FOR FURTHER INFORMATION CONTACT: Richard Parker or Richard Liebeskind, FTC/H–374, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2574 or 326–2441.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's 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 sixty (60) days. The following 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 November 30, 1999), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two

[1] A ''barrel'' is an oil industry measure equal to 42 gallons. ''MBD'' means thousands of barrels per day.

(New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia), and all of Exxon's gasoline marketing in the Northeast (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York); (2) Mobil's gasoline marketing in the Austin, Bryan/College Station, Dallas, Houston and San Antonio, Texas, metropolitan areas; (3) Exxon's option to repurchase retail gasoline stores from Tosco Corp. in Arizona; (4) Exxon's refinery located in Benicia, California (''Exxon Benicia Refinery''), and all of Exxon's gasoline marketing in California; (5) the terminal operations of Mobil in Boston and in the Washington, D.C. area, and the ability to exclude a terminal competitor from using Mobil's wharf in Norfolk; (6) either Mobil's interest in the Colonial pipeline or Exxon's interest in the Plantation pipeline; (7) Mobil's interest in TAPS; (8) the terminal and retail operations of Exxon on Guam; (9) a quality of paraffinic lubricant base oil equivalent to the amount of paraffinic lubricant base oil refined in North America that is controlled by Mobil; and (10) Exxon's jet turbine oil business. The terms of the divestitures and other provisions of the Proposed Order are discussed more fully in Section IV below.

The Commission's decision to issue the Complaint and enter into the Agreement Containing Consent Orders was made after an extensive investigation in which the Commission examined competition and the likely effects of the merger in the markets alleged in the Complaint and in several other markets, including the worldwide markets for exploration, development and production of crude oil; markets for crude oil exploration and production in the United States and in parts of the United States; markets for natural gas in the United States; markets for a variety of petrochemical products; and markets for pipeline transportation, terminaling or marketing of gasoline or other fuels in sections of the country other than those alleged in the Complaint. The Commission has not found reason to believe that the merger would result in likely anticompetitive effects in markets other than the markets alleged in the Complaint.

The Commission conducted the investigation leading to the Complaint in coordination with the Attorneys General of the States of Alaska, California, Connecticut, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Texas, Vermont, Virginia and Washington. As a result of that joint effort, Respondents have entered into agreements with the States of Alaska, California, Delaware, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, Virginia and Washington, and the District of Columbia, settling charges that the merger would violate both state and federal antitrust laws.

The Complaint alleges in 12 counts that the merger would violate the antitrust laws in several different lines of business and sections of the country, each of which is discussed below. The analysis applied in each market generally follows the analysis set forth in the FTC and U.S. Department of Justice *Horizontal Merger Guidelines* (1997) (''*Merger Guidelines*''). The efficiency claims of the Respondents, to the extent they relate to the markets alleged in the Complaint, are small and speculative compared to the magnitude and likelihood of the potential harm, and would not restore the competition lost as a result of the merger even if the efficiencies were achieved.

A. Count I—Marketing of Gasoline in the Northeast and Mid-Atlantic

Exxon and Mobil today are two of the largest marketers of gasoline from Maine to Virginia, and would be the largest marketer of gasoline in this region after the merger, but for the remedy specified in the Proposed Order. The merging companies are direct and significant competitors in at least 39 metropolitan areas in the Northeast and Mid-Atlantic;[2] in each of these areas, and in each of the States in the Northeast and Mid-Atlantic, the merger would result in a market that is at least moderately concentrated and would significantly

