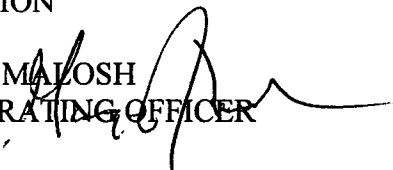




Department of Energy
Office of Science
Washington, DC 20585
December 1, 2006

MEMORANDUM FOR DISTRIBUTION

FROM: GEORGE J. MALOSH
CHIEF OPERATING OFFICER 

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

REF: Memorandum from D. Erbschloe, Key Provisions and Office of Science Guidance for the Department of Energy Rule 10 CFR 851, "Worker Safety and Health Program", February 21, 2006

As you know, written Worker Safety and Health Programs for your contractors need to be in place and approved by you by May 25, 2007. No work can be performed at your laboratory after this date without an approved plan in place. I want to ensure that all of our sites implement the Rule in a timely manner, and that we have a working process for having variances granted by the Under Secretary for Science, if needed.

To assure successful and consistent implementation across the Office of Science (SC) complex, the attached guidance has been developed to update the referenced interim guidance of February 21, 2006. The guidance provides guidelines for the review and approval of the contractor Worker Safety and Health Programs, description of the variance review process, as well as selected "Frequently Asked Questions" that may be useful for our particular facilities.

I am aware that many of you have requested technical support from the Integrated Service Center for your plan review. I expect the Integrated Service Center to give priority to supporting the site office review and approval of contractors' worker safety and health programs. They are prepared to assist you and have been involved in the development of this guidance. In order to ensure that we can meet our approval deadline, I suggest that you review drafts of your contractors' Worker Safety and Health Programs in a phased approach so as to ensure the program can be approved when submitted. If there are major issues with implementation, please inform me well in advance of the compliance dates.

I expect the SC ES&H Division to coordinate the variance approval process for the SC complex. If your contractor has any variance requests, they need to inform you of their intentions along with their schedule for submission. Please provide



your list of draft variance requests to the SC ES&H Division for coordination purposes by mid January 2007. Final variance requests from the contractors are due to you no later than February 26, 2007. Your office should conduct the initial screening and evaluation of the variance request. Variance requests that meet 10 CFR 851.31(c) criteria should then be reviewed by a review team consisting of subject matter experts from the ISC, site office, and the SC ES&H Division for technical soundness and consistency. Once you are satisfied with the variance requests, forward your request and endorsement to SC-1 through me. We are working with HS on the details of the variance review process, and the ES&H Division will keep you informed on the approval status of your variance requests.

There has been some discussion about what we mean by Field/Site Office Manager Approval. Field/Site Office Manager Approval means the manager is reasonably assured that the contractor's written Worker Safety and Health Program describes the methods by which the contractor will comply with the applicable rule requirements, provides for a safe and healthful workplace, and can be implemented and integrated with other programs and management systems. The approval does not validate each functional element or referenced method of the contractor's Worker Safety and Health Program. This validation is a continual programmatic oversight function of the field element. Approval of any variances, equivalencies, and/or lists of closure facility hazards and controls may occur after the submittal of the contractor's written program.

If you have any questions, please contact Barry Parks or Jay Larson at (301) 903-6800.

Attachments (3)

DISTRIBUTION:

G. Boyd, Manager, Oak Ridge Office
R. Wunderlich, Manager, Chicago Office
M. Martinez, Acting Manager, Ames Site Office
C. Zook, Acting Manager, Argonne Site Office
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J. Erickson, Acting Manager, Pacific Northwest Site Office
J. Turi, Manager, Thomas Jefferson Site Office

SC Guidance
Standard Review Plan
Worker Safety and Health Programs
November 30, 2006

Office of Science (SC) contractors are required to submit a Worker Safety and Health program meeting the regulatory criteria contained in §851.11 of 10 CFR 851, *Worker Safety and Health Program*, by February 26, 2007. The purpose of this document is to provide general SC guidelines for review of the submitted programs. Tailoring of these guidelines to meet specific operational needs is permissible.

