

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 735

RIN 0560-AF13

Amendment to Cotton Warehouse Regulations for the Purpose of Defining "Unnecessary Delay"

AGENCY: Farm Service Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Farm Service Agency (FSA) of the United States Department of Agriculture (USDA) gives notice that, as a result of two Federal District Court Orders and the cotton industry's continued encouragement, it is presently contemplating the issuance of a proposed rule that would address the statutory phrase "without unnecessary delay" contained in sections 17 and 21 of the United States Warehouse Act (USWA) (7 U.S.C. 259 and 262). In developing the proposed rule, FSA would consider all distinct options that would satisfy and complement the cotton industry's diverse segments in forging a national weekly minimum cotton flow standard. FSA requests comments and suggestions from the public on the issues and alternatives that would be addressed in developing such a proposal, including, but not limited to those issues specifically mentioned in this notice. Upon receipt and review of all comments timely received in response to this advance notice of proposed rulemaking, FSA will develop a proposed rule regarding the implementation and administration of a national cotton flow standard, which provides yet another opportunity for the public to comment before the USDA would implement a final cotton flow standard.

DATES: Comments should be submitted on or before July 27, 1998 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on

this advance notice of proposed rulemaking to: Steve Gill, Director, Warehouse and Inventory Division, U.S. Department of Agriculture, Farm Service Agency, Stop 0553, 1400 Independence Avenue, SW, Washington, DC 20250-0553; telephone (202) 720-2121; fax (202) 690-3123; also E-mail comments may be sent to: HELEN_LINDEN@wdc.fsa.usda.gov. Additionally, comments may be sent via the Internet through the National Cotton Flow's (NCF) homepage at: <http://www.fsa.usda.gov/ncf>.

All written comments received in response to this advance notice will be available for public inspection in Room 5968, South Agriculture Building, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Steve Mikkelsen, Deputy Director, Warehouse and Inventory Division, U.S. Department of Agriculture, Farm Service Agency, Stop 0553, 1400 Independence Avenue, SW, Washington, DC 20250-0553; telephone (202) 720-2121, fax (202) 690-3123.

Background

Since the early 1960's, the timely delivery of stored cotton has been an issue throughout the cotton industry. While cotton shippers and cotton merchants required timely delivery to meet the demands of the marketplace, warehousemen contended that the delivery demands placed on them by shippers and merchants were unreasonable and exceeded warehouse capabilities. Over the last 30 years, the cotton industry has made two valid attempts to address the cotton flow issue, and in 1969, USDA issued a proposed rule concerning cotton flow for warehouses licensed under the USWA. Comments received in response to that proposed rule discouraged USDA from implementing a cotton flow standard through its regulatory process and, as a result, a final rule was never issued. Continued discussions throughout the various segments of the cotton industry also have failed to bring about an endorsement of a single standard that was acceptable throughout the cotton industry.

During the 1995/96 cotton season, the Coalition for Cotton Flow Standards

(CCFS), an organization created by the National Cotton Council (NCC) with the approval of all segments of the cotton industry, instituted a one-year voluntary cotton flow standard. Initially, this standard appeared acceptable to all segments of the cotton industry. The voluntary standard (1) contained weekly minimum flow requirements for warehousemen; (2) levied penalties for nonperformance by either the warehouseman or shipper; and (3) incorporated an arbitration system to settle disputes that arose over cotton flow issues. Approximately 90 percent of all cotton shippers and 52 percent of all cotton warehousemen agreed to comply with this voluntary, one-year standard. However, many warehousemen agreed to abide by the standard only if at least 90 percent of all cotton shippers and warehousemen also agreed to comply.

When shipment delays began to occur during the 1995/96 crop year, rather than exercising the arbitration rights incorporated in the voluntary standard implemented by the CCFS, several cotton shippers filed complaints with FSA. These shippers requested FSA to investigate the cotton flow situation, and suspend the federal license of those warehouses that had not delivered cotton without unnecessary delay pursuant to the USWA.

FSA personnel contacted and made several on-site visits to warehouses about which FSA had received complaints. FSA reached no ultimate conclusion, but the findings suggested that the unacceptable delays experienced by the cotton shippers and merchants may have been due, in part, to the lack of a standard method for requesting services and a lack of uniform definitions for common terms used to request these services throughout the cotton industry. For example, it appears that shippers and warehousemen begin recording time from different starting points, and there may be several days difference between a shipper's "request date" and warehouseman's "confirm date." The lack of a standard method for requesting services and of uniform common terms may have led to an appearance of a longer delivery delay than actually existed.

