investigated and challenged *de nove*.[7] To the extent that the prospect of the prior approval requirement may deter unlawful acquisitions by a respondent, this would appear to be a benefit. To the extent that the prospect of prior approval may deter unlawful acquisitions by firms that are not under order, this, too, would appear to be a benefit.[8]

Despite considerable squawking from a few representatives of firms that are actual, alleged or potential violators of section 7, there is little if anything to suggest that the burden of prior approval requirements is undue. It is important to remember how very limited the Commission's prior approval requirements are. First, and most obviously, the prior approval requirement is imposed only on firms that have attempted unlawful acquisitions.[9] It is limited to proposed acquisitions in the same geographic and product markets in which the Commission has found reason to believe that an acquisition by the respondent would violate the law. It is limited in time, usually to a duration of ten years. And it involves a minute universe of cases. For example, in the past five years, the Commission has issued 58 orders containing prior approval provisions, fewer than twelve per year. In comparison, in fiscal year 1994, 2,305 transactions were reported under the Hart-Scott-Rodino Act. In the first six months of fiscal year 1995, through the end of March 1, 348 transactions were filed.

According to the Commission, the policy should be changed because premerger notification under the Hart-Scott-Rodino Act is an adequate substitute. While the Hart-Scott-Rodino Act enables the Commission to investigate and challenge reported transactions before they occur, the success of the premerger notification program is not a recent discovery. If pre-transaction notice were the only purpose of prior approval clauses in orders, the policy could have been abandoned years ago. Instead, the Commission consistently has concluded (until now) that the Hart-Scott-Rodino Act does not eliminate the need for prior approval clauses in merger orders. *See, e.g., The Coca-Cola Co.,* Docket 9207, Order Denying Motion To Dismiss (August 9, 1988), Chairman Oliver dissenting[10] and Commissioner Azcuenaga recused.[11]

A prior approval requirement is a simple, direct and limited remedy to prevent recurrence of unlawful acquisitions. Even if we assume that prior approval is costly (*i.e.,* more costly than is compliance with the Hart-Scott-Rodino Act—and I am not persuaded that it is), the policy provides important law enforcement benefits. The decision to abandon prior approval in Commission orders relinquishes the benefits for no apparent return.[12]

I am against it.

[FR Doc. 95–19111 Filed 8–2–95; 8:45 am]

BILLING CODE 6750–01–M

[7] The Antitrust Division of the Department of Justice recently filed a civil antitrust complaint to block a company's second attempt in eight years to acquire its largest competitor. *See* United States v. Engelhard Corp., Civ. Action No. 6:95–CV–454 (M.D. Ga. filed June 12, 1995). Engelhard abandoned its previous acquisition attempt in 1987, after the Department announced that it would challenge the transaction.

[8] If the prior approval requirement is costly in fact or if it is perceived to be costly, then the requirement may have a deterrent effect. Formerly, a firm contemplating an anticompetitive acquisition might have decided that on balance the risk of prosecution combined with the likelihood of becoming subject to a prior approval requirement was sufficient cause not to go forward. Because firms cannot know in advance whether their transaction will be reviewed by the Commission or by the Department of Justice, any deterrent effect from the Commission's policy would apply to all transactions.

[9] Prior approval is a form of fencing-in relief. Fencing-in provisions ordinarily impose a limited ban on otherwise lawful conduct to inhibit repetition of the unlawful conduct. *See* FTC v. Ruberoid Co., 343 U.S. 470, 473 (1952) (''[T]he Commission is not limited to prohibiting the illegal practice in the precise form in which it is found to have existed in the past. If the Commission is to attain the objectives Congress envisioned, it cannot be required to confine its road block to the narrow land the transgressor has traveled; it must be allowed effectively to close all roads to the prohibited goal, so that its order may not be by-passed with impunity.'').

[10] Then-Chairman Oliver favored dismissal of the compliant when ''the only relief * * * would be an order requiring prior notice or prior approval,'' but he observed (as did the majority) that Coca-Cola and complaint counsel could ''choose to withdraw this matter from adjudication'' by negotiating a settlement containing ''narrow prior approval provisions . . . [that in his view would] be preferable to the continuance of unwarranted litigation.''