Worker Safety and Health Program Submittal: The following submittal format should be used to provide consistency across the SC complex. SC expects a single Worker Safety and Health (WSH) Program to be submitted from the site prime contractor. This single WSH Program should include the mechanism through which the prime contractor requires lower tier subcontractors to comply with the Rule, in advance of their work at DOE sites. The submittal should be clear, concise, in the range of 15-25 pages in length (excluding attachments), and include the following:

- Signature Page for use by the Field/Site Office Manager.
- Executive Summary (e.g., brief summary of work activities, locations, number of personnel).
- Principal programs (e.g., Integrated Safety Management System Description Document, Work Smart Standards addressing DOE ISMS requirements, including incorporation of 10 CFR 851 criteria into these programs).
- Summary discussion of contractor implementation processes (e.g., flowdown of requirements and coordination with other contractors, subcontractors, and sub-tier contractors and their programs and procedures) used to address criteria contained in subparts §851.10-§851.27.

The following attachments should also be provided with the submittal, as appropriate:

- 10 CFR 851 Implementation Matrix (Crosswalk Matrix), documenting review of Rule criterion (e.g., Regulatory Citations, Applicability Determination; and Implementing Mechanisms (e.g., references to plans, procedures).
- For off-site work locations, describe whether DOE or OSHA has jurisdiction, and which DOE Site Office is responsible for the Worker Safety and Health (WSH) program.
- Listing of workplace safety and health requirements contained in §851.23 & §851.27 applicable to contractor activities.
- Other safety and health standards as required by §851.23(b).
- Lists of Closure Facility hazards and controls.
- Equivalencies granted prior to promulgation of the Rule in accordance with the equivalency provisions of the Codes or Standards.

Attachment A

- Description of the processes for developing equivalencies where allowed by Codes or Standards.

Schedule: The contractor and Field/Site Office should agree on a schedule that meets the following commitments. Additionally, the Field/Site Office should review drafts of their contractors' Worker Safety and Health Programs in a phased approach so as to ensure the program can be approved when submitted. This phased review is expected to include the contractor's analysis of potential gaps with the rule's requirements, any associated corrective actions, and the resulting crosswalk matrix. If there are major issues with implementation, the Field/Site Office Manager should inform SC COO well in advance of the compliance dates.

- January 15, 2007: Site Office list of proposed/draft variances due to SC-31.1.
- February 26, 2007: Contractor's final WSH Program and variance requests due to Field/Site Office, with a copy to SC-31.1. Subcontractors' final WSH Program due to prime contractor for review and approval.
- May 25, 2007: Deadline for Field/Site Office approval of prime contractor's WSH program, and prime contractor approval of subcontractor's WSH programs.

Gap Analysis: The contractor should conduct a review of 10 CFR 851 requirements versus existing program mechanisms to identify areas that may need to be added/modified to ensure full compliance with applicable 10 CFR 851 requirements.

For each identified gap, the contractor should document:

- 10 CFR 851 Section Number.
- The nature of the gap between 10 CFR 851 vs. current contractor policy/procedure.
- An explanation of why this is a gap.
- Organizations impacted by the gap.
- Potential impact on cost/schedule.
- Proposed resolution.
- Cost/schedule impact of proposed resolution.

SC Field/Site Office Approval: Field/Site Office Manager Approval means the manager is reasonably assured that the contractor's written Worker Safety and Health Program describes the methods by which the contractor will comply with the applicable rule requirements, provides for a safe and healthful workplace, and can be implemented and integrated with other programs and management systems. The approval does not validate each functional element or referenced method of the contractor's Worker Safety and Health Program. This validation is a continual programmatic oversight function of the field element. Approval of any variances, equivalencies, and/or lists of closure facility hazards and controls may occur after the submittal of the contractor's written program.

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Personnel at the Integrated Service Center are also available to assist SC Site Offices with reviews. An example Standard Review Checklist is provided in the Appendix to facilitate review of contractor programs. This checklist should not be used as a table of contents for the WSH Program. Checklist items should be expanded to cover all subparagraphs of 10 CFR 851 applicable to contractor operations.

