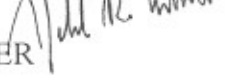




Department of Energy
Office of Science
Washington, DC 20585
February 21, 2006

Office of the Director

MEMORANDUM TO FIELD OFFICE MANAGERS

FROM: DONALD R. ERBSCHLOE
ACTING CHIEF OPERATING OFFICER 

SUBJECT: Key Provisions and Office of Science Guidance for the
Department of Energy Rule 10 CFR 851, "Worker Safety and
Health Program"

The purpose of this memorandum is to notify you that the subject rule was published on February 9, 2006. I have attached a summary of the rule's key provisions and compliance dates, and I have attached interim guidance.

I am particularly concerned about preserving the Management and Operating contractor relationship. The Office of Science identifies the expectations, in this case compliance with the subject rule, and the contractor determines how to meet those expectations. Then, the Office of Science assures on a regular basis that the contractor is meeting expectations.

Please provide me with any issues or concerns you have regarding this rule, and any guidance or clarifications you need to help you complete the tasks required by this rule. The rule is at the following internet link: <http://www.eh.doe.gov/rulemaking/>. For planning purposes and technical information dissemination, please provide a technical point of contact from your field office and your cognizant laboratory.

We are planning to have an Office of Science workshop on this subject. I would like your views on the subjects you would like covered and the format of the workshop.

I would like this information by March 15, 2006. Please provide it to Jay Larson, jay.larson@science.doe.gov.

Attachments (2)



Distribution:

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Draft
Background and Key Provisions of
DOE Rule 10 CFR 851, “Worker Safety and Health Program”

Key Provisions:

- The 851 rule includes 10 CFR 850, “Chronic Beryllium Disease Prevention Program,” and places the beryllium rule under Price Anderson enforcement.
- The enforcement penalty for an indemnified contractor can be up to \$70K for each violation, and each day of the violation constitutes a separate violation. (851.5)
- Contractors must submit to the appropriate Site Office Manager a written worker safety and health program that provides the methods for implementing the requirements of 10 CFR 851. Contractors must incorporate in the worker safety and health program any changes, conditions, or standards directed by DEAR 970.5204-2. (851.11)
- The contractor may use an established written safety and health program, an Integrated Safety Management System (ISM) description pursuant to the DEAR Clause, or an approved Work Smart Standards (WSS) process that was established prior to the issuance of 851, in place of written worker safety and health program required by 851, as long as it satisfies the requirements of 851. (851.13)
- The 851 rule lists specific compliance requirements that include eight titles of OSHA standards, the ACGIH Threshold Limit Values, three ANSI standards, two NFPA standards on electrical safety, several sections of the American Society of Mechanical Engineers (ASME) Boilers and Pressure Vessel Code, and two DOE Manuals. (851.23 & 27)
- In addition to the specifically-listed compliance requirements, the 851 rule includes 10 worker safety and health functional areas with additional compliance requirements which need to be addressed in the written program. (851.24 and Appendix A)

Compliance Dates (851.11):

- February 26, 2007: Contractors must have submitted to the Head of DOE Field Element, their written Worker Safety and Health Program.
- Within 90 days of receipt of the contractor’s written program: The Head of DOE Field Element approves or rejects the written program. Approval is assumed if no action is taken.
- May 25, 2007: After this date, no work can be performed at a laboratory without an approved plan.

Variances (Subpart D):

- For SC laboratories, variances are granted by the Under Secretary for Science after considering the recommendation of the Assistant Secretary for Environment, Safety and Health. (851.30)
- According to the rule, contractors apply to their appropriate Cognizant Secretarial Officer (CSO), the CSO may forward the application to the Assistant Secretary for Environment, Safety and Health (EH-1), and EH-1 makes a recommendation. (851.31)
- The content of variances is defined in the rule. (851.31)

**Office of Science Interim Guidance
DOE Rule10 CFR 851, "Worker Safety and Health Program"**

- The 'Head of DOE Field Element' is the cognizant DOE Site Office Manager.
- Contractor variance requests must first be provided to the cognizant DOE Site Office Manager. If appropriate, the Site Office Manager forwards the variance to the Director of the Office of Science. If the Site Office Manager determines that the variance should not be forwarded to the Director of the Office of Science, the Site Office Manager must return the application to the contractor in accordance with paragraph 851.31.
- Site Offices should develop suitable milestones for the laboratories' development of their written Worker Safety and Health Programs, and review their contractors' progress on a periodic basis.
- The contractor and Site Office Manager can consider using an established written safety and health program, an Integrated Safety Management System (ISM) description pursuant to the DEAR Clause, or an approved Work Smart Standards (WSS) process that was established prior to the issuance of 851, in place of written worker safety and health program required by 851, as long as it satisfies the requirements of 851. (851.13)