In addition to filing complaints with FSA, several shippers also filed lawsuits in United States District Court against

two cotton warehousemen, alleging that these warehousemen were delaying cotton deliveries to increase storage earnings. In each of these cases, lack of determination by USDA in the use and meaning of the USWA statutory phrase "without unnecessary delay" was a key issue for the courts. Ultimately, the shippers elected to dismiss their suits after the warehousemen agreed to join them in requesting that the cases be remanded to USDA to determine the definition of the statutory phrase "without unnecessary delay." The Courts agreed and remanded the matter of defining "without unnecessary delay" to USDA.

In June 1997, the Cotton Warehouse Association of America (CWAA) and the American Cotton Service Warehouse Association (ACSWA) reached an unprecedented mutual agreement for a cotton flow standard that would expedite the shipment of U.S. cotton into marketing trade channels and enhance the prices received by producers while reducing the cost of handling cotton. These two associations, along with the American Cotton Shippers Association (ACSA) and textile mill segments, petitioned USDA requesting that FSA facilitate the needs of the entire cotton industry through an expeditious establishment and implementation of a uniform cotton flow standard. These associations recommended to USDA that a weekly minimum flow standard should be as follows:

Except when prevented from doing so by Act of God or force majeure, a mandatory, non-cumulative, weekly minimum standard for bales to be shipped or made ready for scheduled delivery that week would be not less than 4.5% of CCC licensed capacity of a warehouse in effect during the week of shipment.

As a result of these events, USDA has decided to define, through the rulemaking process, the statutory phrase "without unnecessary delay" and establish a weekly minimum cotton flow standard that would be national in scope.

Using the USWA as the Tool for Implementing the Cotton Flow Standard

Section 21 of the USWA (7 U.S.C. 262) mandates that federally licensed warehousemen, "in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made by either the holder * * * or depositor. * * *" In addition, section 17 of the USWA (7 U.S.C. 259) mandates that all non-federally licensed warehousemen who issue electronic warehouse receipts, "in

the absence of a lawful excuse, shall, without unnecessary delay, deliver the cotton stored in the warehouse on demand made by the person named in the record in the central filing system as holder of the receipt."

USDA believes that the standard should be based on the USWA rather than the Cotton Storage Agreement (CSA). For the 1997 crop, more than 15.5 million bales of cotton were receipted with electronic warehouse receipts under the USWA through its federally licensed warehouse system and its approved electronic receipt providers that service non-federally licensed warehousemen, shippers, merchants, receipt holders, and other segments of the cotton industry. This represented more than 80 percent of the total 1997 cotton production. In contrast, less than 20 percent of the 1997 cotton production was associated with CCC's Cotton Storage Agreement (CSA) during this period. In addition, a standard based on the CSA would apply only to CCC-owned or loan bales and not to another storage bale, warehouse, or industry segment. Given CSA's applicability to CCC-interest cotton only, USDA perceives that the USWA's influence would embody the bulk of cotton handled and merchandised.

General Provision and Options

FSA is seeking comments from the public regarding a weekly minimum cotton flow standard that would address the statutory phrase "without unnecessary delay." While the public is free to comment on all aspects of this notice, two options for administering the cotton flow standard are being presented in this notice. The two options differ in the level of USDA involvement in ensuring compliance with the standard and in regulating the cotton industry regarding the standard.

FSA is considering the following cotton flow standard that would apply to the statutory phrase "without unnecessary delay." For the purpose of this advance notice of proposed rulemaking, this standard would be applicable to both options:

Cotton Flow Standard

Except when prevented from doing so by force majeure, a mandatory, non-cumulative, weekly minimum shipping standard for bales delivered or staged for a scheduled delivery during that week shall be not less than 4.5% of the licensed or approved storage capacity of a warehouse in effect during the week of shipment, or as determined by the Secretary.

Option I. Under Option I, USDA would establish a cotton flow standard to address the statutory phrase "without unnecessary delay", but would have

minimal involvement in administering and ensuring compliance with the established standard. Option I would include provisions for private non-governmental dispute resolution and would define USDA's limited regulatory role in administering the cotton flow standard.