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Appendix: Office of Science Standard Review Checklist

	Program Elements/Review Criteria	Comments	Approved Yes/No	Resolution	Date
1.	Executive Summary				
2.	Scope/exclusions				
3.	Integrated Safety Management System (ISMS)				
4.	Flowdown of Worker Safety and Health Requirements				
	4.1 Overview				
	4.2 Technical Staff and ES&H Responsibilities				
	4.3 Procurement Interface				
	4.4 Types of Flowdown				
	4.5 Construction Subcontracting				
	4.6 Lower Tier Subcontractors				
5.	Implementing Processes				
	5.1 Overview				
	5.2 WSH Program – General Requirements (10 CFR 851.10)				
	5.3 Development and Approval of the WHS (10 CFR 850.11)				
	5.3.1 Preparation, Evaluation and Approval				
	5.3.2 Coordination with Other Contractors and Labor Organizations				
	5.3.3 Program Updates				
	5.3.4 Process for reviewing and approving subcontractor's WSH Programs				
	5.4 Implementation (10 CFR 851.12)				
	5.5 Compliance (10 CFR 851.13)				
	5.6 Worker Protection Goals and Objectives, Management Responsibilities, Worker Rights and Responsibilities, and System to Ensure Compliance with Established Work Practices (10 CFR 851.20)				
	5.7 Hazard Identification and Assessment (10 CFR 851.21)				

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	5.8	Hazard Prevention and Abatement (10 CFR 851.22)					
	5.9	Safety and Health Standards, including additional standards determined to be needed beyond those specified (10 CFR 851.23)					
	5.10	Applicable Functional Areas (10 CFR 851.24)					
		5.10.1	Construction Safety (Appendix)				
		5.10.2	Fire Protection (Appendix)				
		5.10.3	Explosive Safety (Appendix)				
		5.10.4	Pressure Safety (Appendix)				
		5.10.5	Fire Arms Safety (Appendix)				
		5.10.6	Industrial Hygiene (Appendix)				
		5.10.7	Biological Safety (Appendix)				
		5.10.8	Occupational Medicine (Appendix)				
		5.10.9	Motor Vehicle Safety (Appendix)				
		5.10.10	Electrical Safety (Appendix)				
		5.10.11	Other Functional Areas Needed to Address Workplace Hazards				
		5.10.12	Chronic Beryllium Disease Prevention Program (CBDPP), 10 CFR 850				
	5.11	Training and Information (10 CFR 851.25)					
	5.12	Recordkeeping and Reporting (10 CFR 851.26)					
	5.13	Reference Sources (10 CFR 851.27)					
6.	Program assessments						
7.	Variance Process						
8.	Appendices						
	8.1	Acronyms, Abbreviations, and Initialisms					
	8.2	List of Memorandum of Understandings & Agreements					
	8.3	Implementation Matrix for 10 CFR Part 851					

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	8.4	List of Applicable Workplace Safety and Health Requirements from 10 CFR 851, Section 851.23 and Section 851.27				
	8.5	List of Other Applicable Workplace Safety and Health Requirements				
	8.6	Lists of Closure Facility hazards and controls (10 CFR 851.21(b))				
	8.7	Equivalencies Granted Prior to Promulgation of the Rule in accordance with the Equivalency Provisions of the Codes or Standards (10 CFR 851.23)				

SC Guidance
Variance Request Review Process Under 10 CFR 851
November 30, 2006

This document establishes the Office of Science's process for handling variance requests. A contractor must submit a variance request if it believes that the requirements of 10 CFR 851 cannot be met at a DOE site; that it has implemented a means by which to comply with 10 CFR 851 other than that explicitly stated in a standard or elsewhere, or that additional time is required. Variance requests are submitted through the Office of Science (SC) to the Office of Health, Safety and Security (HS), then to the Under Secretary for Science for approval.

A variance request is not needed if the deviation from the requirement of a code or standard has no direct or immediate relationship to safety or health (i.e., de minimis noncompliance) or an equivalency is allowed by the code or standard through approval by the Authority Having Jurisdiction (AHJ). Those deviations meeting the de minimis noncompliance criteria should be handled by the contractor's de minimis noncompliance process as delineated in their Worker Safety and Health Program. Deviations that meet the criteria for an equivalency should be handled through the AHJ approval process.

