competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, because the scope of revised reporting requirements contained in the rule is extremely limited.

The information collection requirement contained in this rule was submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and has been assigned OMB Control Number 2502–0041.

This Rule is listed as item number 68 (H–4–84) in the Department's Semiannual Agenda of Regulations published on April 29, 1985 (50 FR 17286), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.103, 14.112, 14.115, 14.116, 14.123, 14.124, 14.125, 14.126, 14.127, 14.128, 14.129, 14.134, 14.135, 14.137, 14.138, 14.139, 14.151, 14.154 and 14.155.

List of Subjects in 24 CFR Part 207

Mortgage insurance.

PART 207—[AMENDED]

Accordingly, 24 CFR Part 207 is proposed to be amended as follows:

1. The Authority Citation for 24 CFR Part 207 would continue to read as follows:

Authority: Secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 207.256(a) would be revised to read as follows:

§ 207.256 Notice.

(a) If the default, as defined in § 207.255, is not cured by close of business of the 16th day after such default occurs, the mortgagee shall immediately notify the Commissioner in writing of such default. At the end of the 30-day grace period, the mortgagee shall file with the Commissioner, on a form approved by the Commissioner, its formal notice of default. Unless waived by the Commissioner, the mortgagee must continue to submit this notice monthly until (1) the default has been cured; (2) the mortgagee has acquired title to the property; or (3) the insurance contract has been terminated.

* * * * *

(Approved by the Office of Management and Budget under OMB control number 2502–0041)

Dated: July 16, 1985.

Janet Hale,

Acting Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85–18957 Filed 8–8–85; 8:45 am]

BILLING CODE 4210–27–M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1502

National Environmental Policy Act Regulations

AGENCY: Executive Office of the President, CEQ.

ACTION: Proposed amendment to 40 CFR 1502.22.

SUMMARY: In 1978, the Council on Environmental Quality (CEQ) issued binding regulations to implement the procedural provisions of the National Environmental Policy Act (NEPA). The regulations address the administration of the environmental assessment process for actions undertaken by all federal agencies. Since 1978, CEQ has continued its oversight of the regulations by, among other things, maintaining active monitoring of the implementation of the regulations in the federal agencies, reviewing the interpretations of the regulations by the federal courts, asking for public comment on methods of improving the effectiveness of the regulations, holding public meetings, and issuing guidance documents interpreting various aspects of the regulations. During the past two years, CEQ has paid particular attention to one of the regulations (40 CFR 1502.22) which, among other things, requires federal agencies to include a "worst case analysis" in an environmental impact statement if there is incomplete or unavailable information relevant to significant adverse impacts. CEQ is concerned that the requirement to prepare a "worst case analysis" in certain circumstances has been the impetus for judicial decisions which require federal agencies to go beyond the "rule of reason" in their analysis of potentially severe impacts. After an intensive review of the "worst case analysis" issue, including publication of an Advance Notice of Proposed Rulemaking asking for comment on the entire regulation which addresses "incomplete or unavailable information" in an environmental impact statement, CEQ has voted to amend the regulation. The proposed amendment requires the agencies (1) to affirmatively disclose the fact that information important to evaluating significant adverse effects on the human environment is missing; (2) to explain the relevance of the missing information; (3) to summarize the existing credible scientific evidence which is relevant to the agency's evaluation of the significant adverse impacts on the human environment; and (4) to evaluate that evidence. The proposed amendment also specifies that the impacts to be evaluated include low probability/catastrophic consequences, when the analysis is based on credible scientific support and not on pure conjecture, and is within the rule of reason. These requirements are proposed as a substitute for "worst case analysis". The proposed amendment also rewords and clarifies the other portions of the regulation.

Upon promulgation of this proposed amendment, conforming guidance will be provided in place of the Council's existing guidance on this regulation, Question 20 of *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 40 FR 18032 (1981).

DATE: Comments must be received by September 23, 1985. All comments received will be available for public inspection at CEQ.