(a) *Cotton Flow Standard.* As stated above.

(b) *Dispute Resolution.* Unresolved claims for noncompliance with the national cotton flow standard would be resolved through arbitration administered by the cotton industry.

(1) *Arbitration.*

(i) Disputes between warehousemen, merchants, receipt holders, and shippers, who are members of the same trade association with an established arbitration system, would resolve their disputes through that association.

(ii) Parties that are members of different trade associations each with established arbitration systems would mutually negotiate about which association's arbitration system would be utilized. No split arbitrations would be allowed, only one association's arbitration system could be used.

(iii) When the parties cannot mutually agree upon, which association's arbitration system to utilize in resolving the dispute, they would enter into a contract with private arbitrator adhering to the American Arbitration Association's (AAA) Standards and Procedures.

(iv) Private arbitrators following AAA's Standards and Procedures would resolve those disputes between parties belonging to trade associations without an established arbitration system, or who are not members of any trade association, and/or with a party who is a member of a trade association with an established arbitration system when the other party does not agree to use that association's arbitration system.

(v) The noncomplying party would be responsible for all costs and expenses associated with the arbitration.

(c) *USDA's Regulatory Role.*

(1) USDA would not hear complaints or settle unresolved disputes between a shipper and a warehouseman involving a national cotton flow standard violation or associated damages.

(2) No arbitrator's rendered determination or award would affect, obligate, or restrict USDA's authority to administer and regulate the issuance of USWA licenses, USWA receipts, contractual agreements, or the electronic warehouse receipt provider system.

Option II. Under Option II, USDA would establish a cotton flow standard to address the statutory phrase "without

unnecessary delay" and would be involved in the daily administration of the cotton flow standard. Option II includes regulatory definitions and procedures for the timely delivery and acceptance of cotton that are applicable to cotton flow standard compliance determination, dispute resolution, and reporting requirements.

(a) *Definitions and Terms.* The definitions and terms stated in this section are applicable for the purposes of administering the regulation under Option II. The following definitions are proposed. The public is free to comment on these definitions, including their inclusion or exclusion in the regulation:

(1) *Confirmed Shipment Date.* A warehouseman's scheduled delivery date for a specific bale, confirmed in writing or by any other rapid written communication method physically notifying the receipt holder.

(2) *Delivery.* A warehouseman's physical act placing a scheduled bale in some type of conveyance or otherwise making the bale available according to the receipt holder's instructions.

(3) *Force majeure.* Severe weather conditions, fire, explosion, flood, earthquake, insurrection, riot, strike, labor dispute, act of civil or military authority, non-availability of transportation facilities, or any other cause beyond the control of the warehouseman or receipt holder, which renders performance impossible.

(4) *Scheduled Bales.* Specific bales that a warehouseman schedules with written confirmation for delivery on a specified date.

(5) *Shipping Order.* A warehouseman's unique document that identifies and confirms each specific bale scheduled for delivery and references a receipt holder's original delivery request.

(6) *Timely Delivery.* An act by which a warehouseman makes available to the receipt holder a scheduled bale on or before the "confirmed shipment date", or within fourteen (14) calendar days after receiving the receipt holder's written delivery request.

(7) *Timely Acceptance.* An act by which a receipt holder takes possession and removes scheduled bales from a warehouse on or before the "confirmed shipment date."

(8) *Unnecessary Delay.* A receipt holder's failure to take "timely acceptance" or a warehouseman's failure to make "timely delivery" of a scheduled bale on or before the "confirmed shipment date" in absence of force majeure. Also, a warehouseman's failure to meet or exceed the weekly minimum cotton flow standard.

(9) *Week.* Seven (7) consecutive calendar days, beginning 12:00 a.m. Saturday morning and ending 11:59 p.m. Friday night, or as determined by the Secretary.

(b) *Cotton Flow Standard.* As stated above.

(c) *Delivery of Cotton from Storage.*

(1) The Secretary expects cotton warehousemen who issue electronic warehouse receipts and/or who are USWA licensed to schedule delivery as close as possible to a receipt holder's requested delivery date for cotton stored in their warehouse.

(2) Warehouseman must schedule delivery of all bales at the request of the receipt holder.