- Step 1. Initial Submission of the Variance Request. The variance request is submitted to the appropriate Field/Site Office Manager.
- Step 2. Field/Site Office Initial Processing of the Variance Request
- A. Field/Site Office reviews the variance request for correct content, using the criteria in 10 CFR 851.31(c):
1. Name and address of the contractor;
 2. Address of the DOE site involved;
 3. Specification of the standard, or portion thereof, from which a variance is being sought;
 4. Description of the steps that the contractor has taken to inform the affected workers of the variance request. This must include giving a copy of the variance request to the workers' authorized representative and posting a statement in a place where worker notices are normally located, summarizing the variance request and specifying where a copy may be examined;
 5. Description of how affected workers have been informed of their right to petition the Chief Health, Safety, and Security Officer (HS-1) or his designee for a conference regarding the variance request;

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6. Any requests for a conference with the Chief Health, Safety, and Security Officer or his designee;
7. The type of variance being requested, i.e. “permanent,” “temporary,” or “national defense”; and
8. If the request is for a “temporary” variance, the following items in addition to items 1 through 7 above must also be included:
 - a. Verification that it has been submitted at least 30 days in advance of the effective date of the applicable standard in 10 CFR 851
 - b. Statement explaining why the contractor is unable to comply with the standard or portion thereof
 - c. Detailed statement of the factual basis for the noncompliance and representations of the qualified persons that support the statement
 - d. Statement of the steps that have been taken, or are planned to be taken, to protect workers against the hazard that exists due to non-compliance with the standard or portion thereof, with specific dates
 - e. Statement of the steps that have been taken, or are planned to be taken, to comply with the standard or portion thereof, with specific dates
 - f. Statement of facts to show that
 1. Compliance is not possible due to the unavailability of professional or technical personnel; materials and equipment; or because necessary construction or alteration of facilities cannot be completed by the effective date of the standard
 2. All available steps are being taken to safeguard workers against the hazard presented due to noncompliance with the standard
 3. An effective program exists to come into compliance with the standard as quickly as practicable
9. If the request is for a “permanent” variance, the following items in addition to items 1 through 7 above must also be included:
 - a. A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the contractor to compensate for the non-compliance with the applicable standard, and
 - b. A statement showing how these conditions, practices, means, methods, operations, or processes would provide workers a place of employment which is as free from hazard as if the standard had been complied with

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10. If the request is for a “national defense” variance, the following items in addition to items 1 through 7 above must also be included:
 - a. A statement showing that the variance sought is necessary to avoid serious impairment of national defense,
 - b. A statement showing how the conditions, practices, means, methods, operations, or processes would provide workers a safe and healthful place of employment in a manner that, to the extent practical taking into account the national defense mission, is consistent with the standard from which the variance is being sought, and
 - c. Acknowledgement that a National Defense Variance may be only granted for a period of six months, unless there is a showing that a longer period is essential to carrying out a national defense mission

- B. If the variance request content is incomplete, the variance request is returned to the contractor for rework and re-submittal.
- C. If the variance content is acceptable, the Field/Site Office determines which DOE program funds the facility or program for which the variance is being requested.
 1. If the affected facility or program is significantly independent of SC work at a site, the variance request for that facility or program is then forwarded to the DOE Cognizant Secretarial Officer whose program is the primary independent funding source of the facility or program for which the variance is being requested.
 2. The SC COO is also notified that the variance request has been forwarded to another program for action.
 3. If the variance request is applicable to SC work, then this SC process continues.

Step 3. Technical review of the Variance Request

If the variance request has the correct content and applies to SC work, the Field/Site Office coordinates with the SC Office of Laboratory Policy and Infrastructure, SC-31, to establish an Integrated Review Team (IRT) consisting of Subject Matter Experts (SME's) from SC Headquarters; the SC Integrated Support Center; and the Field/Site Office. The IRT reviews the variance request in accordance with the criteria specified in 10 CFR 851.32:

- A. Is consistent with section 3173 of the Bob Stump National Defense Authorization Act available on <http://thomas.loc.gov/>
- B. Does not present an undue risk to worker safety or health;
- C. Is warranted under the circumstances; and

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- D. Meets all of the requirements for a variance of its type, as outlined in the Rule and in Step 2 of this review process

The IRT then makes a recommendation for the Field/Site Office Manager.

Step 4. Field/Site Office Manager Action on Variance Request

The Field/Site Office Manager considers the recommendation from the IRT, and either forwards the variance request through the SC Chief Operating Officer to the Director, Office of Science (SC-1), with a recommendation for concurrence, or returns it to the Contractor, providing the grounds for its denial.