[2] Hartford, New Haven-Bridgeport-Stamford-Waterbury-Danbury, New London-Norwich, CT; Dover, Wilmington-Newark, DE; Washington, DC; Bangor, Lewiston-Auburn, Portland, ME; Baltimore, MD; Barnstable-Yarmouth, Boston-Worcester-Lawrence-Lowell-Brockton, MA; Atlantic-Cape May, Bergen-Passaic, Jersey City, Middlesex-Somerset-Hunterdon, Monmouth-Ocean, Newark, Trenton, Vineland-Millville-Bridgeton, NJ; Albany-Schenectady-Troy, Duchess, Nassau-Suffolk, New York, Newburgh, NY; Allentown-Bethlehem-Easton, Altoona, Harrisburg-Lebanon-Carlisle, Johnstown, Lancaster, Philadelphia, Reading, Scranton-Wilkes Barre-Hazelton, State College, York, PA; Providence-Warwick-Pawtucket, RI; Norfolk-Virginia Beach-Newport News, Richmond-Petersburg, VA; Burlington, VT. These areas are defined, variously, as ''Metropolitan Statistical Areas'' (''MSAs''), ''Primary Metropolitan Statistical Areas'' (''PMSAs''), and ''New England County Metropolitan Areas'' (''NECMAs'') by the Census Bureau.

[3] The Commission measures market concentration using the Herfindahl-Hirschman Index (''HHI''), which is calculated as the sum of the squares of the shares of all firms in the market. Merger Guidelines § 1.5. Markets with HHIs between 1000 and 1800 are deemed ''moderately concentrated,'' and markets with HHIs exceeding 1800 are deemed ''highly concentrated.'' Where the HHI resulting from a merger exceeds 1000 and the merger increases the HHI by at least 100, the merger ''potentially raise[s] significant competitive concerns depending on the factors set forth in Sections 2–5 of the Guidelines.'' *Merger Guidelines* § 1.51.

[4] Hartford, New London-Norwich, CT; Dover, Wilmington-Newark, DE; Washington, DC; Bangor, Portland, ME; Barnstable-Yarmouth, MA; Bergen-Passaic, Jersey City, Monmouth-Ocean, Trenton, NJ; Albany-Schenectady-Troy, Newburgh, NY; Allentown-Bethlehem-Easton, Altoona, Johnstown, State College, PA; Burlington, VT. In each of these MSAs, the increase in concentration exceeds 100 HHI points. ''Where the post-merger HHI exceeds 1800, it will be presumed that mergers producing an increase in the HHI of more than 100 points are likely to create or enhance market power or facilitate its exercise. The presumption may be overcome by a showing that factors set forth in Sections 2–5 of the *Guidelines* make it unlikely that the merger will create or enhance market power or facilitate its exercise, in light of market concentration and market shares.'' *Merger Guidelines* § 1.51.

[5] Motiva LLC is the refining and marketing joint venture between Shell Oil Co., Texaco Inc. and Saudi Aramco, and sells gasoline under the ''Shell'' and ''Texaco'' names in the Eastern United States. Equilon LLC, a refining and marketing joint venture between Shell and Texaco, sells gasoline under the ''Shell'' and ''Texaco'' names in the Western United States.

[6] Exxon and Mobil compete in at least 134 counties in 39 MSAs in the Northeast and Mid-Atlantic; 61 of those counties are highly concentrated with significant increases in concentration; 56 are moderately concentrated with significant increases in concentration; and in only five counties (if defined as geographic markets) would the merger not result in increases in concentration exceeding *Guidelines* thresholds. *See FTC v. PPG Industries, Inc.*, 798 f.2d 1500, 1505 (D.C. Cir. 1986) (use of data in broader market to calculate market concentration is acceptable where market of concern would be more concentrated).

significantly reduce competition in the moderately and highly concentrated markets that would result from this merger. A general understanding of the channels of trade in gasoline marketing is necessary to understand the Commission's analysis of the competitive issues and of the Proposed Order. Gasoline is sold to the general public through retail gas stations of four types: (1) Company-operated stores, where the branded oil company owns the site and operates it using its own employees; (2) lessee dealer stores, where the branded company owns the site but leases it to a franchised dealer; (3) open dealers, who own their own stations but purchase gasoline at a DTW price from the branded company; and

[7] The Commission has found evidence in its investigations in this industry indicating that some branded companies have experimented with rebates and discounts to jobbers based on the location of particular stations, thereby replicating the effect of price zone in the jobber class of trade.