[11] *See also* Warner Communications, Inc., 105 F.T.C. 342, 343 (1985) (''nothing in its legislative history suggests that [premerger notification under the Hart-Scott-Rodino Act] was intended to supersede the use of fencing-in provisions imposed after a merger has actually been found improper''); Louisiana-Pacific Corporation, 112 F.T.C. 547, 566 (1989) (Hart-Scott-Rodino ''premerger notification program is not coextensive with the order's prior approval requirement'').

[12] Determining on a case-by-case basis whether to require prior approval, *see* Prior Approval Statement at 2–3, increases the costs of negotiating and litigating orders in merger cases. Given the benefits of prior approval, this is a waste of government resources.

[File No. 941–0076]

Local Health System, Inc., et al; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal trade commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the merger of the two largest hospitals in St. Clair County, Michigan and would require the hospitals, for a limited time, to notify the Commission or obtain Commission approval before acquiring certain hospital assets in the Port Huron, Michigan area.

DATES: Comments must be received on or before October 2, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Phillip L. Broyles, Cleveland Regional Office, Federal Trade Commission, 668 Euclid Avenue, Suite 520–A, Cleveland, OH 44114. (216) 522–4207.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following 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 sixty (60) days. Public comment is invited. 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)).

[File No. 941–0076]

Agreement Containing Consent Order

In the matter of LOCAL HEALTH SYSTEM, INC., a corporation, BLUE WATER HEALTH SERVICES CORP., a corporation, and MERCY HEALTH SERVICES, a corporation.

The Federal Trade Commission (''Commission''), having initiated an investigation of the proposed acquisition by Local Health System, Inc. (''Local Health''), of certain assets of Mercy Hospital Port Huron (''Mercy-Port Huron'') from Mercy Health Services (''Mercy Health''), and of certain assets of Port Huron Hospital from Blue Water Health Services Corporation (''Blue Water Health''), and

it now appearing that Local Health, Mercy Health and Blue Water Health, hereinafter sometimes referred to as ''Proposed Respondents,'' are willing to enter into an agreement containing an order to cease and desist from making certain acquisitions, and providing for other relief:

It is hereby agreed by and between Proposed Respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Local Health is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1001 Kearney Street, Port Huron, Michigan 48060.

2. Proposed Respondent Mercy Health is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 34605 Twelve Mile Road, Farmington, Hills, Michigan 48331.

3. Proposed Respondent Blue Water Health is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 1001 Kearney Street, Port Huron, Michigan 48060.

4. Proposed Respondents admit all the jurisdictional facts set forth in the draft of complaint.

5. Proposed Respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft of complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to the Proposed Respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following Order to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to Proposed Respondents' addresses as stated in this agreement shall constitute service. Proposed Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement may be used to very or contradict the terms of the Order.

9. Proposed Respondents have read the proposed complaint and Order contemplated hereby. Proposed Respondents understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that, as used in this Order, the following definitions shall apply:

A. *Local Health* means Local Health System, Inc., its predecessors, subsidiaries, divisions, and groups and affiliates controlled by Local Health System, Inc.; their directors, officers, employees, agents, and representatives; and their successors and assigns.

B. *Mercy Health* means Mercy Health Services, its predecessors, subsidiaries, divisions, and groups and affiliates controlled by Mercy Health Services; their directors, officers, employees, agents, and representatives; and their successors and assigns.

C. *Blue Water Health* means Blue Water Health Services Corporation, its predecessors, subsidiaries, divisions, and groups and affiliates controlled by Blue Water Health Services Corporation; their directors, officers, employees, agents, and representatives; and their successors and assigns.

D. *Respondents* means Local Health, Mercy Health and Blue Water Health, collectively and individually.

E. The *Acquisition* means the proposed acquisition of Port Huron Hospital and Mercy Hospital Port Huron by Local Health pursuant to the Memorandum of Understanding dated January 19, 1994.