ADDRESS: Comments should be sent to Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality (address same as above), 202–395–5754.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

Under Executive Order 12291, CEQ must judge whether a regulation is major and, therefore, whether a Regulatory Impact Analysis must be prepared. This regulation does not satisfy any of the criteria specified in section 1(b) of the Executive Order and, as such, does not constitute a major rulemaking. As

required by Executive Order 12291, this regulation was submitted to the Office of Management and Budget for review. Any written comments from OMB to CEQ are available from Julia Alessio, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to Mr. Richard Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 26 Jackson Place, NW., Washington, D.C. 20503. The final rule responds to OMB and public comments on the information collection requirements.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* CEQ is required to prepare a Regulatory Flexibility Analysis for proposed regulations which would have a significant impact on a substantial number of small entities. No analysis is required, however, when the Chairman of the Council certifies that the rule will not have a significant economic impact on a substantial number of small entities. Today's proposed rule would have no effect upon small entities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b), that this final proposed rule would not have a significant impact on a substantial number of small entities.

1. Background

The National Environmental Policy Act, signed into law by President Nixon on January 1, 1970, articulated national policy and goals for the nation, established the Council on Environmental Quality, and, among other things, required all federal agencies to assess the environmental impacts of and alternatives to proposals for major federal actions significantly affecting the quality of the human environment. The Council on Environmental Quality (CEQ), charged with the duty of overseeing the implementation of NEPA, developed guidelines to aid federal agencies in assessing the environmental impacts of their proposals. A combination of agency practice, judicial decisions and CEQ guidance resulted in the development of an environmental impact assessment process, which includes the preparation of environmental impact statements (EIS's) for certain types of federal actions.

In 1977, CEQ was directed by Executive Order 11991 to promulgate binding regulations implementing the procedural provisions of NEPA. The Council was specifically directed to:

> . . . make the environmental impact statement more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives.

Accordingly, after receiving and responding to the suggestions and comments of federal, state and local governmental officials, private citizens, business and industry representatives, and public interest organizations, the Council issued the NEPA regulations on November 29, 1978, 40 CFR 1500–1508 (1984). The regulations became effective for, and binding upon, most federal agencies on July 30, 1979, and for all remaining federal agencies on November 30, 1979.

Since promulgation of the NEPA regulations, the Council has continually reviewed the regulations to identify areas where further interpretation or guidance is required. This review has resulted in several guidance documents.[1] Although continual attention is required to ensure that the mandate of the regulations is being fulfilled, the Council believes that the regulations are generally working well.

During the past two years, however, the Council has received numerous requests from both government agencies and private parties to review the regulation which addresses "incomplete or unavailable information" in the EIS process. That regulation currently reads as follows:

> § 1502.22 Incomplete or unavailable information.
>
> When an agency is evaluating significant adverse effects on the human environment in an environmental impact statement and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.
>
> (a) If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.
>
> (b) If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis and an indication of the probability or improbability of its occurrence. 40 CFR 1502.22

On August 11, 1983, the Council proposed guidance regarding the "worst case analysis" requirement and asked for comments on the proposed guidance. 48 FR 36486 (1983). The draft guidance suggested an initial threshold of probability should be crossed before the requirements in 40 CFR 1502.22 became applicable. Although some commentators agreed with the guidance, others believed that the proposed threshold would unwisely undercut analysis of low probability/severe consequences. Other writers suggested different approaches to the issue, or advocated an amendment to the regulation rather than guidance. After reviewing the comments received in response to that proposal, the Council withdrew the proposed guidance, stating its intent to give the matter additional examination before publishing a new proposal. 49 FR 4803 (1984). On December 31, 1984, the Council issued an Advance Notice of Proposed Rulemaking for 40 CFR 1502.22, and stated that it was considering the need to amend the regulation. 49 FR 50744 (1984). The Advance Notice of Proposed Rulemaking posed five questions and asked for thoughtful written comments in response to them. The questions were:

1. Under what circumstance and to what extent must a federal agency engage in forecasting or speculation when confronted with scientific uncertainty or gaps in information concerning the environmental effects of a proposed action?

2. How can an analysis be structured to present reasonable forecasting in the face of scientific uncertainty or information gaps about the effects of proposed action to provide more useful and understandable information for decisionmakers and other interested parties?

