

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-97-5. The test marketing conditions are described below.

**DATES:** This notice becomes effective May 22, 1997. Written comments will be received until June 19, 1997.

**ADDRESSES:** Written comments, identified by the docket control number [OPPT-59359] and the specific TME number should be sent to: TSCA Nonconfidential Information Center (NCIC), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. NEB-607 (7407), 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by [OPPT-59359]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** Shirley D. Howard, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-611, 401 M St. SW., Washington, DC 20460, (202) 260-3780. e-mail: howard.sd@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-97-5. EPA has determined that test marketing of the new chemical substance described

below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

A notice of receipt of this application was not published in advance of approval. Therefore, an opportunity to submit comments is being offered at this time. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that this test marketing activity will not present an unreasonable risk of injury.

The following additional restrictions apply to TME-97-5. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

**TME-97-5**

**Date of Receipt:** April 8, 1997. The extended comment period will close June 19, 1997.

**Applicant:** Reichhold Chemicals Inc.  
**Chemical:** (G) Polyurethane Adhesive.  
**Use:** (G) Hot melted adhesive.  
**Production Volume:** Confidential.  
**Number of Customers:** Confidential.  
**Test Marketing Period:** Confidential.  
 Commencing on first day of commercial manufacture.

**Risk Assessment:** EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present

any unreasonable risk of injury to human health or the environment.

**List of Subjects**

Environmental protection, test marketing exemptions.

Dated: May 22, 1997.

**Flora Chow,**

Chief, New Chemicals Notice Management Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 97-14577 Filed 6-3-97; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

[Report No. 2200]

**Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings**

May 30, 1997.

Petitions for reconsideration have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857-3800. Oppositions to this petition must be filed by June 19, 1997. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

**Subject:** Amendment of Sections 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service. (ET Docket No. 95-18, RM-7927).

**Number of Petitions Filed:** 2.  
**Subject:** Amendment to The Amateur Service Rules including Amendments for Examination Credit, Eligibility for a Club Station License, Recognition of The Volunteer Examiner Session Manager, a Special Event Call Sign System, and Self-Assigned Indicator in the Station Identification. (WT Docket No. 95-57, RMs-8301, 8418 and 8462).

**Number of Petitions Filed:** 1.  
**Subject:** Toll Free Service Access Codes (CC Docket No. 95-155).

**Number of Petitions Filed:** 7.  
**Subject:** Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies governing Them and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Services. (PR Docket No. 92-235).

*Number of Petitions Filed:* 13.

*Subject:* Administration of the North American Numbering Plan Carrier Identification Codes (CICs). (CC Docket No. 92-237).

*Number of Petitions Filed:* 3.

Federal Communications Commission.

**LaVera F. Marshall,**

*Acting Secretary.*

[FR Doc. 97-14472 Filed 6-3-97; 8:45 am]

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## FEDERAL MARITIME COMMISSION

[Docket No. 97-09]

### **Topocean Consolidation Service Ltd., Topocean Consolidation Service (Los Angeles) Inc. and Topocean Consolidation Service (New York) Inc. Possible Violations of Sections 8, 23(a) and 10(a)(1) of the Shipping Act of 1984; Order of Investigation and Hearing**

Topocean Consolidation Service Ltd. ("Topocean Taiwan") is a tariffed and bonded non-vessel-operating common carrier ("NVOCC") located at 11F-1, 316, Sec. 5 Nan-King East Road, Taipei, Taiwan. Topocean Taiwan holds itself out as a NVOCC pursuant to its Automated Tariff Filing and Information System ("ATFI") tariff, FMC No. 012067-002, effective June 12, 1996. According to Rule 24 of its tariff, Topocean Taiwan's resident agent in the United States for service of process is Topocean Consolidation Service (Los Angeles) Inc. located at 3780 W. Century Blvd., Inglewood, CA 90303. Between October 20, 1993 and September 15, 1995, Topocean Taiwan maintained an ATFI tariff (FMC No. 012067-001) which was canceled by the Federal Maritime Commission ("Commission") in September 1995 for Topocean Taiwan's failure to maintain a NVOCC bond. In conjunction with filing its current tariff, Topocean Taiwan furnished a NVOCC bond, No. 18017, effective May 2, 1996 and issued by American Contractors Indemnity Company in Los Angeles, CA.