(3) A scheduled bale not delivered during any week would be the first bale delivered the following week. When delivered, this bale would count towards the weekly minimum cotton flow standard during the week delivered.

(4) Each individual bale within a non-segregated lot, that a warehouseman receives, stores, and redelivers under a multiple bale warehouse receipt, such bales would count toward the weekly minimum cotton flow standard upon delivery.

(5) When a warehouseman receives, stores, and redelivers bales as an unbroken non-segregated lot, without receipting them under a multiple bale or as a single warehouse receipt(s), such bales would not count toward the weekly minimum cotton flow standard upon delivery.

(6) In the absence of force majeure, warehousemen that fail to "timely deliver" scheduled bales and receipt holders that fail to "timely accept" scheduled cotton will be deemed as not complying with the weekly minimum cotton flow standard.

(d) *Dispute Resolution.* Unresolved claims for noncompliance with the national cotton flow standard would be first resolved by mediation and finally by arbitration.

(1) *Mediation.* Disputes in which one or more of the affected parties belong to a trade association(s) without an established arbitration system, or who are not members of any trade association, or who are members of separate associations and cannot agree on which association's arbitration system to utilize, would be resolved through the following alternative dispute resolution process:

(i) The parties would, in good faith, attempt to resolve the dispute through a mediation process administered by an independent mediator recommended by AAA and conducted in accordance with current AAA Mediation Rules and

Procedures before resorting to binding arbitration.

(ii) The parties would faithfully observe all applicable AAA rules, procedures, and abide by and execute any agreement or determination recommended by the mediator.

(iii) When good faith mediation fails to resolve the dispute, both parties would submit their dispute to binding arbitration administered by an independent arbitrator recommended by AAA.

(2) *Arbitration.*

(i) Disputes between warehousemen, merchants, receipt holders, and shippers, who are members of the same trade association with an established arbitration system, would resolve their disputes through that association.

(ii) The parties would mutually negotiate about which association's arbitration system would be utilized, when the parties are members of different trade associations with established arbitration systems. No split arbitrations would be allowed, only one association's can be used.

(iii) When parties cannot mutually agree, which association's arbitration system to utilize in resolving the dispute, they would enter into a contract with private arbitrators adhering to AAA's standards and procedures.

(iv) Private arbitrators who follow AAA's standards and procedures would resolve those disputes between parties who belong to trade associations without an established arbitration system, or who are not members of any trade association, and/or with a party who is a member of a trade association with an established arbitration system when the other party does not agree to use that association's arbitration system.

(v) In the event a party refuses to submit to arbitration or fails to abide by any determination or award rendered by the arbitrators, the party desiring arbitration or enforcement of the determination or award may notify USDA of the party's unwillingness to resolve a cotton flow standard dispute or comply with an arbitrator's rendered determination or award.

(vi) The noncomplying party would be responsible for all costs and expenses associated with the arbitration and any costs incurred by USDA.

(vii) Any controversy or claim arising from or related to the arbitrator's rendered determination or award may be enforced by any federal or state court having jurisdiction thereof.

(e) *USDA's Regulatory Role.*

(1) USDA would not hear complaints or settle unresolved disputes between a shipper and a warehouseman involving

a national cotton flow standard violation or associated damages.

(2) No arbitrator's rendered determination or award would affect, obligate, or restrict USDA's authority to administer and regulate the issuance of USWA licenses, USWA receipts, contractual agreements, or the electronic warehouse receipt provider system.

(3) Under the authority of the USWA and its regulations, USDA may independently administer all regulatory actions, arbitration proceeding determinations, and rendered awards when such action is necessary for the effective administration of the national cotton flow standard.

(4) USDA will require USWA licensed warehousemen and non-federally licensed warehousemen, receipt holders, and shippers who utilize the electronic warehouse receipt system to:

(i) Meet the weekly minimum cotton flow standard.

(ii) "Timely deliver" and "timely accept" scheduled bales.

(5) USDA would reserve the right to take action against the noncomplying party, including:

(i) Suspension or termination of licenses issued in accordance with the USWA.

(ii) Suspension or termination of access to the electronic receipt provider system.

(f) *Program Operations and Maintenance.* Congress requires USDA to collect sufficient fees for the operation and maintenance of all USWA related operations. USDA is considering funding the cost of administering a national cotton flow standard through an assessment on each bale of cotton.

