This refund formula should provide substantial incentive for affected customers to consider switching to the acquirer in whole or in part. Under this formula, customers who converted to a paid-up license since mid-year 2001 and who determine to switch to the acquirer at mid-year 2003 will be entitled to a refund of one-half or more of their advance payment for the paid-up MSC.Nastran license.

Although these provisions authorize refund payments by MSC to some customers, they are neither a penalty nor disgorgement. Their purpose is not to punish MSC or deprive it of ill-gotten gains. Rather, the provisions are in furtherance of the principal divestiture relief provided under the Order. They are intended to remove any penalty or disincentive on customers who had no alternative to MSC's terms after 1999, but who might now consider doing business with the acquirer of the divested assets. Indeed, no payment will be due from MSC to a customer unless and until the customer chooses to do business with the acquirer.

Post Divestiture Conduct. The Order includes provisions intended to prevent MSC from disadvantaging the acquirer in its post-divestiture dealings with customers or suppliers.

Advanced Nastran software is used in conjunction with other complementary software. Complementary software includes programs known as ''pre- and post-processors'' or ''meshers'' that are used to process input to or output from advanced Nastran and make it useful with other computer data, such as designs produced by CAD software. Complementary software of this sort is produced by various suppliers and by MSC itself. The Order requires MSC, for three years after the divestiture date, to maintain the interoperability of the current and any future versions of MSC's complementary software (including but not limited to its product MSC.Patran) with the licensed software (¶ VIII.A); and prohibits MSC from influencing a supplier of complementary software or services to refuse to deal with the acquirer or stop supporting interoperability with any of the licensed software (¶ VIII.B.).

During the same three-year period, MSC is required to maintain all current input and output file formats for MSC.Nastran. This is to ensure that users of MSC.Nastran would not be impeded or penalized in their use of models, files, or complementary software if they switched to the version of advanced Nastran offered by the acquirer. ¶ VII.C. The Order also requires that MSC not refuse to deal with any customer or prospective customer for the reason, in whole or in part, that such customer or prospective customer deals with the acquirer. ¶ VIII.D. The latter provision is intended to prevent MSC from inhibiting the pre-acquisition practice of many customers to maintain simultaneous licenses for more than one source of advanced Nastran software.

Prior Notice of Future Acquisitions. For a period of ten years, the Order requires MSC to provide prior notice of future acquisitions of any entity engaged in the development or sales of any version of Nastran. ¶IX. This provision is warranted under existing Commission policy because of the risk that MSC may in the future carry out anticompetitive acquisitions that otherwise would not come to the attention of the Commission because the transactions are likely to fall below the Hart-Scott-Rodino reporting thresholds. See Statement of FTC Policy Concerning Prior Approval and Prior Notice Provisions (June 21, 1995.

Monitor, Trustee and Reporting. The proposed Order contains standard monitor and trustee provisions. The Monitor provisions, set out in Paragraph III, authorize appointment of a person to oversee MSC's compliance with the terms of the Order. Such a monitor is warranted in light of the technical nature of the products at issue and the potential complexity of some compliance issues, including employee hiring and customer refunds. The trustee provisions, set out in Paragraph IV, contemplate appointment of a trustee to complete the required divestiture if MSC does not do so within the 150 days specified in the Order. Under these provisions, the Commission will appoint a trustee who will undertake to accomplish the required divestiture at no minimum price. The trustee will have one year to complete the divestiture. Finally, the proposed Order contains provisions for MSC to file regular reports concerning its compliance with the Order terms. ¶X.

III. Opportunity for Public Comment

The Proposed Order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Agreement and comments received, and will decide whether it should withdraw from the Agreement or make final the Order contained in the Agreement.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive issues described in the Complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the Proposed Order. It is not intended to constitute an official interpretation of the Agreement and Proposed Order or to modify their terms in any way.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

Statement of Commissioner Mozelle W. Thompson

The Commission today accepted a consent agreement to resolve the Commission's administrative complaint against MSC.Software. I voted to accept the agreement; however, I am concerned that industry and the private bar do not mistakenly make too much of the fact that the Commission did not require an up-front buyer for this licensing divestiture.

As a general rule, the Commission is more likely to require that parties present up-front buyers for assets when divesting less than an ongoing business. In this unique case, however, the Commission decided to resolve its concerns about MSC.Software's two consummated acquisitions by accepting an order requiring a prompt divestiture to restore lost competition, instead of potentially delaying relief further by first forcing MSC.Software to negotiate an asset sale to a potential buyer. The Commission makes such remedial assessments on a case-by-case basis, and such assessments would likely vary between relief proscribed for consummated mergers and relief for mergers prior to their consummation under Hart-Scott-Rodino reviews—the vast majority of Commission merger work. I am comfortable with the remedial action in this particular instance because the Commission has fully vetted the divestiture package's market acceptability with industry incumbents. Thus, I am fully confident that the asset package will function successfully in the marketplace and facilitate viable competition.

[FR Doc. 02–21118 Filed 8–19–02; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Notice of Availability; Environmental Assessment and Finding of No Significant Impact for the Proposed Master Development Plan for the U.S. Consumer Product Safety Commission, Gaithersburg, MD

AGENCY: Office of Portfolio Management, General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration is publishing a Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Proposed Master

Development Plan for the U.S. Consumer Product Safety Commission in Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Hall, Office of Portfolio Management, WPT, General Services Administration, NCR, 7th and D Streets, SW., Washington, DC, 20407; (202) 401–2354; e-mail at *ernest.hall@hsa.gov.*

SUPPLEMENTARY INFORMATION: The notice of availability is as follows:

Notice of Availability; Environmental Assessment and Finding of No Significant Impact for the Proposed Master Development Plan for the U.S. Consumer Product Safety Commission, Gaithersburg, Maryland

Reply to the Attention of: Mr. Ernest Hall, Office of Portfolio Management, WPT, General Services Administration, NCR, 7th & D Streets, SW., Washington, DC 20407. (202) 401–2354. E-mail: *ernest.hall@hsa.gov.*

The General Services Administration (GSA) is publishing a Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Proposed Master Development Plan for the U.S. Consumer Product Safety Commission (CPSC) in Gaithersburg, Maryland. The Final EA will be available for public review at the following locations:

GSA National Capital Region, 301 7th Street, SW., Room 7600, Washington, DC 20407.

The Gaithersburg Library, 8660 Montgomery Village Avenue, Gaithersburg, Maryland 20877.

Gaithersburg City Hall, 31 South Summit Avenue, Gaithersburg, MD 20877.

The GSA, acting as development manager for Federal facilities, proposed to adopt a Master Development Plan for the U.S. CPSC National Laboratory in Gaithersburg, Maryland. The plan includes a proposal to construct a Sample Storage Facility on the southeast quadrant of the site and to renovate and expand existing facilities. The proposed action would consist of constructing an 18,000 square foot Sample Storage Facility on the southeast quadrant of the site, and upgrading Buildings A, B, and C to meet CPSC specifications, including adding a connector between Buildings B and C. Interior renovations are required for Buildings E, F, G, and H to bring all aspects of the buildings up to current code requirements. Two additional small burn room areas will be added to the west end of Building G. The proposed action would also include relocating existing water lines, sewer lines, and electrical ducts.

When compared to the other build alternatives in the Final EA, the proposed action would result in the least amount of changes to the site, is the least costly to implement, and best meets CPSC's long-range needs. The proposed action will incorporate measures such as enhanced landscaping and a stormwater detention area to mitigate any permanent aesthetic or stormwater impacts of the proposed development and expansions/renovations.

Finding

Pursuant to the provision of GSA Order ADM 1095.1F, the PBS NEPA Desk Guide, and the regulations issued by the Council of Environmental Quality, (40 CFR parts 1500 to 1508), this is to advise you of our finding, based on the Final Environmental Assessment (EA), that the action described above is considered a major Federal action not significantly affecting the quality of the human environment.

Basis for Finding

The environmental impacts of constructing and operating the proposed facilities were considered in the Final EA pursuant to the National Environmental Policy Act (NEPA). The Final EA, which is available for review at the locations listed on page 1, is incorporated by reference in the FONSI. Constructing and operating the proposed project will not have a significant adverse affect on the human environment.

The EA documents the master planning process undertaken for the future use of the site. The direct, indirect, and cumulative impacts of the three build alternatives and the no action alternative were analyzed in accordance with the NEPA, and the Council on Environmental Quality (CEQ) regulations implementing NEPA. The Final EA analyzes the reasonably foreseeable environmental impacts that could result from the three build alternatives and the no action alternative.

Regardless of which build alternative is selected, all alternatives would involve temporary construction disturbances to the ambient air and noise environment, soils, and stormwater runoff from the site. However, Alternative 2 would involve substantially greater disruption affecting the entire site over a longer period of time. Alternative 3 would involve reducing the existing landscaping. Under the preferred alternative, improvements would affect less than ¼ of the existing site and will incorporate measures such as enhanced landscaping and a stormwater detention area to mitigate any permanent aesthetic or stormwater effects of the proposed CPSC development and renovations. To mitigate potential impacts, GSA will implement the measures that are discussed in the Environmental Assessment.

This Finding of No Significant Impact will become final thirty (30) days after publication in the **Federal Register** provided that no information leading to a contrary finding is received or comes to light during the 30-day public review period.

Donald C. Williams,

Regional Administrator, National Capital Region, U.S. General Services Administration.

[FR Doc. 02–21072 Filed 8–19–02; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security.

Time and Date: 9 a.m. to 5 p.m., August 28, 2002. 9 a.m. to 3 p.m., August 29, 2002.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC.

Status: Open.

Purpose: The Subcommittee on Standards and Security plans to solicit testimony from a panel of invited experts in medical terminologies to help the Committee define the scope and the criteria for recommendations on the selection of Patient Medical Record Information (PMRI) terminologies under the Health Insurance Portability and Accountability Act (HIPAA). On the second day the Subcommittee will hear from an expert panel about recent initiatives in the public and private sectors aimed at promoting and coordinating national activities for health data standards in support of achieving system interoperability and data comparability in order to meet clinical and public health needs. Additional general topics will include procedure codes and future health data standards recommendations to the HHS Secretary.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Karen Trudel, Senior Technical Advisor, Security and Standards Group, Centers for Medicare and Medicaid Services, MS: C5–24–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, telephone: 410–786–9937;