

Trans. No.	Acquiring	Acquired	Entities
20002244 .....	Triton Network Systems, Inc.	International Business Machines Corporation.	International Business Machines Corporation.
20002358 .....	Marconi plc .....	Addison Fischer .....	Xcert International, Inc.
20002435 .....	TPG Partners III, LP .....	Global Medical Products, Inc .....	Global Medical Products, Inc.

**FOR FURTHER INFORMATION CONTACT:**

Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326-3100.

By Direction of the Commission.

**Donald S. Clark,**

*Secretary.*

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**BILLING CODE 6750-01-M**

**FEDERAL TRADE COMMISSION**

[File No. 991 0218]

**FMC Corporation, et al.; Analysis 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 that accompanies the consent agreement 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 May 8, 2000.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:**

Robert Tovsky, FTC/S-3105, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326-2634.

**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 thirty (30) 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 April 7, 2000), on the World Wide Web, at "http://www.ftc.gov/ftc/formal.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 paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

**Analysis To Aid Public Comment**

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") form FMC Corp. ("FMC"), Solutia Inc. ("Solutia"), and Astaris LLC ("Astaris"). The Consent Agreement is intended to resolve anticompetitive effects stemming from the proposed joint venture between FMC and Solutia to combine their respective phosphates and phosphorus derivatives businesses. The Consent Agreement includes a proposed Decision and Order (the "Order"), which would require FMC and Solutia to divest to Societe Chimique Prayon-Rupel ("Prayon") the portion of Solutia's phosphates business based in Augusta, Georgia, and to divest to Peak Investment, L.L.C. ("Peak") FMC's phosphorus pentasulfide business based in Lawrence, Kansas. The Consent Agreement also includes an Order to Maintain Assets which requires respondents to preserve the assets they are required to divest as viable, competitive, and ongoing operations until the divestitures are achieved.

The Order, if issued by the Commission, would settle charges that the proposed joint venture between

FMC and Solutia may have substantially lessened competition in the United States markets for pure phosphoric acid and phosphorus pentasulfide. The Commission has reason to believe that the proposed joint venture would have violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The Commission's complaint, described below, relates the basis for this belief.

The proposed Order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will review the agreement and comments received and decide whether to withdraw its acceptance of the agreement or make the Order final.

According to the Commission's complaint, one relevant line of commerce in which to analyze the effects of the proposed joint venture between FMC and Solutia is pure phosphoric acid, and the relevant geographic market for this product is the United States. Pure phosphoric acid is used as an input into a wide variety of consumer and industrial products, ranging from cola beverages to cleaning compounds and metal treatments. The complaint describes FMC's and Solutia's production and sale of pure phosphoric acid, and further describes how each of the companies sells pure phosphoric acid directly to end-customers and uses it internally in the manufacture of different types of phosphate salts. According to the Commission's complaint, FMC and Solutia compete with each other in the manufacture and sale of pure phosphoric acid directly to end-customers, and in the manufacture and sale of phosphate salts.

The complaint alleges that the pure phosphoric acid market in the United States already is highly concentrated, and that the proposed joint venture would increase concentration in that market, as measured by the Herfindahl-Hirschman Index, by over 450 points, to a level over 2500. Furthermore, according to the complaint, new entry into this market is not likely.

The Commission's complaint further states that the market for pure phosphoric acid is conducive to coordination, that producers already

price independently of industry operating rates, and that producers target competitors' customers in retaliation against aggressive bidding as a means of deterring future competition. Furthermore, according to the complaint, prices for pure phosphoric acid are already the highest in the world. The complaint also describes how Solutia's agreement to purchase pure phosphoric acid from Emaphos, S.A. ("Emaphos"), a new producer of pure phosphoric acid in Morocco, makes Solutia the exclusive distributor in North America for Emaphos' pure phosphoric acid and restricts Emaphos from selling pure phosphoric acid to end-customers. According to the complaint, this provision of Solutia's agreement with Emaphos reduced the impact of potential competition from Emaphos in the United States market.

According to the Commission's complaint, another line of commerce in which to analyze the effects of the proposed joint venture is phosphorus pentasulfide. Phosphorus pentasulfide, which is typically sold in a solid, flake form to customers, is used primarily in the manufacture of chemical additives for engine lubricating oils, and also is used to a smaller extent in the manufacture of different types of insecticides. The complaint alleges that the only three companies that manufacture and sell phosphorus pentasulfide in the United States are Solutia, FMC and Rhodia, and Rhodia has announced that it is exiting the market. Therefore, the proposed joint venture would create a monopoly in this line of commerce. The complaint also states that the entry of new producers into this market is not likely. The complaint therefore alleges that the proposed joint venture would likely be able to exercise market power on a unilateral basis.

The proposed Order is designed to remedy the alleged anticompetitive effects of the joint venture in the United States markets for pure phosphoric acid and phosphorus pentasulfide, by requiring the divestiture to Prayon of Solutia's phosphates plant in Augusta, Georgia, and the divestiture to Peak of FMC's phosphorus pentasulfide plant in Lawrence, Kansas.