3. Does the type of analysis called for in 40 CFR 1502.22 require federal agencies to go beyond the "rule of reason", as traditionally expressed in judicial decisions interpreting NEPA?

---

[1] *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 46 FR 18026 (1981); *Memorandum for General Counsels, NEPA Liaisons and Participants in Scoping*, April 30, 1981 (Available upon request to the General Counsel's Office, CEQ); *Guidance Regarding NEPA Regulations*, 48 FR 34263 (1983).

4. Should a threshold standard be established which would trigger the preparation of the type of analysis identified in response to question one, such as a threshold of severe consequences, a threshold of probability, or a threshold of scientific credibility?

5. Is the term "worst case" appropriate for this type of analysis? If so, how should it be defined? If not, what is the most appropriate term for this type of analysis, and how should it be defined?

The Council received a total of 161 responses: 68 comments from business and industry; 33 from public interest groups; 23 from federal agencies; 19 from individual commentators; 16 from state governments; and 2 from Congressional or legislative interests. A majority of commentators cited problems with the requirement to perform a "worst case analysis", although they recognized the need to address potential impacts in the face of missing information. Many commentators thought that either the regulation itself or recent judicial decisions from the U.S. Court of Appeals for the Ninth Circuit required agencies to go beyond the "rule of reason". These commentators suggested that the "rule of reason" should be made specifically applicable to the requirements of § 1502.22. A minority of commentators felt strongly that the current regulation is adequate and should not be amended.

Some commentators stressed the disclosure part of the regulation, and said that the truly important feature of the regulation was to force the agencies to acknowledge scientific uncertainty or information gaps. Other commentators offered specific suggestions for defining the type of analysis which would be appropriate in particular instances where missing information is an important factor in the decisionmaking process. A summary of all comments received is available from the Office of General Counsel.

On March 18, 1985, the Council held a meeting, open to the public, to discuss the comments received in response to the Advance Notice of Proposed Rulemaking. 50 FR 9535 (1985). Shortly after that meeting, the Council voted to amend the regulation.

PURPOSE AND ANALYSIS OF PROPOSED AMENDMENT

Discussion of Existing Regulation and Problems

The NEPA process requires federal agencies to disclose the environmental impacts of proposed major federal actions which significantly affect the quality of the human environment in an environmental impact statement (EIS). The EIS must include a rigorous evaluation of the direct and indirect environmental impacts of the proposed action and of all reasonable alternatives to the proposed action. In the context of preparing an EIS, agencies are sometimes faced with a situation in which there is information missing which relates to significant adverse impacts. Early in the history of interpreting NEPA, it was decided that an agency cannot avoid drafting an EIS because some information regarding the potential environmental impacts is unknown; indeed, "one of the functions of a NEPA statement is to indicate the extent to which environmental effects are essentially unknown." *Scientists' Institute for Public Information, Inc.* v. *Atomic Energy Commission*, 481 F.2d 1079, 1092 (D.C. Cir. 1973).

Section 1502.22 attempts to address the difficulty of analyzing in an environmental impact statement (EIS) the consequences of a proposed action in the face of incomplete or unavailable information. The regulation requires an agency to disclose the fact that information is lacking or that scientific uncertainty exists, and to obtain that information if it is essential to a reasoned choice among alternatives and the overall costs of doing so are not exorbitant. If the agency is unable to obtain the information because of overall costs or because the means to obtain it are not known, and the agency proceeds in the face of uncertainty, it must include a "worst case analysis" in the EIS. Although nothing in the official regulatory record reveals the reason that the Council chose the "worst case analysis" construct, which was not required by previous judicial opinions construing NEPA or by CEQ guidelines, it was apparently created as a device to require agencies to complete the analysis in the EIS, rather than allowing agencies to disregard uncertainties as having no weight in the balancing process.

After an intensive review of the regulation, the Council has concluded that the "worst case analysis" requirement is an unsatisfactory approach to the analysis of potential consequences in the face of missing information. The requirement challenges the agencies to speculate on the "worst" possible consequence of a proposed action. Many respondents to the Council's Advance Notice of Proposed Rulemaking pointed to the limitless nature of the inquiry established by this requirement; that is, one can always conjure up a worse "worst case" by adding an additional variable to a hypothetical scenario. Experts in the field of risk analysis and perception stated that the "worst case analysis" lacks defensible rationale or procedures, and that the current regulatory language stands "without any discernible link to the disciplines that have devoted so much thought and effort toward developing rational ways to cope with problems of uncertainty. It is, therefore, not surprising that no one knows how to do a worst case analysis. . . ", Slovic, P., February 1, 1985, Response to ANPRM.