If the variance request is denied at the Field/Site Office level, the contractor may, within ten working days following the denial, request that the Field/Site Office Manager forward the variance request to SC -1 for appeal, including additional information as desired to support the appeal.

Step 5. CSO Action on Variance Request or Contractor Appeal of Field/Site Office Manager Denial of a Variance Request

The Director, Office of Science, will consider a variance request forwarded by the Manager of a Field/Site Office for approval, or a contractor's appeal of a Field/Site Office denial of a variance request and either recommend that the request be forwarded to the Chief Health, Safety, and Security Officer (HS-1) for further consideration or deny the variance request or appeal and return the variance request to the Contractor, stating the reason for denial.

Step 6. HS Review of Variance Request

The Chief Health, Safety, and Security Officer (HS-1) considers the variance request, and may request additional information as appropriate.

Step 7. HS Action on a Variance Request.

The Chief Health, Safety, and Security Officer (HS-1) transmits recommendation to the Director, Office of Science, SC-1.

Step 8. Office of Science Action on HS-1 Recommendation.

Director, Office of Science, SC-1, forwards request to the Under Secretary for Science.

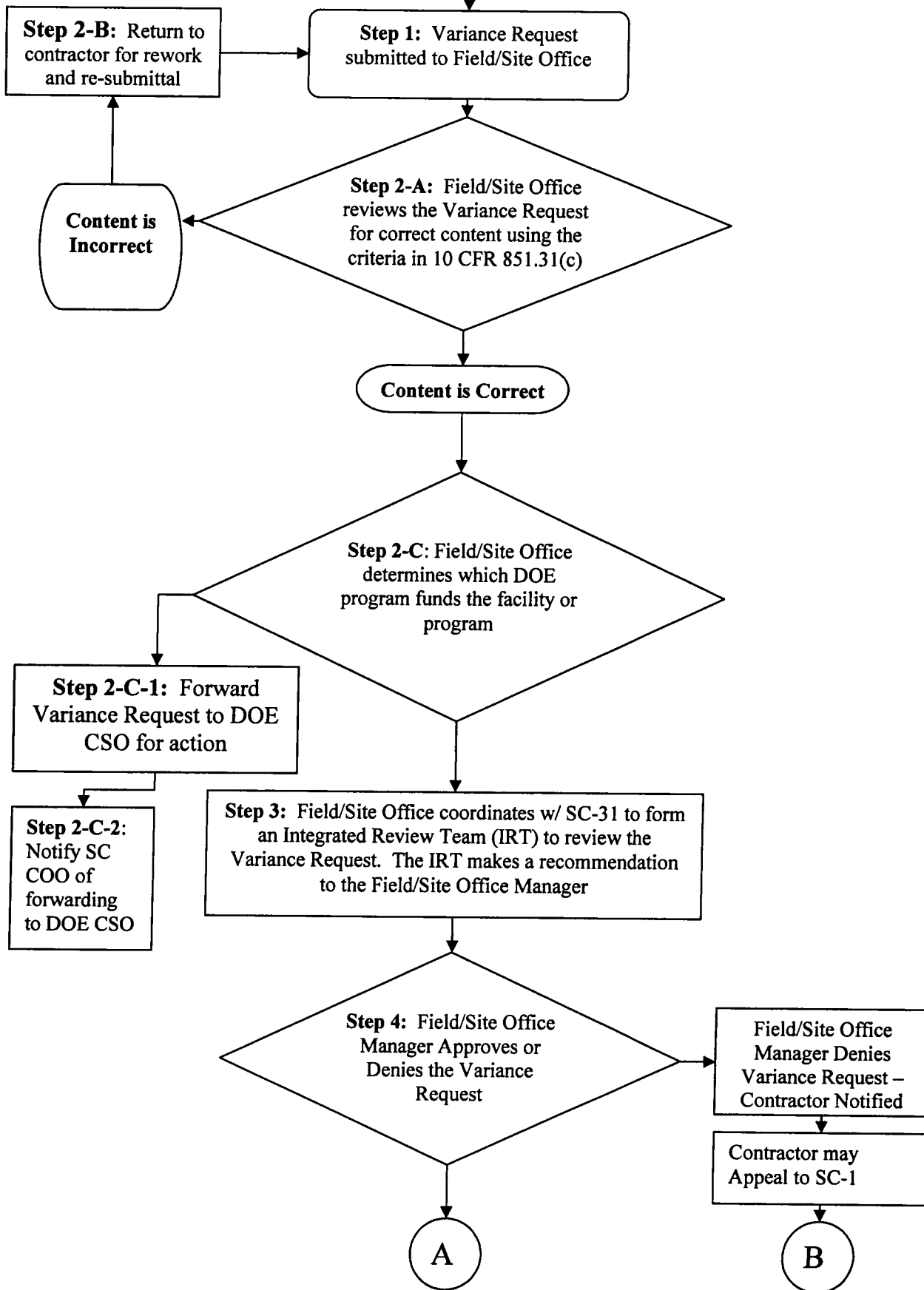
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Step 9. Action by the Under Secretary for Science