[8] In finding reason to believe that this merger likely would reduce competition, the Commission has not, in the context of this investigation, concluded that these practices of themselves violate the antitrust laws or constitute unfair methods of competition within the meaning of section 5 of the FTC Act. Rather, evidence of market behavior provides the Commission with reason to believe that these moderately and highly concentrated markets are not fully competitive even prior to the merger, and therefore that the merger likely would reduce competition in these markets whether or not the post-merger was highly concentrated.

stations (company operated, lessee dealer, open dealer and jobber) in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and New York, and (2) all Mobil branded stations in New Jersey, Pennsylvania, Delaware, Maryland, Virginia and the District of Columbia.

B. Count II—Marketing of Gasoline in Metropolitan Areas in Texas

Exxon and Mobil compete in the marketing of gasoline in several metropolitan areas in Texas, and in five of those metropolitan areas (Austin, Bryan/College Station, Dallas, Houston and San Antonio) the merger would result in a moderately or highly concentrated market. The evidence collected in the investigation indicates that market conditions in these Texas markets resemble those found in the Northeast and Mid-Atlantic, particularly in the use of delivered pricing and zone pricing to coordinate prices and deter entry. The Proposed Order therefore required Respondents to divest and assign Mobil's gasoline marketing business in these areas, as described below.

C. Count III—Marketing of Gasoline in Arizona

Mobile markets motor gasoline in Arizona. Exxon gasoline is marketed in Arizona by Tosco Corporation, which acquired Exxon's Arizona marketing assets and the businesses and the right to sell Exxon branded gasoline in 1994. Gasoline marketing in Arizona is moderately concentrated.

Pursuant to the agreement under which Exxon sold its Arizona assets to Tosco, Exxon retains the option of repurchasing the retail gasoline stores sold to Tosco in the event Tosco were to convert the stations from the ''Exxon'' brand to another brand (including another brand owned by Tosco). The merger creates the risk that competition between the merged company and Tosco (selling Exxon branded gasoline) could be reduced by restricting Tosco's incentive and ability to compete against Mobil by converting the stores to a brand owned by Tosco. The Proposed Order terminates Exxon's option to repurchase these stations.

D. Count IV—Refining and Marketing of CARB Gasoline

Exxon and Mobil both refine motor gasoline for use in California, which requires that motor gasoline used in that State meet particularly stringent pollution specifications mandated by the California Air Resources Board (''CARB,'' hence ''CARB gasoline''). More than 95% of the CARB gasoline sold in California is refined by seven firms (Chevron, Tosco, Equilon, ARCO, Exxon, Mobil and Ultramar Diamond Shamrock), all of which operate refineries in California. Those seven firms also control more than 90% of retail sales of gasoline in California through gas stations under their brands.

The Complaint alleges that the refining and marketing of CARB gasoline is a product market and line of commerce. Motorists of gasoline-fueled automobiles are unlikely to switch to other fuels in response to a small but significant and nontransitory increase in the price of CARB gasoline, and only CARB gasoline may be sold for use in California. As described below, the refining and marketing of gasoline in California is tightly integrated; refiners that lack marketing in California, and marketers that lack refineries on the West Coast, do not effectively constrain the price and output decisions of incumbent refiner-marketers.

California is a section of the country and geographic market for CARB gasoline refining and marketing because the refiner-marketers in California can profitably raise prices by a small but significant and nontransitory amount without losing significant sales to other refiners. The next closest refineries, located in the U.S. Virgin Islands and in Texas and Louisiana, do not supply CARB gasoline to California except during supply disruptions at California refineries, and are unlikely to supply CARB gasoline to California in response to a small but significant and nontransitory increase in price because of the price volatility risks associated with opportunistic shipments and the small number of independent retail outlets that might purchase from an out-of-market firm attempting to take advantage of a price increase by incumbent refiner-marketers.

