Statement .....	54	8,675	.08	37,476

(The *Noerr* doctrine "does not authorize anticompetitive *action* in advance of government's adopting the industry's anticompetitive proposal. The doctrine applies when such action is the consequence of legislation or other governmental action, not when it is the means for obtaining such action . . .") (emphasis in original).

<sup>5</sup> An analogous defense was considered and rejected by the Commission in *Detroit Auto Dealers Ass'n*, 110 F.T.C. 417 (1989), *aff'd in part and rev'd in part*, 955 F.2d 457 (6th Cir. 1992). *DADA*

involved an agreement among competing automobile dealers to limit the hours of operation of their dealerships. Respondents argued, *inter alia*, that the agreement to limit showroom hours was justified because it reduced the likelihood that their employees would join unions. Unionization would potentially lead to higher wages, and hence higher prices for automobiles. The Commission could find "no merit" in the proposed efficiency defense. "Given the national policy favoring the association of employees to bargain in good faith with

employers over wages, hours and working conditions, we do not believe that preventing unionization can be a legitimate justification for an otherwise unlawful restraint." *Id.* at 498 n. 22.

Just as collective bargaining is part of national labor policy, Law 278 represents the environmental policy of the Commonwealth of Puerto Rico. And just as escaping national labor policy is not a cognizable antitrust defense, altering Puerto Rico environmental legislation is not a cognizable antitrust defense.