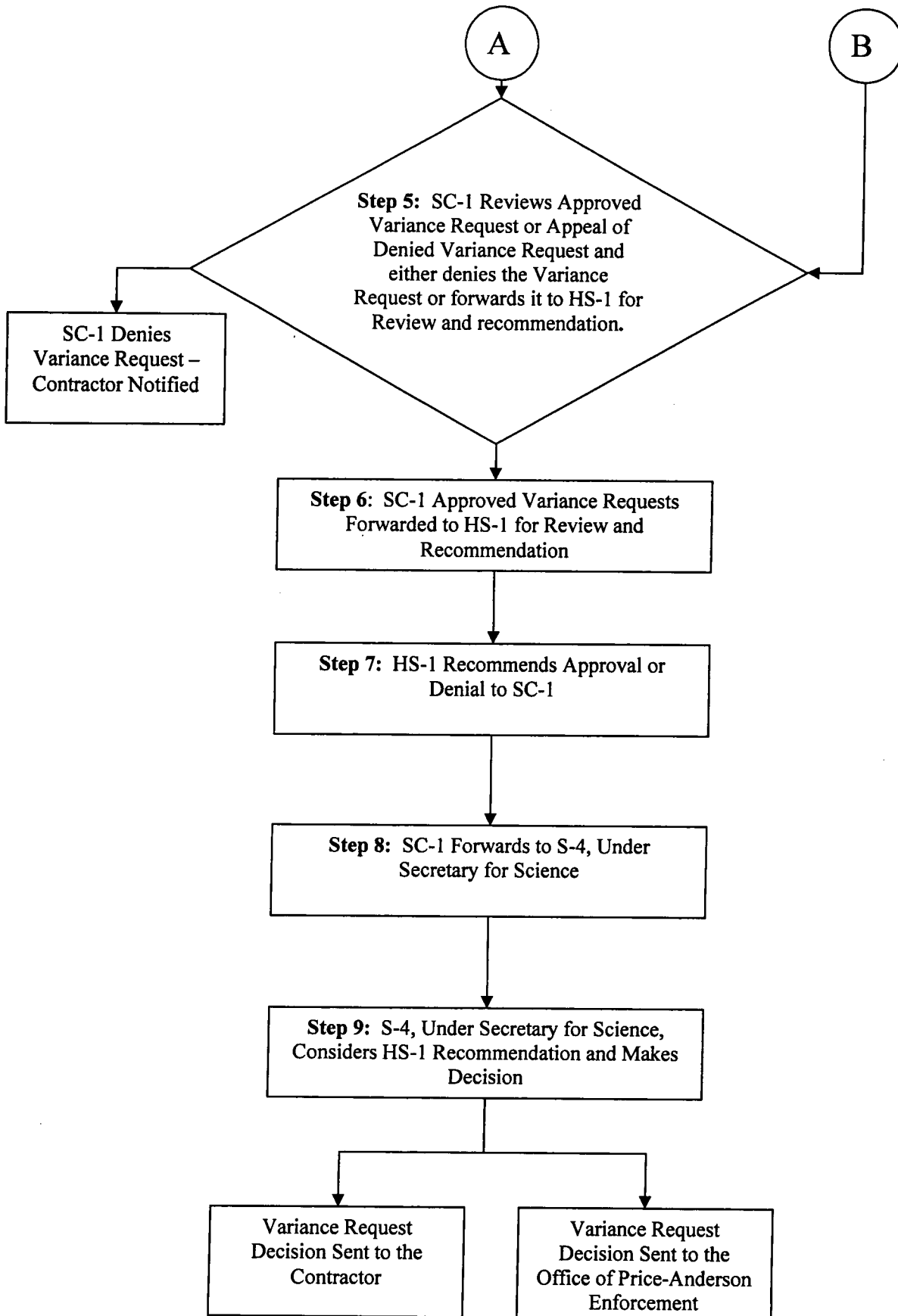
The Under Secretary for Science considers the recommendation forwarded by HS-1 or the appeal of the recommendation for denial of the variance request forwarded by the Director, Office of Science, and makes a final decision. If the Under Secretary for Science approves the appeal of the recommendation for denial of the variance request, the approval must include reference to the safety and health standard or portion thereof that is the subject of the variance request; a detailed description of the variance request; the basis for approval; and any terms or conditions associated with the approval. If the Under Secretary for Science approves a variance request recommended for approval by HS-1, there is no further documentation necessary. After approval, the variance request and its associated documentation are then sent to the Contractor and to the Office of Price-Anderson Enforcement.