F. *Acute care hospital* means a health facility, other than a federally owned facility, having a duly organized governing body with overall administrative and professional responsibility, and an organized medical staff, that provides 24-hour inpatient care, as well as outpatient services, and having as a primary function the provision of inpatient services for medical diagnosis, treatment and care of physically injured or sick persons with short-term or episodic health problems or infirmities.

G. To *operate an acute care hospital* means to own, lease, manage or otherwise control or direct the operations of an acute care hospital, directly or indirectly.

H. *Affiliate* means any entity whose management and policies are controlled in any way, directly or indirectly, by the person with which it is affiliated.

I. *Person* means any natural person, partnership, corporation, company, association, trust, joint venture or other business or legal entity, including any governmental agency.

J. *Greater Port Huron* means the area consisting of the cities of Port Huron, Marysville, Kimball Township, Port Huron Township and Fort Gratiot, Michigan.

K. *Commission* means the Federal Trade Commission.

II

It is further ordered that, unless they have already done so, Respondents shall, no later than seven (7) days after the date this Order becomes final: (1) Terminate any agreement that provides for or contemplates the Acquisition; (2) return or destroy all documents containing or recording confidential

information provided to Respondents by any other person in connection with negotiations or agreements relating to the Acquisition; and (3) recover from any other person or have such other person destroy all documents containing or recording confidential information provided by Respondents to such other person in connection with negotiations or agreements relating to the Acquisition.

III

It is further ordered that, for a period of three (3) years from the date this Order becomes final, no Respondent shall, without prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships or otherwise:

A. Acquire any majority or other controlling stock, share capital, equity or other interest in any other Respondent that operates any acute care hospital facility in Greater Port Huron;

B. Acquire a majority of any assets of any acute care hospital facility operated by any other Respondent in Greater Port Huron;

C. Enter into any agreement or other arrangement to obtain direct or indirect ownership, management or control of any acute care hospital facility operated by any other Respondent in Greater Port Huron, including but not limited to, a lease of or management contract for any such acute care hospital facility, or an agreement to replace an acute care hospital facility operated by another person with an acute care hospital to be operated by any Respondent;

D. Acquire or otherwise obtain the right to designate, directly or indirectly, a majority of the directors or trustees of any acute care hospital facility operated by any other Respondent in Greater Port Huron; or

E. Permit any acute care hospital it operates in Greater Port Huron to be acquired (by stock acquisition, asset acquisition, lease, management contract, establishment of a replacement facility, right to designate directors or trustees or otherwise) by any other Respondent that operated, or will operate immediately following such acquisition, any other acute care hospital in Greater Port Huron.

IV

It is further ordered that, for a period of ten (10) years from the date this Order becomes final, no Respondent shall, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity or other interest in any person who operates any acute care hospital facility in Greater Port Huron;

B. Acquire any assets of any acute care hospital facility in Greater Port Huron;

C. Enter into any agreement or other arrangement to obtain direct or indirect ownership, management or control of any acute care hospital facility or any part thereof in Greater Port Huron, including but not limited to, a lease of or management contract for any such acute care hospital facility, or an agreement to replace an acute care hospital facility operated by another person with an acute care hospital facility to be operated by any Respondent;

D. Acquire or otherwise obtain the right to designate, directly or indirectly, directors or trustees of any acute care hospital facility in Greater Port Huron; or

E. Permit any acute care hospital it operates in Greater Port Huron to be acquired (in whole or in part, by stock acquisition, asset acquisition, lease, management contract, establishment of a replacement facility, right to designate directors or trustees, or otherwise) by any person who operates, or will operate immediately following such acquisition, any other acute care hospital in Greater Port Huron.