(1) Warehousemen would collect an assessment on each individually receipted bale and each individual bale represented by a multiple bale receipt that is delivered or redelivered for shipment.

(2) The assessment would be collected along with other warehouseman's tariff charges in the final settlement of each shipping order.

(3) The warehouseman would forward the collected assessments to USDA quarterly.

(g) *Reports and Reporting.* Each week, warehousemen would electronically transmit a report to USDA that would be comprised of warehouse information that the cotton industry considers essential for improving global marketing opportunities, enhancing cotton values,

and encouraging timely delivery and acceptance of stored cotton. USDA would collectively merge this information into a "National Cotton Flow Standard Status Report" that USDA would publish electronically on the Internet.

Comments

The information collected in response to this advance notice of proposed rulemaking will be used to determine the cotton industry's overall needs regarding a "National Cotton Flow Standard". Appendix I provides interested parties an opportunity to respond to specific questions on the issue of a national cotton flow standard. Respondents may simply cut out or duplicate the stated issues/questions furnished in Appendix I of this notice. Respondents may submit their comments to the address shown above. Respondents may also access these same issues/questions and submit comments via the Internet through the NCF homepage address at: <http://www.fsa.usda.gov/ncf>.

BILLING CODE 3410-05-P

APPENDIX INational Cotton Flow Standard

Issues/Questions

The Farm Service Agency (FSA) is requesting comments on the following issues:

1. ☐ Agree ☐ Disagree The cotton industry needs a "National Cotton Flow Standard."
2. ☐ Agree ☐ Disagree FSA is the agency to administer a "National Weekly Minimum Cotton Flow Standard" for the cotton industry.
If not FSA, I recommend
_____.
3. ☐ Agree ☐ Disagree The proposed cotton flow standard of 4.5% of a warehouseman's licensed or approved storage capacity is reasonable. If 4.5% is not reasonable, I recommend
_____ percentage.
4. ☐ Agree ☐ Disagree USDA should define and standardize certain terms used within the cotton industry.
5. ☐ Agree ☐ Disagree "Timely delivery" is best defined as the act or process by which the warehouseman presents or makes available scheduled bales to the receipt holder or shipper on or before the "confirmed shipment date", or within the fourteen (14) calendar days following date the warehouseman receives the receipt holder or shippers

written request for delivery or shipment. If 14 days is not reasonable, I would recommend _____ days.

6. ☐ Agree ☐ Disagree An "alternative dispute resolution system" such as arbitration should be used to resolve unsettled claims regarding cotton flow and untimely delivery or acceptance.
7. ☐ Agree ☐ Disagree The resolution system should be binding with no appeal.
8. ☐ Agree ☐ Disagree The resolution system should allow discovery by opposing parties.
9. ☐ Agree ☐ Disagree The entire cost and related expenses of using the dispute resolution system should be paid by the losing party.
10. ☐ Agree ☐ Disagree Rendered determinations and awards that result from the resolution system should be made public record or published, by _____.
11. ☐ Agree ☐ Disagree Because Congress requires USDA to collect sufficient fees to cover expenses related to USWA operations, USDA is considering requiring warehousemen to collect an assessment on each bale of cotton shipped, which would then be forwarded to USDA. If you disagree, who should fund the cost associated with the national cotton flow standard? _____

12. ☐ Agree ☐ Disagree There should be a National Cotton Flow Standard Status Report that summarizes the shipping activities of all warehousemen and shippers.
13. ☐ Agree ☐ Disagree USDA should be responsible for a National Cotton Flow Standard Status Report. If not USDA, I would recommend _____.
14. ☐ Agree ☐ Disagree A National Cotton Flow Standard Status Report should be published and made available on the Internet.
15. ☐ Agree ☐ Disagree A National Cotton Flow Standard Status Report should contain only warehouse information that the cotton industry considers essential for overall improvement of cotton values and marketing. If you agree, what information should be published and made available on the report?
- _____
- _____
- _____
- _____
- _____

Alternative suggestions, ideas and comments will be considered fully. When providing comments regarding this advance notice of proposed rulemaking, the respondent should provide the FSA with a complete description of the details of the alternative method or issue, along with supporting data.