Moreover, in the institutional context of litigation over EIS(s) the "worst case" rule has proved counterproductive, because it has led to agencies being required to devote substantial time and resources to preparation of analyses which are not considered useful to decisionmakers and divert the EIS process from its intended purpose.

The "worst case analysis" requirement has been interpreted to require agencies to present a discussion of a particular disastrous impact even when the agency believes that no credible scientific data has indicated that the particular impact could be caused by the proposed action. For example, in *Save Our Ecosystems* v. *Clark*, 747 F.2d 1240 (9th Cir. 1984), the Bureau of Land Management was ordered to prepare a "worst case analysis" assuming a causal effect between the use of certain herbicides on federal forest land and the development of cancer in human beings, despite the agency's contention that such an analysis would be pure guesswork because no credible scientific data supported the contention that cancer could occur at any dose. The Council believes that pure conjecture, that is, a conjectural analysis, lacking a credible scientific basis is *not* useful to either the decisionmaker or the public; rather, it could appear to be an indulgence in speculation for its own sake without a firm connection between credible science and the hypothetical consequences of an agency's proposed action.

Further, the Council views such an interpretation of the "worst case analysis" requirement as inconsistent with the "rule of reason", which courts have traditionally used to interpret an agency's duty under NEPA when faced with the problem of uncertainty.[2] In

[2] "Because NEPA is silent on the problem of uncertainty resulting from missing information, the courts have been forced to grapple with the issue case by case and have established a 'rule of reason' approach." *Sierra Club* v. *Sigler*, 695 F.2d 957 (5th Cir. 1983).

interpreting the requirements of NEPA, courts have recognized, "on the one hand that the Act mandates that no agency limit its environmental activity by the use of an artificial framework and on the other that the Act does not intend to impose an impossible standard on the agency." *Environmental Defense Fund, Inc.* v. *Corps of Engineers*, 492 F. 2d 1123 (5th Cir. 1974). Similarly, in the first NEPA case to deal specifically with the "rule of reason" standard as applied to the problem of scientific uncertainty or missing information, the Court of Appeals for the District of Columbia Circuit stated that, "[NEPA's] requirement that the agency describe the anticipated environmental effects of a proposed action is subject to a rule of reason. The agency need not foresee the unforeseeable, but by the same token, neither can it avoid drafting an impact statement simply because describing the environmental effects of alternatives to particular agency action involves some degree of forecasting . . . 'The statute must be construed in the light of reason if it is not to demand what is, fairly speaking, not meaningfully possible . . .' [citing *Calvert Cliffs' Coordinating Committee* v. *Atomic Energy Commission*, 499 F.2d 1109, 1114 (D.C. Cir. 1971)]. But implicit in this rule of reason is the overriding statutory duty of compliance with impact statement procedures 'to the fullest extent possible.' " *Scientists' Institute for Public Information, Inc.* v. *Atomic Energy Commission*, 481 F.2d 1079, 1092 (D.C. Cir. 1973). The Council believes that the current "worst case analysis" requirement, as interpreted by recent judicial decisions, imposes a requirement on the agencies which goes beyond this "rule of reason": That of defining and analyzing a particular set of hypothetical consequences which can be imagined as the "worst" possible result of a proposed action, without regard to support from scientific opinion, evidence, and experience.