Topocean Consolidation Service (Los Angeles) Inc. ("Topocean LA") is a tariffed and bonded NVOCC located at 3780 W. Century Blvd., Inglewood, CA. Topocean LA holds itself out as a NVOCC pursuant to its ATFI tariff, FMC No. 014097-001, effective June 12, 1996. Topocean LA maintains a NVOCC bond, No. 15885, issued by American Contractors Indemnity Company, located in Los Angeles, CA. Topocean LA is a United States destination agent for shipments from Topocean Taiwan.

Topocean Consolidation Service (New York) Inc. ("Topocean NY") is a destination agent in the New York area for shipments from Taiwan and Hong Kong. Topocean NY is located at 145-17 155th St., Jamaica, NY 11434. It does not maintain with the Commission a NVOCC bond and tariff nor is it a licensed ocean freight forwarder. Topocean NY is a United States destination agent for shipments from Topocean Taiwan.

Topocean Taiwan appears to have operated as a NVOCC on numerous shipments between September 16, 1995 and June 11, 1996. A NVOCC is a common carrier that holds itself out to the public as a provider of ocean transportation for compensation and acts as a shipper in its relationship with an ocean common carrier for the transportation of cargo of other persons. Topocean Taiwan's ocean shipments originated in Taiwan and were discharged at United States ports. Each shipment generally reflects that a Topocean Taiwan "house", or NVOCC, bill of lading was issued in which Topocean Taiwan held itself out as a provider of ocean transportation. The NVOCC bill of lading would be tendered by the ultimate consignee to one of Topocean Taiwan's destination agents<sup>1</sup> upon arrival of the cargo at its United States destination. In each of these instances, Topocean Taiwan was listed as shipper on the ocean carrier's bill of lading. Thus, Topocean Taiwan, by providing and holding out to the public to provide transportation by water of cargo for compensation and by contracting as a shipper in relation to a common carrier for the transportation of cargo of other persons, appears to have operated as a NVOCC for these shipments.

According to the records of the Commission's Bureau of Tariffs, Certification and Licensing ("BTCL"), Topocean Taiwan did not have an effective tariff during this time period. Section 8 of the Shipping Act of 1984 ("1984 Act"), 46 USC app. 1707, provides that no common carrier may provide service in the United States foreign trade unless the carrier first has filed a tariff with the Commission showing all of its rates, charges and practices. Section 8 also states that no new rates may become effective earlier than 30 days after filing at the Commission. The Commission's regulations implementing this statutory provision, at 46 CFR 514.9(b)(9)(i)(A),

explain that "[n]ew tariffs \* \* \* shall \* \* \* be filed to become effective not earlier than 30 days after the date of filing."<sup>2</sup> Therefore, it would appear that Topocean Taiwan may have acted as a NVOCC for shipments which occurred between September 16, 1995, and June 11, 1996, without an effective tariff in violation of section 8 of the 1984 Act.

Section 23(a) of the 1984 Act, 46 U.S.C. app. 1721(a), requires every NVOCC to furnish to the Commission "a bond, proof of insurance, or other such surety, as the Commission may require." Between September 16, 1995 and May 2, 1996, Topocean did not furnish a bond, proof of insurance or other such surety to the Commission as required by section 23(a). Therefore, Topocean Taiwan appears to have acted as a NVOCC for shipments which occurred between September 16, 1995 and May 2, 1996, without a bond, proof of insurance or other such surety in violation of section 23(a) of the 1984 Act.

It appears that Topocean LA and Topocean NY, in concert with Topocean Taiwan, knowingly and willfully obtained or attempted to obtain ocean transportation for cargo at less than the applicable rates in violation of section 10(a)(1) of the 1984 Act, 46 U.S.C. 1709(a)(1), by means of misdescription of commodities for numerous shipments transported by ocean common carriers between September 1, 1995 and April 30, 1997. Section 10(a)(1) of the 1984 Act prohibits any person knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means, to obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable.

It appears that the misdescribed shipments originated in Taiwan or Hong Kong and were discharged at or via United States ports. In each of these instances, Topocean Taiwan usually was listed as shipper on the ocean carrier's bill of lading, and the destination agents, Topocean LA and Topocean NY, acted as the consignee or notify party. Each shipment generally reflects that a Topocean Taiwan "house", or NVOCC, bill of lading, which correctly describes the commodity shipped, was issued for tender by the ultimate consignee to Topocean LA or Topocean NY upon

<sup>1</sup>Topocean Taiwan has at least three United States destination agents: Topocean LA, Topocean NY and Apex Maritime Co., Inc. (located near San Francisco, CA).

<sup>2</sup>The Commission's regulations at 46 CFR 514.1(e)(1), provide that "[o]perating without an effective tariff on file with the Commission \* \* \* is unlawful."