Said notification shall be given on the Notification and Report Form set forth in the appendix to part 803 of title 16 of the Code of Federal Regulations as amended (hereinafter referred to as ''the Notification''), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification need not be made to the United States Department of Justice, and notification is required only of Respondents and not of any other party to the transaction. Respondents shall provide the Notification to the Commission at least thirty days prior to acquiring any such interest (hereinafter referred to as the ''first waiting period''). If, within the first waiting period, representatives of the Commission make a written request for additional information, Respondents shall not consummate the acquisition until twenty days after substantially complying with such request for additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a.

Provided, however, that prior notification shall not be required by this Paragraph IV of this Order for:

1. The establishment by a Respondent of a new acute care hospital facility that is a replacement for that Repondent's existing acute care hospital facility;

2. The establishment by a Respondent of a new acute care hospital that is not a replacement for any other acute care hospital facility in Greater Port Huron;

3. Any transaction otherwise subject to this Paragraph IV of this Order if the fair market value of (or, in the case of a purchase acquisition, the consideration paid for) the acute care hospital facility or part thereof to be acquired does not exceed one million dollars ($1,000,000);

4. Any transaction otherwise subject to this Paragraph IV of this Order if the acquisition is pursuant to a joint venture which is to engage in no activities other than the provision of the following services: Laundry; data processing; joint ownership and management of inventory; materials management; billing and collection; dietary; industrial engineering management; printing; security; records management; laboratory testing; support services for charitable foundations; or personnel education, testing or training; or

5. Notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18a, or prior approval by the Commission is required, and has been granted pursuant to Paragraph III of this Order.

V

It is further ordered that, for a period of ten (10) years from the date this order becomes final, Respondents shall not permit all or any substantial part of any acute care hospital they operate in Greater Port Huron to be acquired (in whole or in part, stock acquisition, asset acquisition, lease, management contract, establishment of a replacement facility, right to designate directors or trustees or otherwise) by any other person unless the acquiring person fields with the Commission, prior to the closing of such acquisition, a written agreement to be bound by the provisions of this Order, which agreement Respondents shall require as a condition precedent to the acquisition.

VI

It is further ordered that:

A. Within sixty (60) days of the date this Order becomes final, each Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraph II of this order; and

B. One (1) year from the date this Order becomes final, annually for the next nine (9) years on the anniversary of the date this Order becomes final, and at such other times as the Commission may require, each Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraphs III, IV and V of this Order.

VII

It is further ordered that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondents that may affect compliance obligations arising out of the Order, such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries.

VIII

It is further ordered that, for the purpose of determining or securing compliance with this Order, upon reasonable notice to Respondents, Respondents shall permit, for a period of ten (10) years from the date this Order becomes final, any duly authorized representative of the Commission:

A. Reasonable access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondents relating to any matters contained in this Order; and

B. Upon five days' notice to Respondents and without restraint or interference from them, to interview officers, directors, or employees of Respondents, who may have counsel present.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''the Commission'') has accepted, subject to final approval, an agreement containing a proposed consent order from Local Health System, Inc. (''Local Health''), Blue Water Health Services Corp. (''Blue Water Health'') and Mercy Health Services (''Mercy Health''). The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) 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.

The Commission's investigation of this matter concerns the acquisition of Port Huron Hospital, a general acute care hospital owned and operated by Blue Water Health, and Mercy Hospital-Port Huron (''Mercy Hospital''), a general acute care hospital owned and operated by Mercy Health, by Local Health. Port Huron Hospital and Mercy Hospital are the only general acute care hospitals in Port Huron, Michigan. In its administrative complaint, the Commission alleges, among other things, that the market for acute care inpatient hospital services in greater Port Huron is highly concentrated and would become substantially more concentrated as a result of the acquisitions. The Commission also alleges that it has reason to believe that the acquisitions would have anticompetitive effects and would violate section 7 of the Clayton Act. The agreement containing consent order would, if finally accepted by the Commission, settle charges that the acquisitions may substantially lessen competition in the delivery of acute care inpatient hospital services in greater Port Huron.

The order, accepted for public comment, contains provisions requiring Local Health, Blue Water Health and Mercy Health to terminate any and all agreements that provide for the acquisition of Port Huron Hospital and Mercy Hospital by Local Health.