The Order would require respondents to divest the Augusta plant to Prayon within six months of the date that the Consent Agreement was accepted by the Commission. The Order would also require the respondents to provide Prayon with technology Solutia has used for manufacturing phosphates at the Augusta plant, and to divest other assets relating to the Augusta plant, including customer lists, contracts, and other intangible assets.

Prayon, based in Belgium, is one of the world's leading and lowest-cost producers of pure phosphoric acid. It operates two low-cost solvent-extraction plants to produce pure phosphoric acid in Belgium, and also is a partner in Emaphos, which operates a new low-cost solvent-extraction plant in Morocco. Prayon currently imports small volumes of pure phosphoric acid into the United States. With the acquisition of Solutia's Augusta plant, Prayon's presence in the United States would become much stronger, providing it with a base from which to expand its sales of pure phosphoric acid. Its competitive presence will also be enhanced by the Order's requirement that respondents revise the existing contract between Solutia and Emaphos so as to remove the restrictions that prevent Emaphos from selling pure phosphoric acid to end-customers. Emaphos' expansion in the United States through acquisition of the Augusta plant, and by virtue of the other provisions in the Order, will offset the loss of competition that would otherwise occur as a result of the joint venture.

The Order would also require respondents to divest FMC's phosphorus pentasulfide plant in Lawrence, Kansas to Peak within 30 days of the date that the joint venture is formed. The Order would require the respondents to provide Peak with technology FMC has used for manufacturing phosphorus pentasulfide at the Lawrence plant, and to divest other assets relating to the Lawrence plant, including customer lists, contracts, and other intangible assets. Because Peak will operate the phosphorus pentasulfide plant in Lawrence as part of a larger site that the joint venture will continue to own, and because Peak will rely on the joint venture for certain facilities and services, the proposed Order also contains several provisions designed to safeguard Peak's competitive position, in part by providing Peak with the opportunity to provide for itself the services and facilities it needs to operate the phosphorus pentasulfide plant. The proposed Order also contains a provision requiring the appointment of an interim trustee who would, for a period of two years, monitor the relationship at Lawrence to ensure that Peak has fair and full access to the services and facilities needed to operate the phosphorus pentasulfide plant.

If the Commission, at the time that it issues the Order, notifies respondents that it does not approve of the manner of either divestiture, or of either Prayon or Peak as purchasers of the Assets To

Be Divested, the proposed Order provides that respondents would have five months to divest either the Augusta plant or the phosphorus pentasulfide business to a different acquirer. If respondents do not complete such divestiture in that period, a trustee would be appointed.

The Order to Maintain Assets that is also included in the Consent Agreement requires that respondents preserve the Assets To Be Divested as viable and competitive operations until they are transferred to the Commission-approved acquirers. It requires the respondents to maintain the viability and competitiveness of the Assets To Be Divested, and to conduct the businesses to be divested in the ordinary course of business. Furthermore, it includes an obligation on respondents to build and maintain inventories of products at the Augusta and Lawrence plants consistent with regular business practice. The Order to Maintain Assets also requires respondents to provide certain support to Prayon in advance of the divestiture of the Augusta plant, including agreements to toll produce phosphates at Augusta, to allow Prayon to maintain an engineer at the Augusta site, and to provide certain information to Prayon regarding the Augusta operations.

The Consent Agreement requires respondents to provide the Commission, within thirty (30) days of the date the Agreement is signed, with an initial report setting forth in detail the manner in which respondents will comply with the provisions relating to the divestiture of assets. The proposed Order requires respondents to provide the Commission with a report of compliance with the Order within thirty (30) days following the date the Order becomes final and every thirty (30) days thereafter until they have complied with the divestiture requirements of the Order, and also requires annual compliance reports for 10 years.

The purpose of this analysis is to facilitate public comment on the proposed Order. This analysis is not intended to constitute an official interpretation of the Consent Agreement or the proposed Order or in any way to modify the terms of the Consent Agreement or the proposed Order.

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

**Statement of Chairman Robert Pitofsky and Commissioners Sheila F. Anthony, Mozelle W. Thompson, Orson Swindle, and Thomas B. Leary**

We believe that the divestitures and other relief mandated by the proposed

Commission order should restore the competition lost through the joint venture between FMC Corporation and Solutia Inc. Nevertheless, we recognize that both divestitures are somewhat out of the ordinary.

When remedying a Clayton Section 7 violation, the Commission usually orders a complete divestiture of one merging party's assets that produce the relevant product. In the pure phosphoric acid ("PPA") market, though, the Commission requires the divestiture to Prayon of a plant that manufactures phosphate salts but not PPA. And in the phosphorus pentasulfide market, the Commission orders the divestiture to Peak of what is essentially a "plant within a plant." Due to the novelty of the relief, the Commission will monitor closely the respondents' compliance with their obligations under the order and will ascertain whether the relief ordered in this case effectively restores competition in each of the markets.