Signed at Washington, D.C., on May 19, 1998.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 98-13819 Filed 5-22-98; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 835

[Docket No. EH-RM-96-835]

RIN 1901-AA59

Occupational Radiation Protection

AGENCY: Department of Energy.

ACTION: Proposed rule; Notice of Paperwork Reduction Act Submission and comment request.

SUMMARY: On December 23, 1996, the Department of Energy (DOE or Department) published a notice of proposed rulemaking to amend the Department's primary standards for occupational radiation protection during the conduct of DOE activities. This notice advises the public that DOE has submitted for review a Paperwork Reduction Act Submission for the proposed rule to the Office of Management and Budget (OMB) for review and invites interested persons to submit written comments and recommendations to OMB concerning the proposed collection of information.

DATES: Written comments and recommendations for the proposed collections of information must be mailed by June 25, 1998 directly to the OMB desk officer at the address below. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be contacted at telephone number (202) 395-3084.

ADDRESSES: Comments should be addressed to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W., Washington, D.C. 20503. (Persons submitting comments to OMB

also are requested to send a copy to Dr. Joel Rabovsky, U.S. Department of Energy, EH-52, "EH-RM-96-835 Rulemaking," 1000 Independence Avenue, S.W., Washington, D.C. 20585.)

FOR FURTHER INFORMATION CONTACT:

Requests for copies of the Department's Paperwork Reduction Act Submission and other information should be directed to Dr. Joel Rabovsky, U.S. Department of Energy, Office of Worker Protection Programs and Hazards Management, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (301) 903-2135.

SUPPLEMENTARY INFORMATION: DOE has submitted a Paperwork Reduction Act Submission for a proposed rule on occupational radiation protection to OMB for review under section 3507(d) of the Paperwork Reduction Act of 1995. The proposed rule was published in the **Federal Register** on December 23, 1996 (61 FR 67600). This notice invites interested persons to submit written comments and recommendations to OMB concerning the proposed collections of information described below. Comments should address: (1) whether the proposed collections of information are necessary for the proper performance of the functions of DOE, including whether the information shall have practical utility; (2) the accuracy of the Department's burden estimates, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the collection on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 1910-xxxx.

Title: Occupational Radiation Protection.

Abstract: Under section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), DOE is authorized to adopt rules governing DOE activities undertaken in the performance of its functions. Part 835 of title 10 CFR establishes radiation protection limits and controls to protect DOE employees, contractor and subcontractor employees, and visiting workers who use DOE facilities from occupational exposure to radiation or radioactive materials. Part 835 contains the following information collection requirements, all of which would be modified by the Department's December 23, 1996, rulemaking proposal:

1. *Radiation Protection Program Submissions.* Part 835 requires contractors performing DOE activities to prepare and submit a radiation protection program (RPP) to DOE for

approval, and to submit updates of the RPP to DOE for approval. 10 CFR § 835.101.

2. *Recordkeeping requirements.* Part 835 requires contractors to keep individual monitoring records (§ 835.702); certain workplace monitoring records (§ 835.703); training and other administrative records (§ 835.704); records of release of materials and equipment from radiological areas (§ 835.1101); and records of planned special exposures to radiation (§ 835.204).

3. *Reporting requirements.* Part 835 requires contractors to provide radiation dose reports to monitored individuals and to report other information to individuals upon termination of employment and on other occasions. 10 CFR § 835.801.

Need and Uses: The information that part 835 requires DOE major facilities management contractors to produce, maintain and/or report are necessary to permit the Department to manage and oversee health and safety programs that control worker (i.e., DOE employees, contractor and sub-contractor employees, and visiting workers) exposure to radiation.

Frequency: (1) The initial RPP Submission is a one-time requirement; updates are required on occasion; (2) recordkeeping requirements include planned special exposure records from time to time, as well as individual and workplace monitoring records; (3) reporting of radiation doses to monitored individuals is required annually; other information is reported to individuals upon termination of employment and on other occasions.

Number of Respondents: 50. This number reflects the number of radiation protection programs for part 835 implemented to date.

Estimated Annual Burden: 50,000 hrs. This burden estimate consists of DOE's estimates of the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose information to or for DOE. In developing these burden estimates, DOE has estimated the total cost of complying with the information collection requirements in 10 CFR 835.

Issued in Washington, DC, on May 8, 1998.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 98-13849 Filed 5-22-98; 8:45 am]

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