For a period of three years from the date the order becomes final, the order prohibits Local Health, Blue Water Health and Mercy Health from acquiring, without prior Commission approval, a majority or controlling share of stock or other interests in, each other; or a majority of the assets of any acute care hospital facility operated in Greater Port Huron by either of the other companies named in the order.

For a period of ten years from the date the order becomes final, the order prohibits Local Health, Blue Water Health and Mercy Health from acquiring, without providing the Commission prior written notice, stock or assets of, or interests in any general acute care hospital facility in Greater Port Huron. If the Commission requests additional information regarding any acquisition for which prior notice is required, the order prohibits Local Health, Blue Water Health and Mercy Health from completing the acquisition until twenty days after they have provided substantially all of the information requested by the Commission.

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.

Donald S. Clark,

Secretary.

Dissenting Statement of Commissioner Mary L. Azcuenaga in Local Health System, Inc., File 941–0076

Not having found reason to believe that the proposed merger of Port Huron Hospital and Mercy Hospital would be unlawful, I do not support the proposed complaint and consent order.

Concurring Statement of Commissioner Roscoe B. Starek, III

In the Matter of Local Health System, Inc., et al., File No. 941 0076.

In deciding whether to vote for acceptance of the agreement containing consent order negotiated by the staff, I have evaluated with particular care the prior approval and prior notice provisions of the proposed order. The prior approval provisions (¶ III) requires each respondent, for three years, to obtain the Commission's approval before entering into any transaction that in essence would renew the Port Huron Hospital/Mercy Hospital merger that gave rise to this case. Under the prior notice requirement (¶ IV), a respondent must furnish notice to the Commission—largely along the lines of the Hart-Scott-Rodino premerger notification program—in advance of certain acquisitions and other transactions involving acute care hospitals in ''Greater Port Huron'' (an area consisting of five Michigan cities).

I have previously expressed my serious reservations about imposing a prior approval requirement on parties that have abandoned a challenged transaction.[1] Those reservations rest primarily on two foundations. The first is the moral neutrality of mergers and acquisitions—and therefore the dubious appropriateness of prior approval as a form of ''merger probation.'' The second is the superfluity—if not the downright excessiveness—of imposing a prior approval requirement on parties that will have to observe the notice and waiting requirements of section 7A of the Clayton Act[2] if they wish to undertake the same (or another competitively questionable) transaction in the future. Indeed, even when future acquisitions are likely to be competitively troublesome but not reportable pursuant to Section 7A, I

[1] *See, e.g.,* ''Reinventing Antitrust Enforcement? Antitrust at the FTC in 1995 and Beyond,'' Remarks of Commissioner Roscoe B. Starek, III, Marina del Rey, California (Feb. 24, 1995).

[2] 15 U.S.C. 18a.

would favor a prior notice-and-wait obligation—rather than a prior approval power—with regard to those transactions.[3]

Despite my general inclination to believe a broad prior approval provision unwarranted when the parties have abandoned their planned transaction (as they did here), acceptance of a narrowly tailored prior approval provision is appropriate in the special circumstances of this case, Paragraph III of the proposed order merely requires respondents to seek prior Commission approval, over a three-year period, for essentially the same transaction that the Commission challenged in the first place. Given that a renewed Port Huron/Mercy consolidation would be likely to raise the same antitrust concerns, this narrow prior approval requirement is neither punitive nor redundant.

I also find acceptable the proposed order's 10-year prior notification requirement. This provision pertains only to (1) transactions in the narrowly defined ''Greater Port Huron'' that (2) exceed $1 million yet (3) would not be reportable pursuant to Section 7A.[4] Where the Commission finds reason to believe that an acquisition would violate section 7, I consider it appropriate to require the respondent for some period of time to notify the Commission in advance of any proposed significant acquisitions in the relevant market that are not reportable under section 7A. That is all that Paragraph IV provides.