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## GENERAL SERVICES ADMINISTRATION

### Public Buildings Service; Notice of Intent To Prepare an Environmental Assessment/Environmental Impact Statement (EIS)

**SUMMARY:** The General Services Administration (GSA) hereby gives notice it intends to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS) pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, and the President's Council on Environmental Quality Regulations (40 CFR part 1500-1508), for the construction of a new Federal courthouse in Eugene/Springfield, Lane County, Oregon.

The EA/EIS will be prepared at the completion of, and based upon, a scoping report. The EA/EIS will evaluate the proposed project, any other reasonable alternatives identified through the scoping process, and the no-action alternative. Scoping will be accomplished through two public scoping meetings and direct mail correspondence to interested persons, agencies, parties, and organizations. The public scoping meetings will be held on May 2nd & 3rd, 2000. The scoping meeting on the 2nd will be at the Hilton Hotel, 66 East 6th Ave., Eugene, WA. The scoping meeting on the 3rd, will be held at the Springfield City Hall—Council Meeting Room, 225 5th Street,

Springfield, OR. Both meetings will start at 6:30 p.m. with an open house at 6 p.m. GSA will publish a Public Notice of these meetings and all subsequent public meetings in the Eugene and Springfield newspapers approximately two weeks prior to each event. If an Environmental Assessment is prepared, it will be made available for public review. If significant impacts are not identified in the EA, GSA will issue a Finding of No Significant Impact (FONSI). If, upon completion of the EA, significant impacts to the environment are identified, GSA will then prepare an Environmental Impact Statement. Public meeting(s) will be held after the release of the Draft Environmental Impact Statement and GSA will respond to all relevant comments received during the 45 day public comment period through the Final Environmental Impact Statement. After a minimum 30-day period following publication of the Final Environmental Impact Statement, GSA will issue a Record of Decision that will identify the site selected.

**SUPPLEMENTARY INFORMATION:** GSA, assisted by Herrera Environmental Consultants, is anticipating the preparation of either the Environmental Assessment or Environmental Impact Statement on our proposal to acquire a site, and design and construct a new US Courthouse in Eugene/Springfield, Oregon. GSA will serve as the lead agency and scoping will be conducted consistent with NEPA regulations and guidelines. GSA invites interested individuals, organizations, federal, state and local agencies to participate in defining and identifying any significant impacts and issues to be studied in the EA/EIS, including social, economic, cultural, historic, or environmental concerns. Scoping will identify the significant issues to be analyzed in the environmental document and serve as a method for commenting on the alternatives.

### Project Purpose, Historical Background, Description

The District Judges, Magistrates, and US Marshal are currently located in the existing US Courthouse in Eugene, Oregon. Bankruptcy and other court related Agencies are located in lease space in downtown Eugene. The existing Courthouse does not meet the requirements of the US Court's Design guide. The existing Courthouse/Federal building complex cannot be adapted to accommodate the required space and security needs of both the Court and Agency tenants.

Congress has authorized GSA to acquire a site for construction of the

new US Courthouse. The approximate gross square feet planned for the project is 228,000 for all US District Court and Bankruptcy Court activities.

### Alternatives

The EA/EIS will examine the short and long term impacts on the natural and built environment. The impact assessment will include, but not be limited to impacts such as cultural, historic, environmental, changes in land use, aesthetics, changes in traffic and parking patterns, economic impacts, and city planning and zoning.

The EA/EIS will also examine measures to mitigate significant unavoidable adverse impacts resulting from the proposed action. Concurrent with NEPA implementation, GSA will also implement its consultation responsibilities under Section 106 of the National Historic Preservation Act to identify potential impacts to existing historic or cultural resources.

The EA/EIS will consider a no action alternative. The no-action alternative (no-build) alternative would continue the occupancy in the existing courthouse and continue to lease Court space in Eugene.

The 5 alternative locations are:

Site 1: C Street, Mill Street, Main Street, and Willamette River, Springfield.

Site 2: 8th Ave, Mill Street, Railroad tracks, Eugene.

Site 3: Fronting on the north side of International Way, Tax lot 3500, Springfield.

Site 4: 4th Ave, Willamette River, Hilyard Street, Railroad tracks, High Street, Eugene.

Site 5: 8th Ave, Hilyard Street, Broadway, High Street, and Main Street, Eugene.

**ADDRESSES:** As part of the public scoping process, GSA solicits your written comments on the scope of alternatives and potential impacts at the following address: Michael D. Levine, Regional Environmental Program Officer, 10PCP, symbol), General Services Administration, 400 15th Street SW, Auburn, WA, 98001, or fax: 253-931-7263, or e-mail at Michael.Levine@GSA.GOV Written comments should be received no later than May X, 2000

**FOR FURTHER INFORMATION CONTACT:** John Meerscheidt at Herrera Environmental Consultants, 2200 Sixth Ave, Seattle, WA 98121 or call 206-441-9080, or Michael D. Levine, GSA, (206) 931-7263.