

in the market for integrated engineering software for process industries.

C. Other Provisions

To maintain the viability of both packages and to provide a level playing field for third-party software developers that must interface with the Hyprotech and AspenTech process engineering simulation software products, the Proposed Order requires AspenTech to maintain a level playing field. For a period of five years after the divestiture, the Proposed Order requires AspenTech to develop its engineering simulation software in a manner that maintains its compatibility with HYSYS and to maintain published interfaces to AspenTech engineering simulation software. Paragraphs IV.A. and IV.B. AspenTech also must publish and provide support for all HYSYS and AspenPlus interfaces. Paragraphs IV.B. and IV.C. Finally, the proposed order prohibits AspenTech from entering into or enforcing any agreement with any competitors that has the purpose of impeding or obstructing the conduct or organizational structure of any standard-setting organization, which agreement has not been explicitly disclosed to the members of that standard-setting organization and that is inconsistent with the purpose of the Proposed Order as stated in Paragraphs II.K. and III.H. Paragraph IV.D.

To ensure that both the Commission-approved buyer of the process engineering software and operator training software and Bentley can hire employees familiar with the divested software, the Proposed Order directs AspenTech to provide the acquirers with access to relevant AspenTech employees. Paragraph V.A. This provision requires AspenTech to provide the acquirers with lists of relevant employees, remove any impediments deterring current AspenTech employees from switching to Commission-approved buyers, and for a period of two years following the divestitures, prevents AspenTech from soliciting any former AspenTech employees who choose to work for either of the Commission-approved buyers. Paragraphs V.B. through V.D.

Section VI of the Proposed Order includes the standard divestiture trustee provision pursuant to which the Commission may appoint a trustee to effectuate a required divestiture if AspenTech is unable to comply with its divestiture obligations in either Section II. or Section III., or both. Section VI. If, however, the Commission rejects Bentley as a buyer, AspenTech is granted an additional six months to divest the asset package to an acquirer

that receives the prior approval of the Commission. Paragraph III.B. If AspenTech is unable to divest within that six month period, then the Commission may appoint a trustee to divest the AXSYS Assets.

IV. Opportunity for Public Comment

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 or modify the terms of the Proposed Order in any way.

By direction of the Commission.

Donald S. Clark,
Secretary.

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FEDERAL TRADE COMMISSION

[File No. 032 3052]

Nutramax Laboratories, Inc.; 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 August 12, 2004.

ADDRESSES: Comments should refer to “Nutramax Laboratories, Inc., File No. 032 3052,” 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 H-159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, as explained in the Supplementary Information section. 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 filed in electronic form (except comments containing any confidential material) should be sent to the following e-mail box: consentagreement@ftc.gov.

FOR FURTHER INFORMATION CONTACT: Shira Modell, FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-3116.

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’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 July 13, 2004), on the World Wide Web, at <http://www.ftc.gov/os/2004/07/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 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. Written comments must be submitted on or before August 12, 2004. Comments should refer to “Nutramax Laboratories, Inc., File No. 032 3052,” 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 H-159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If the comment contains any material for which confidential treatment is requested, it must be filed in paper (rather than electronic) form, and the first page of the document must be clearly labeled “Confidential.”¹ The FTC is requesting

¹ Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must

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 filed in electronic form should be sent to the following e-mail box:

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 Web site, to the extent practicable, at 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 Web site. 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>.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Nutramax Laboratories, Inc. ("Nutramax").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves the advertising and promotion of Senior Moment, a dietary supplement containing cerebral phospholipids and docosahexaenoic acid (DHA). According to the FTC complaint, Nutramax represented that Senior Moment prevents memory loss and restores lost memory function in adults of all ages. The complaint alleges that the company failed to have substantiation for these claims. It further alleges that Nutramax falsely represented that scientific studies prove that Senior Moment restores lost memory function in adults of all ages.

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).

The proposed consent order contains provisions designed to prevent Nutramax from engaging in similar acts and practices in the future.

Part I of the order requires Nutramax to have competent and reliable scientific evidence substantiating any claims that Senior Moment or any substantially similar product prevents memory loss or restores lost memory function.

Part II requires Nutramax to have competent and reliable scientific evidence substantiating any claims about the benefits, performance or efficacy of any food, drug, dietary supplement, device or service sold for human use or consumption for cognitive functions or processes, or the treatment, cure, mitigation, alleviation of the symptoms, prevention, or reduction in the risk of any related disease or disorder. Although the order does not prohibit the trade name "Senior Moment," it does require the respondent to have competent and reliable scientific evidence to substantiate any covered claims conveyed directly or by implication through the use of the product name.

Part III prohibits any misrepresentation of the existence, contents, validity, results, conclusions, or interpretations of any test or study, in connection with the marketing or sale of any product or program for human cognitive function or processes.

Part IV permits any representation for any product that is permitted in labeling for such product pursuant to regulations promulgated by FDA pursuant to the Nutrition Labeling and Education Act of 1990.

Parts V through VIII of the order require Nutramax to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain of its personnel; to notify the Commission of changes in corporate structure; and to file compliance reports with the Commission. Part IX provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

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FEDERAL TRADE COMMISSION

SES Performance Review Board

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members to the FTC Performance Review Board.

FOR FURTHER INFORMATION CONTACT:

Janet Silva, Director of Human Resources, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2022.

SUPPLEMENTARY INFORMATION:

Publication of the Performance Review Board (PRB) membership is required by 5 U.S.C. 4314(c)(4). The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations regarding performance ratings to the Chairman.

The following individuals have been designated to serve on the Commission's Performance Review Board: Rosemarie A. Straight, Chair; Judith Bailey, Member; Maryanne S. Kane, Member; Todd J. Zywicki, Member; Howard J. Beales, Member; Lydia B. Parnes, Member; Clarence L. Peeler, Member; Luke M. Froeb, Member; Pauline M. Ippolito, Member; Susan Creighton, Member; Bernard A. Nigro, Member; William E. Kovacic, Member; and John D. Graubert, Member.

By direction of the Commission.

Donald S. Clark,

Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS-0990-0115]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed