comments received during the two comment periods of the original rulemaking. Several comments then opposed the requirement that 1972 data based on the SIC Codes be supplied on the grounds that the compilation of the 1972 data would be unduly cumbersome, burdensome and expensive. These positions were rejected by the Commission on the basis that revenue information "reported by SIC-based categories currently provides the only feasible basis for the effective preliminary review of reported acquisitions within the time limits imposed by the act." (43 FR at 33527, (July 31, 1978)).

Now, for the fourth time, the Commission is changing the requirements of item 5 consistent with its earlier notices. The change will lessen the compliance burden by requiring more recent revenue data, which are generally more easily retrievable by and readily available to reporting persons than 1987 data. The Commission finds that a separate notice and comment period at this time would be unnecessary and not in the public interest and, therefore, it is not required by the APA.

Section 553(d) (5 U.S.C. 553(d)(3)) of the APA requires that 30 days notice be provided to the public before a rule becomes effective, but provides an exception from this requirement where good cause is found. (5 U.S.C. 553(d)(3)). Rather than delay the effective date of the new requirements by 30 days, the Commission has determined in the public interest to accommodate all reporting persons by making the rule effective immediately but providing for a transitional period as described above. The transitional period

in effect provides more than 30 days notice to reporting persons before they must complete the Form using 1992 base year revenue and SIC code data as required by this rule.

The Commission, with the concurrence of the Assistant Attorney General, hereby revises the Appendix to 16 CFR part 803.

The Transitional Rule

Section 7A of the Clayton Act became effective on February 27, 1977, 150 days after enactment. However, implementing rules could not be promulgated prior to the effective date. Therefore, on January 27, 1977, the Commission, with the concurrence of the Assistant Attorney General, promulgated a final rule designated the Transitional Rule (42 FR 6365 (February 2, 1977)). The Transitional Rule, 16 CFR part 800, created an exemption for all transactions consummated prior to the effective date of the Rules and specified the manner in which the Rules would be implemented during the first 30 days following the effective date. The Rules have now been in effect since September 5, 1978, and there are no longer any transactions that are subject to the Transitional Rule. Thus, the deletion of the Transitional Rule is appropriate at this time.

The Commission believes that the notice and comment period ordinarily required by the APA, 5 U.S.C. 553(b), is also unnecessary for the removal of the Transitional Rule, which falls within the exemption provided by Section 553(b)(B) of the APA. Because the Transitional Rule governs no current or future transactions, no members of the public will be affected by the deletion of the rule. Therefore, to make the removal of the Transitional Rule subject

to the notice and comment requirements of the APA would be "impractical, unnecessary, or contrary to the public interest." (5 U.S.C. 553(b)(B)(1988)).

The Commission, with the concurrence of the Assistant Attorney General, hereby removes 16 CFR part 800

List of Subjects in 16 CFR Parts 800 and 803

Antitrust.

Final Rule

Accordingly, under the authority at 15 U.S.C. 45(a) and 46(g) the Federal Trade Commission amends title 16 chapter I of the Code of Federal Regulations as follows:

PART 800—TRANSITIONAL RULE

1. Part 800 is removed.

PART 803—TRANSMITTAL RULES

2. The authority citation for part 803 continues to read as follows:

Authority: Section 7A(d), Clayton Act, 15 U.S.C. 18a(d) as added by section 201, Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–435, 90 Stat. 1390.

3. The Appendix is amended by revising pages I and IV of the Instructions to the Antitrust Improvements Act Notification and Report Form for Certain Mergers and Acquisitions, and pages 6 and 7 of the Antitrust Improvements Act Notification and Report Form for Certain Mergers and Acquisitions to read as follows:

Appendix [Amended]

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