

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](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 Web site, 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 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**

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#### **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