To a much greater extent than in many other parts of the country, the seven refiner-marketers in California own their stations, and operate through company-operated stations, lessee dealers and open dealers, rather than through distributors.[9] The marketing practices described in the Northeast and Mid-Atlantic, *see* Section III.A above, are employed in California and are reinforced by the refiner-marketers' more complete control of the marketing channel. One effect of the close integration between refining and marketing in California in that refiners outside the West Coast cannot easily find outlets for imported cargoes of CARB gasoline, since nearly all the outlets are controlled by incumbent refiner-marketers. Likewise, the extensive integration of refining and marketing makes it more difficult for the few non-integrated marketers to turn to imports as a source of supply, since individual independents lack the scale to import cargoes economically and thus must rely on California refiners for their usual supply. The Commission's investigation indicated that vertical integration and the resulting lack of independent import customers, rather than the cost of imports, is the principal barrier to supply from outside the West Coast.

As measured by refinery capacity, the merger will increase the HHI for CARB gasoline refining capacity on the West Coast by 171 points to 1699, at the high end of the ''moderately concentrated'' range of the *Merger Guidelines*. The *Guidelines*' ''numerical divisions [of HHI ranges] suggest greater precision than is possible with the available economic tools and information. Other things being equal, cases falling just above and just below a threshold present comparable competitive issues.'' *Id.* § 1.5.T*(Clasntic,)Tj/F3 1 Tf6.4933 0 TD(see)Tj.

[9] Exxon is unique among these firms in operating primarily through jobbers in California. Exxon also differs from its competitors in that a substantial portion of its refinery output is not sold under the Exxon name, but is sold to non-integrated marketers and through other channels.

E. Count V—Navy Jet Fuel on the West Coast

The U.S. Navy requires a specific formulation of jet fuel that differs from commercial jet fuel and jet fuel used in other military applications. Three refiners, including Exxon and Mobil, have bid to supply the Navy on the West Coast in recent years. The merger will eliminate one of these forms as an independent bidder, raising the likelihood that the incumbents could raise prices by at least a small amount, since other bidders are unlikely to enter the market. The divestiture of Exxon's Benecia refinery, described below, resolves this concern.

F. Count VI—Terminaling of Light Petroleum Products in Metropolitan Boston and Washington

Petroleum terminals are facilities that provide temporary storage of gasoline and other petroleum products received from a pipeline or marine vessel, and then redelivers these products from the terminal's storage tanks into trucks or transport trailers for ultimate delivery to retail gasoline stations or other buyers. Terminals provide an important link in the distribution chain for gasoline between refineries and retail service stations. There are no substitutes for petroleum terminals for providing terminaling services.

Count VI of the Complaint identifies two metropolitan areas that are relevant sections of the country (*i.e.*, geographic markets) in which to analyze the effects of the merger on terminaling: Metropolitan Boston, Massachusetts and Washington, DC. Exxon and Mobil both operate terminals that supply both of these metropolitan areas with gasoline and other light petroleum products.

The Complaint charges that the terminaling of gasoline and other light petroleum products in each of these

[10] The Commission has found reason to believe that terminal mergers would be anticompetitive on prior occasions. *E.g., British Petroleum Co.*, C–3868; *Shell Oil Co.*; *Texaco Inc.*, 104 F.T.C. 241 (1984); *Chevron Corp.*, 104 F.T.C. 597 (1984).

The market is subject to coordination. There are three companies, and the merger would reduce their number to two. The product is homogeneous, and prices are readily observed. New entry is unlikely to defeat an anticompetitive price increase. An entrant would require sufficient terminal capacity and enough retail outlets to be able to buy gasoline at the tanker-load level, or 350,000 barrels. Terminal capacity of this scale is unavailable in Guam. In 1988 a firm attempted to enter Guam relying on publicly available terminaling; it exited within seven years, and sold its four stations to Mobil.

Section III of the Proposed Order restores competition by requiring Respondents to divest Exxon's terminal and retail assets on Guam.