The Proposed Amendment

It is well established that, in complying with NEPA, agencies must fairly analyze and comment upon the consequences of their actions in the face of missing information in an EIS. The Council strongly believes such analyses must be based upon credible science, so that the information will be of value to the decisionmaker and the public. The proposed amendment simply but precisely sets forth an agency's duties when, in preparing an EIS, the agency determines that there is missing information which is important to evaluating significant adverse impacts on the human environment. First, the agency must make reasonable efforts, in light of overall costs and the state of the art, to obtain the missing information. If that effort is not possible or successful, the agency must then disclose the fact that the information is missing; explain the relevance of the missing information to the agency's evaluation of significant adverse impacts on the human environment; summarize the existing credible scientific evidence which is relevant to analysis of significant adverse impacts; and present the agency's own evaluation of that scientific evidence in the EIS. Thus, the proposed regulation retains the duty to describe the consequences of a remote, but potentially severe impact, but grounds the duty in evaluation of scientific opinion rather than in the framework of a conjectural "worst case analysis". Section 1502.22 must, of course, be read in the context of the more general requirements for preparation of an EIS (40 CFR 1502, *et seq.*). These include the rigorous evaluation of the direct, indirect and cumulative impacts of a proposed action, alternatives to the proposed action, and appropriate mitigation measures. (40 CFR 1502 *et seq.*).

The proposed regulation would apply in the circumstances which frame the current requirement; that is, when there is missing information important to the evaluation of significant adverse impacts on the human environment. After consideration of the comments received in response to the Advance Notice of Proposed Rulemaking, the Council has chosen to impose scientific credibility as the "threshold" to trigger the requirements of the proposed regulation. In identifying potentially significant adverse impacts, an agency must forecast those consequences which have a low probability of occurrence but have potentially catastrophic consequences when there is credible scientific support to suggest that the impact could occur as a result of the proposed action. The agency is not required to include opinions about or an evaluation of impacts which are based on pure conjecture, without a sound rationale or valid data.

The Council intends for the phrase "overall costs" to be interpreted as including financial and other costs, such as cost in terms of time. This is consistent with the interpretation of the phrase in the current regulation. 43 FR 55978, 55984 (1978).

Finally, in light of the attention paid in recent months to "Bhopal"-type disasters, the Council wishes to emphasize that, in our judgment, the proposed regulation is better designed to lead to more informed decisionmaking, and, thus, will be more helpful in preventing such low probability/high consequence disasters than the current "worst case" rule. By requiring agencies to focus their analysis on reasonably foreseeable impacts, the proposal will generate information and discussion on those consequences of greatest concern to the public and of greatest relevance to the agency's decision. This will, we believe, constitute a substantial step forward over the current "worst case analysis" approach.

The proposed regulation requires agencies to take affirmative action, not otherwise required in the EIS process, when there is missing information about a significant adverse impact. The requirement to disclose all credible scientific evidence extends to those views which are generally viewed as "minority views" within the scientific community or to those views which are opposite those of the views subscribed to by the agency. The proposed amendment is thus consistent with the "rule of reason" as applied to the requirement that an agency make a good faith effort to describe the reasonably foreseeable environmental impacts of a program, even in the face of missing information. *Scientists Institute for Public Information* v. *Atomic Energy Commission*, 481 F.2d 1079 at 1092 (D.C. Cir. 1973). It is also consistent with the holding in *Sierra Club* v. *Sigler*, 695 F.2d 957 (5th Cir. 1983), that the probable remoteness of an impact does not excuse an agency from an evaluation of those impacts when there is a body of data with which an evaluation can be made which is not unreasonably speculative. *Id.* at 974. The Council intends that the evaluation of adverse impacts under this section will be founded on science which is competent and worthy of belief, and which is based upon theoretical approaches or research results generally accepted in the scientific community. The Council believes that this requirement will greatly enhance the utility of analyses under this section for both the decisionmaker and the public.

List of Subjects in 40 CFR Part 1502

Environmental impact statements.

PART 1502—[Amended].

40 CFR Part 1502 is proposed to be amended as follows:

1. The authority citation for Part 1502 continues to read:

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), sec. 309 of

the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

2. Section 1502.22 is revised to read as follows:

§ 1502.22. Incomplete or unavailable information.