[FR Doc. 95–19112 Filed 8–2–95; 8:45 am]

BILLING CODE 6750–01–M

[3] ''Reinventing Antitrust Enforcement? Antitrust at the FTC in 1995 and Beyond,'' *supra* note 1, at 21–22.

[4] The third and fifth provisos to Paragraph IV, respectively, set forth the latter two limitations on the prior notification requirement.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; Computer Matching Programs—Department of Veterans Affairs

AGENCY: Administration for Children and Families, DHHS.

ACTION: Notice of a Computer Matching Program to Comply with Public Law (Pub. L.) 100–503, the computer Matching and Privacy Protection Act of 1988.

SUMMARY: In compliance with Public Law (Pub. L.) 100–503, the Computer Matching and Privacy Protection Act of 1988, the Administration for Children and Families (ACF) will conduct a computer matching program on behalf of itself, the Health Care Financing Administration (HCFA), and the Food and Consumer Service (FCS) utilizing Veterans Affairs pension and compensation information. The ACF will also work with the Kansas Department of Social and Rehabilitation Services (KDSRS), the Nebraska Department of Social Services (NDSS), the Pennsylvania Department of Public Welfare (PDPW), and the Texas Department of Human Services (TDHS) using public assistance client records.

ADDRESSES: Interested parties may comment on this notice by writing to the Acting Director, Office of Information Systems Management, Administration for Children and Families, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20047. All comments received will also be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Acting Director, Office of Information Systems Management, Administration for Children and Families, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20447. Telephone Number (202) 401–6960.

DATES: ACF filed a report of the subject matching program with the Senate Committee on Governmental Affairs, the House Committee on Government Reform and Oversight, and the Office of Information and Regulatory Affairs, at the Office of Management and Budget on July 31, 1995.

SUPPLEMENTARY INFORMATION:

A. General

Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, amended the Privacy Act (5 U.S.C. 552a) by adding certain protections for individuals applying for and receiving Federal benefits. The law regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State and local government records.

The amendments require Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with source agencies;

(2) Provide notification to applicants and beneficiaries that their records are subject to matching;

(3) Verify match findings before reducing, suspending or terminating an individual's benefits or payments;

(4) Furnish detailed reports to Congress and OMB; and

(5) Establish a Data Integrity Board that must approve matching agreements.

B. ACF Computer Match Subject to Pub. L. 100–503

Below is a brief description followed by a detailed notice of a computer match that ACF will be conducting as of August 31, 1995 or later.

ACF computer match with the Department of Veterans Affairs (VA). Purpose: To detect and determine the amount of benefit overpayment to public assistance recipients by verifying client VA pension and compensation circumstances using VA automated data files.

Dated: July 31, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Notice of Computer Matching Program

The Kansas Department of Social and Rehabilitation Services (KDSRS), Nebraska Department of Social Services (NDSS), Pennsylvania Department of Public Welfare (PDPW) and Texas Department of Human Services (TDHS) public assistance client record matching with VA compensation and pension records.

A. Participating Agencies

ACF, VA, KDSRS, NDSS, PDPW and TDHS.

B. Purpose of the Matching Program

The purpose of this matching program is to provide KDSRS, NDSS, PDPW and TDHS with data from the VA benefit and compensation file. KDSRS, NDSS, PDPW and TDHS will provide ACF with a file of Medicaid, Aid to Families with Dependent Children (AFDC), general assistance and Food Stamp clients. VA will provide ACF with a file of individuals receiving VA compensation and pension benefits. ACF, on behalf of itself, HCFA, and FCS will match the KDSRS, NDSS, PDPW and TDHS files with the VA file and provide KDSRS, NDSS, PDPW and TDHS with VA pension and compensation benefit information. KDSRS, NDSS, PDPW and TDHS will use the VA information to determine the value of using VA information to verify client circumstances and to initiate adverse action when appropriate.

C. Authority for Conducting the Matching Program

ACF, HCFA, and FCS have an obligation to assist State Public Assistance Agencies in their efforts to verify client circumstances when determining an applicant's eligibility for public assistance benefits. The most cost-effective and efficient way to verify