L. Count XI—Paraffinic Base Oil in the United States and Canada

Paraffinic base oil is a refined petroleum product that forms the foundation of most of the world's finished lubricants. Base oil is mixed with chemical additives and forms finished lubricants, such as motor oil and automatic transmission fluid. Most base oil is used to make products that lubricate engines, but base oil can be mixed with additives to create a large variety of finished products like newspaper ink or hydraulic fluid.[11]

Currently Exxon produces 45.9 MBD of paraffinic base oil in North America. Mobil controls 23.8 MBD of base oil production. A combined Exxon-Mobil would control 35 percent of the base oil produced in North America. As the largest base oil producer in the United States and Canada, Exxon already dominates the base oil market. With the addition of Mobil's sizeable capacity, Exxon would have even greater control over base oil pricing.

Exxon is the price leader in base oil in the United States and Canada. Other base oil producers do not expand production to take advantage of Exxon price increases. Imports do not increase when United States prices increase because transportation costs are too great. Entry into the base oil market requires large capital investments and would be unlikely to have any effect within the next two years.

The Proposed Order remedies the likely effects of the likely merger by requiring Respondents to surrender control of a quantity of base oil production equivalent to Mobil's production in the United States.

M. Count XII—Jet Turbine Oil

Jet turbine oil (also known as ester-based turbine oil) is used to lubricate the internal parts of jet engines used to power aircraft. Exxon and Mobil dominate the sales of jet turbine oil, with approximately equal shares that, combined, account for 75% of the worldwide market (defined broadly), and approach 90% of worldwide sales to commercial airlines.

Entry into the development, production and sale of jet turbine oil is not likely to occur on a timely basis, in light of the time required to develop a jet turbine oil and to obtain the necessary approvals and qualifications from the appropriate military and civilian organizations. The merger would eliminate the direct competition between Exxon and Mobil, and create a virtual monopoly in sales to commercial airlines. The Proposed Order remedies the effect of the merger by requiring Respondents to divest Exxon's jet turbine oil business.

IV. Resolution of the Competitive Concerns

On November 30, 1999, the Commission provisionally entered into the Agreement Containing Consent Orders with Exxon and Mobil in settlement of a Complaint. The Agreement Containing Consent Orders contemplates that the Commission would issue the Complaint and enter the Proposed Order and the Order to Hold Separate.

A. General Terms

Each divestiture or other disposition required by the Proposed Order must be made to an acquirer that receives the prior approval of the Commission and in a manner approved by the Commission, and must be completed within nine months of executing the Agreement Containing Consent Orders (except that the divestiture of the Benicia Refinery and Exxon marketing in California must be completed within twelve months of executing the Agreement Containing Consent Orders).

Respondents are required to provide the Commission with a report of compliance with the Proposed Order every sixty (60) days until the divestitures are completed, and annually for a period of 20 years.

In the event Respondents fail to complete the required divestitures and other obligations in a timely manner, the Proposed Order authorizes the Commission to appoint a trustee or trustees to negotiate the divestiture of either the divestiture assets or of ''crown jewels,'' alternative asset packages that are broader than the divestiture assets. The crown jewel for the Exxon Northeastern Marketing Assets is Mobil's marketing in the same area; for the Mobil Mid-Atlantic Marketing Assets, Exxon's marketing in the same area;[12] for the Exxon California Refining and Marketing Assets, the Mobil California Refining and Marketing Assets; for the Mobil Texas Marketing Assets, the Exxon Texas Marketing Assets; for Mobil's interest in TAPS, Exxon's interest in TAPS; for the paraffinic base oil to be sold, Mobil's Beaumont Refinery; and for Exxon's Jet Turbine Oil Business, Mobil's Jet Turbine Oil Business. In each case, the crown jewel is a significantly larger asset package than the divestiture assets.

Respondents have also agreed to the entry of an Order to Hold Separate and Maintain Assets, and the Commission has entered that Order. Under the terms of that Order, until the divestitures of the Benicia Refinery, marketing assets, base oil production and jet turbine oil business have been completed, Respondents must maintain Mobil's Northeastern, Mid-Atlantic and Texas fuels marketing businesses, Mobil's California refining and marketing businesses, and Exxon's ester based turbine oil business as separate, competitively viable businesses, and not combine them with the operations of the merged company. Under the terms of the Proposed Order, Respondents must also maintain the assets to be divested in a manner that will preserve their viability, competitiveness and marketability, and must not cause their wasting or deterioration, and cannot sell, transfer, or otherwise impair the marketability or viability of the assets to be divested. The Proposed Order and the Hold Separate Order specify these obligations in greater detail.