Attachment B

Variance Request Review Process



Attachment B



SC Guidance
Frequently Asked Questions for 10 CFR 851
November 30, 2006

Note: The following issues may be of particular interest for SC Site Offices. These questions and responses are taken from the Office of Health, Safety and Security website.

Fire Protection

Question: How should contractors interpret the adjective “applicable” that is used in conjunction with NFPA codes and standards that are made mandatory in Appendix A, Section 2, under the Fire Protection functional area of the Rule?

Response: Applicability can be considered from at least two perspectives. The first relates to the entire code or standard. For example, NFPA Standard 115, “Standard for Laser Fire Protection” would not be applicable in its entirety to a contractor that conducts no work that involves lasers or in an area containing lasers. The second refers to specific sections or paragraphs. For example, those sections and paragraphs of NFPA 101, “Life Safety Code” that govern hospitals would apply to no DOE contractors because there are no DOE hospitals. Those sections and paragraphs of NFPA 101 that relate to “Business Occupancies” (such as an office) would be applicable to all DOE contractors that occupy on-site and off-site (leased) office areas or buildings or conduct DOE-related work in such offices.

Question: Considering the fact that DOE facilities have been constructed over a 50(+) year time span under different codes and standards, how should the “code of record” concept be applied when considering the two NFPA codes (70 and 70E) listed in Section 851.23, Safety and Health Standards, and the global requirement to comply with “applicable NFPA codes and standards” in Appendix A, Section 2, under “Fire Protection?”

Response: The specific editions of NFPA 70 and 70E that are delineated in Section 851.23 are applicable to all DOE contractors, regardless of the “code of record.” Contractors must either: comply literally with the provisions of these editions; must demonstrate “equivalent” safety under the equivalency provisions of these standards, or contractors can pursue a “Variance” under the Rule’s procedures for requesting approval of variances.

Excluding the above two NFPA codes, the remaining NFPA codes and standards that are applicable to any contractor are subject to “code of record” provisions. There is a distinction because the Rule differentiates between the two above-referenced codes and the remaining NFPA codes and standards that are applicable under the provisions of Appendix A to individual contractors. Additional guidance on the “code of record” concept can be found in DOE-G-440.1/E / DOE-G-420.1/B, “Fire Safety Program” or its successor Guide.

Pressure Safety

Question: The 10 CFR 851 Final Rule Supplementary Information material published in the Federal Register, Volume 71 Number 27 contains DOE analysis and response to comments on

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the proposed rule. In the section addressing comments on Appendix A, Section 4, Pressure Safety, DOE's response (Pages 6913, 6914) to a request for definition of "pressure systems" has expanded the universe of piping and components covered under the Rule. Specifically, DOE notes that the DOE Pressure Safety Committee has, in the draft implementation guide to DOE O 440.1A, defined pressure systems to include vacuum systems. The comment resolution discussion provides the rationale that vacuum systems should be designed to ASME pressure system and component codes due to potential for catastrophic failure due to backfill pressurization. What Pressure Safety standards apply?