In preparing an environmental impact statement, the agency shall make reasonable efforts, in light of overall costs and state of the art, to obtain missing information which, in its judgment, is important to evaluating significant adverse impacts on the human environment that are reasonably foreseeable. If, for the reasons stated above, the agency is unable to obtain this missing information, the agency shall include within the environmental impact statement (a) a statement that such information is missing, (b) a statement of the relevance of the missing information to evaluating significant adverse impacts on the human environment, (c) a summary of existing credible scientific evidence which is relevant to evaluating the significant adverse impacts on the human environment, and (d) the agency's evaluation of such evidence. "Reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that they have credible scientific support, are not based on pure conjecture, and are within the rule of reason.

A. Alan Hill,

Chairman.

[FR Doc. 85-18609 Filed 8-8-85; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[OMB-005-N]

Medicare Program; Office of Management and Budget Request for Review of Collection of Information Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of OMB action on collection of information requirements.

SUMMARY: As a result of reviews performed under the authority of the Paperwork Reduction Act of 1980, the Office of Management and Budget has directed that HCFA revise selected collection of information requirements in HCFA regulations. This notice informs the public of OMB's decision and states our intention to develop notices of proposed rulemaking: (1) To change the regulations, as appropriate, and (2) to solicit comments on the collection of information requirements. Consistent with the provisions of 5 CFR 1320.14, OMB has granted continued approval of the current collection of information requirements for a limited time.

DATE: To assure consideration, comments must be received by September 9, 1985.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: OMB-005-N, P.O. Box 26676, Baltimore, Maryland 21207.

Address a copy of comments on collection of information requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3203, New Executive Office Building, Washington, D.C. 20503, Attention: Fay Iudicello.

FOR FURTHER INFORMATION CONTACT: Frank Burns, (301) 594-8651—Information Collection Requirements Stefan Miller, (301) 597-6394-Conditions of Participation and Coverage.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. 3507) establishes policies and procedures for controlling paperwork burdens imposed by Federal agencies on the public. In regulations at 5 CFR 1320.14, effective May 2, 1983, the Office of Management and Budget (OMB) set forth procedures for its review of collection of information requirements contained in existing regulations that had not been previously reviewed by OMB or the General Accounting Office.

In accordance with an agreed-upon schedule, HCFA identified and submitted for review a number of items for approval. (Approval results in assignment of a control number, listed at 42 CFR 400.310.) OMB has directed that we initiate proposals to change certain collection of information requirements. In such instances, OMB's procedures require Federal agencies to publish a notice in the **Federal Register** informing the public of these proposed changes in the collection of information requirements and that OMB has approved the information requirements for a limited period of time. (This process is described in OMB regulations, 5 CFR 1320.14(f).)

The collection of information requirements most recently identified as those that may be overly prescriptive appear in 42 CFR Part 405, Subparts L, M, and Q. Therefore, we are publishing this notice to solicit public comments on the feasibility of revising the collection of information requirements that are not specifically required by statute and to inform the public that OMB has granted limited continued approval of these questioned requirements. Under an interagency agreement, HCFA will work with the Centers for Disease Control on the requirements in Subpart M (Conditions of Coverage of Services of Independent Laboratories).

We will accept comments on the collection of information requirements contained in the following rules that OMB has identified for change:

1. 42 CFR Part 405, Subpart L (Conditions of Participation: Home Health Agencies).

(a) Section 405.1221, which specifies that written requirements be developed for home health agencies' organizational structure, qualifying services, administrative controls, personnel policies and contracts, coordination of patient services, services under arrangements, and institutional planning.

(b) Section 405.1223(a), which specifies the development of a written plan of treatment established and periodically reviewed by a physician and details the requirements of the plan of treatment.

(c) Section 405.1223(b), which requires a review of the total plan of treatment by home health agency personnel and the attending physician as often as the severity of the patient's condition requires, but at least once every 60 days. The agency professional staff is also required to alert the physician promptly of any changes that suggest a need to alter the plan of treatment.

(d) Sections 405.1224 (a) and (b), which describe the duties of registered nurses and licensed practical nurses as those duties which relate to the preparation of clinical and progress notes set forth in the plan of treatment.

(e) Section 405.1225(a), which describes the duties of physical therapist and occupational therapist assistants under the supervision of a qualified physical or occupational therapist as those which include the preparation of clinical and progress notes in accordance with the plan of treatment.

(f) Section 405.1226, which describes the duties of qualified social workers offering medical social services as those which include preparing clinical and