To avoid conflicts between the Proposed Order and the State consent decrees, the Commission has agreed to extend the time for divesting particular assets if all of the following conditions are satisfied: (1) Respondents have fully complied with the Proposed Order; (2) Respondents submit a complete application in support of the divestiture of the assets and businesses to be divested; (3) the Commission has in fact approved a divestiture; but (4)

[11] Other types of base oil, including naphthenic and synthetic base oils, are not substitutes for paraffinic base oil because the users of paraffinic base oil would not switch to other base oils in the event of a small but significant, nontransitory increase in price for paraffinic base oils.

[12] The ''crown jewel'' divestiture would include the exclusive right to use the Exxon or Mobil name (as the case may be) in the pertinent States for at least 20 years. If Respondents fail to divest both the Exxon Northeast Marketing Assets and the Mobil Mid-Atlantic Marketing Assets, the Commission may direct the trustee to divest all of Exxon's marketing from Maine to Virginia.

Respondents have certified to the Commission within ten days after the Commission's approval of a divestiture that a State has not approved that divestiture. If these conditions are satisfied, the Commission will not appoint a trustee or impose penalties for an additional sixty days, in order to allow Respondents either to satisfy the State's concerns or to produce an acquirer acceptable to the Commission and the State.[13] If at the end of that additional period, the State remains unsatisfied, the Commission may appoint a trustee and seek penalties for noncompliance.

B. Gasoline Marketing in the Northeast and Mid-Atlantic

Sections IV and V of the Proposed Order are intended to preserve competition in gasoline marketing in the Northeast and Mid-Atlantic by requiring Respondents to divest to an acquirer approved by the Commission all retail gasoline stations owned by Exxon (or leased by Exxon from another person) in Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, and New York (Proposed Order ¶ IV.A), and to assign to the acquirer of those stations all dealer leases and franchise agreements and all supply contracts with branded jobbers (¶ IV.B). The Proposed Order defines ''Existing Lessee

[13] The consent decree between Respondents and the States of Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Vermont and Virginia provides that a State that objects to a proposed acquirer must petition the court before which the decree is pending to rule on the suitability of the proposed acquirer. In the event such a motion is made, Respondents' time to divest under the Proposed Order is tolled until the matter is resolved.

[14] The assigned relationship does not include business format franchises for the sale of ancillary products (*e.g.*, restaurant franchises) other than gasoline and diesel fuel.

[15] For that reason, the agreement entered into between Respondents and the acquirer(s) may provide for an increasing fee for the use of the name after five years. The terms of that agreement will be subject to Commission approval.

E. Refining and Marketing of CARB Gasoline for California and Navy Jet Fuel for the West Coast

To remedy the reduction in competition in the refining and marketing of CARB gasoline and navy jet fuel alleged in Counts IV and V of the Complaint, Paragraph II of the Proposed Order requires Respondents to divest Exxon's Benicia refinery and Exxon's owned gas stations in California, and to assign Exxon's lessee contracts and jobber supply contracts in California to an acquirer approved by the Commission (¶¶ II.A, II.B). The divestiture of Exxon's Benicia refinery, with Exxon's California marketing, will not significantly reduce the amount of gasoline available to non-integrated marketers, since the refinery likely will continue to produce that gasoline and need outlets for its sale. Respondents will divest approximately 85 owned or leased Exxon stores and assign supply agreements for approximately 275 additional stores in California.