Response: As the Final Rule is currently written, components and systems must conform to the ASME codes referenced in Appendix A, Section 4 and incorporated by reference in Section 851.27. If vacuum systems are not specifically covered in the codes, they are not included in the applicability of the Final Rule.

Occupational Medicine

Question: The requirement for a contractor to "...establish and provide comprehensive occupational medicine services..." to anyone who is employed at a site for more than 30 days. It is assumed that the intent is to flow the requirements down to subcontractors, and not require the Site Occupational Medical Programs to provide services to subcontractors. Please validate.

Response: It is the intent that contractors/subcontractors provide for occupational medicine services to their employees who are employed at a site for more than 30 days. The contractor/subcontractor may choose to arrange for services through the site occupational medicine clinic, or through a private local occupational medicine clinic or hospital.

Enforcement Conferences

Question: What are the roles of the DOE Headquarters Primary Secretarial Office and the DOE Site Offices for (a) NOV hearings, (b) enforcement at the site, (c) other enforcement or rule responsibilities?

Response: Over the past 13 years the Office of Enforcement has worked closely with its DOE counterparts at the Program and Site Office levels in the nuclear safety enforcement. The Office of Enforcement works through the Program and Site Offices when an enforcement action is contemplated. They participate in enforcement proceedings and review and comment on many enforcement documents. These close working relationships and protocols will be similarly exercised in worker safety and health enforcement. In addition to site-specific and program-specific DOE assessment and oversight responsibilities, 10 CFR 851 outlines specific responsibilities, e.g., coordinating on the selection of either a civil or contract penalty when an enforcement action is planned, and reviewing and approving contractor worker safety and health programs and variances.

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Note: The following questions and answers address issues which were identified by SC, and are not taken from the Office of Health, Safety and Security web site. The answers are compiled from HS correspondence and the draft implementation guide on the worker safety and health rule.

Applicability to Visitors

Question: Does 851 apply to activities conducted by users, visiting scientists or guests that are not employees or subcontractors of the M&O contractor?

Response: Activities conducted by users, visiting scientists or guests that are not employees or subcontractors of the M&O contractor are not within the scope of the rule.

Applicability to Subcontractors

Question: Does 851 apply to subcontractors that are not performing work in furtherance of a DOE mission (e.g., vending machine providers, landscapers)?

Response: A contractor is any entity, including affiliated entities, such as a parent corporation, under contract with DOE, including a subcontractor at any tier, with responsibility for performing work at a DOE site in furtherance of a DOE mission. The term "in furtherance of a DOE mission" means that the contractor is doing work that DOE authorized. Vendors, delivery persons and others who do not have service contracts with DOE, or who are not subcontractors, are excluded from the requirements of Part 851 and their employers are not required to develop and implement a DOE-approved Worker Safety and Health Program. The revised draft guide addresses 851.3 to clarify vendors, suppliers, delivery contractors and providers of commercial items are not in scope.

Applicability to Subcontractors Providing Commercial Items

Question: Does 851 apply to subcontractors providing commercial items per FAR 2.101?

Response: Although the enforcement provisions of Part 851 refer to imposing civil penalties for suppliers who violate the requirements of Part 851, the scope of the regulation indicates that the requirements of Part 851 do not apply to suppliers. "Contractor" is defined at Sec. 851.3 as "any entity . . . under contract with DOE, or a subcontractor at any tier, that has responsibilities for performing work at a DOE site in furtherance of a DOE mission." Since supply contracts would, at most, involve no more than tangential work at a DOE site relating to delivery, installation or repair of their products, they are not considered "contractors" for the purposes of Part 851.

Responsibility of Contractors for other Contractors

Question: Are prime contractors responsible for the compliance of other DOE prime contractors and subcontractors in the absence of a contractual relationship (i.e., no privity of contract)?

Response: The revised guide addresses 851.3 to clarify those whom DOE has a direct contractual relationship for work to be performed at a DOE site. The DOE Office of Enforcement (HS-40) determines which contractors are responsible for non-compliance. The HS-40 "DOE Enforcement Program Plan" addresses which contractor is held responsible for non-compliances, and the responsibility is dependent on who is responsible for controlling the hazard and the exposure to employees.