As part of its divestiture of the refinery, Respondents shall (at the

[16] A divestiture of Mobil's Beaumont refinery would give the acquirer six percent of North

Continued

L. Count XII—Jet Turbine Oil

To remedy the effects of the merger in the market for jet turbine oil, the Proposed Order requires Respondents to divest Exxon's jet turbine oil business. The Proposed Order defines Exxon's jet turbine oil business, which must be divested, to include, among other things, an exclusive, perpetual license to use identified Exxon patents in the field of jet turbine oil, other intellectual property, research and testing equipment, and Exxon's jet turbine oil manufacturing facility at Bayway, New Jersey.

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. The commission, pursuant to a change in its rules of practice, has also issued its complaint in this matter, as well as the Offer to Hold Separate. Comments received during this sixty day comment period will become part of the public record. After sixty days, the Commission will again review the Proposed Order and the comments received and will decide whether it should withdraw from the Proposed Order or make final the agreement's Proposed Order.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the Proposed Order, including the proposed divestitures, to aid the Commission in its determination of whether it should make final the Proposed Order contained in the agreement. This analysis is not intended to constitute an official interpretation of the Proposed Order, nor is it intended to modify the terms of the Proposed Order in any way.

American base oil production and complete control of a low-cost base oil refinery. The buyer would be free to make any capital investments to expand capacity it chose to make. The Commission does not believe, on the facts of this investigation, that a divestiture of the refinery is strictly necessary to maintain competition in the paraffinic base oil market. The Commission might normally believe that divestiture of a refinery was necessary in order to allow the acquirer to have the ability to expand production and develop new products. However, the current trend toward producing higher grade based oils for use in finished products that need to be replaced less often (i.e., new products that significantly reduce drain intervals), suggests that the demand for base oil is likely to contract, making the need for expansion less significant on the particular facts here.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–31563 Filed 12–3–99; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR)

Guidelines for Videotaped Documentation of Episodes of Medical Care

AGENCY: General Services Administration.

ACTION: Guidelines for Videotaped Documentation of Episodes of Medical Care.

SUMMARY: The members of the Interagency Committee on Medical Records (ICMR) voted to approve the following guidelines which we recommend for adoption throughout the federal health care system:

Videotapes are not part of the medical record. When an episode of health care is to be documented by videotape (*e.g.*, surgical procedures, medical evaluation, or telemedicine consultation), the patient must provide written consent for the taping (unless the consultation is for the documentation of abuse or neglect). Consent should be done if the person can be identified. The episode of care should be documented in accordance with standard operating procedures (official written and/or electronic records). The videotape should be erased after standard documentation is complete, unless the videotape is required for a specified interval for a specific reason (*e.g.*, documentation of procedures in preparation for board certification, or documentation of abuse/neglect). The provider should indicate in final documentation whether or not the image was erased, or where the videotape will be maintained.

Exceptions to the prohibition against retaining videotapes may be permitted for cases with educational value. Tapes are not filed by any type of personal identifier. If they are, then all Privacy Act regulations should be followed. Any agency which chooses to keep such images on file for educational purposes must develop appropriate policies and standard operating procedures.

These guidelines do not apply to electronic images such as radiographs and digital photographs, for which documentation processes are already in place.

ADDRESSES: Interested persons are invited to submit comments regarding this guideline. Comments should refer to the guideline by name and should be sent to: CDR Steven S. Kerrick; National Naval Medical Center, Department of Opthamology, Bethesda, MD 20889–5000.

Dated: November 16, 1999.

CDR Steven S. Kerrick,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 99–31514 Filed 12–3–99; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Government-Owned Inventions; Availability for Licensing

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

The inventions named in this notice are owned by agencies of the United States Government and are available for licensing in the United States (U.S.) in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to Thomas E. O'Toole, M.P.H., Acting Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Mailstop E–67, 1600 Clifton Rd., NE. Atlanta, GA 30333, telephone (404) 639–6270, email tto@cdc.gov. Please note that a signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

System and Method for Distributed Data Storage and Update in a Computer Network

The invention discloses a system for distributed storage and maintenance of records in a network of computer nodes. A computer user creates a record at a node of the network; this becomes the control node, or home system. This user specifies a list of recipients containing the nodes that maintain a current copy of the record. The user also specifies a mesh, which includes a subset of the