

851 Occupational Medicine Report

ESH Coordinators Meeting

7/16/08

Michael McCann

BROOKHAVEN
NATIONAL LABORATORY

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Overview of 10 CFR 851 App. A8. Occupational Medicine

- Contractor must establish and provide comprehensive occupational medicine services to its workers
- Occupational medicine services must be under direction of a physician licensed in the state where services are provided
- Occupational medicine services provider must determine the content of the worker health evaluations to be conducted by a licensed physician in accordance with current sound and acceptable medical practices
- At time of employment entrance or transfer to new job with new functions and hazards a medical placement evaluation of the worker's general health and physical and psychological capacity to perform work will establish a baseline record of physical condition and assure fitness for duty
- Periodic, hazard-based medical monitoring or qualification-based fitness for duty evaluations will be provided
- Diagnostic examinations will evaluate worker's injuries and illnesses to determine work-relatedness, applicability of medical restrictions and referral for definitive care, as appropriate
- After work-related injury or illness or absence due to injury or illness lasting 5 or more consecutive workdays, a return to duty evaluation will be done to ensure worker's physical and mental capacity to perform work
- At time of separation from employment a worker shall be offered a general health evaluation to establish a record of physical condition
- Ill and injured workers must be monitored to facilitate their rehabilitation and safe return to work
- Workers must be placed under medical restrictions when health evaluations show that worker should not perform certain job tasks
- OccMed provider must on a timely basis communicate results of health evaluations to management and safety and health specialists to facilitate the mitigation of worksite hazards

10 CFR 851 Overview

- 10 CFR 851 (including OccMed provisions) became fully enforceable on May 25, 2007
- OccMed provisions apply when an individual works at a DOE site for more than 30 days in a 12-month period
- There is no exclusion to the OccMed requirements found in 851. Based on the Preamble and White Papers issued by DOE to the Rule, BSA, as a business decision is excluding the following categories from 851 requirements:
 - Vendors
 - Visiting Scientists
 - Service Contracts for Commercial Items
 - Guest Users
 - Graduate Students

OccMed Status at BNL

- BSA is compliant with regard to OccMed for its employees
- BSA filed an NTS report stating it was not in compliance with the OccMed provisions with regard to its subcontractors
- BSA applied for a variance that would give 90 days for existing subcontractors to come into compliance; indicated to DOE that all new contracts will be OccMed compliant when work commences; asked for 90 day time period to achieve compliance in event exigent circumstances require work under new contract to begin prior to OccMed program being in place

OccMed Flowdown

- BSA decided to flowdown OccMed requirements to its subcontractors because:
 - BSA lacked resources to provide OccMed to third parties
 - Concerns regarding liability for providing OccMed services to non-employees
 - Issues relating to maintenance of non-employee medical records
- OccMed was flowed down to all construction contracts
- OccMed is currently being flowed down to all non-construction contracts

Notice and Cost of Flow Down

- Letter sent to existing subcontractors containing 10 CFR 851 flowdown provisions including OccMed.
- In addition, subcontractors receive a sample Job Assessment Form and a list of known OccMed providers in the area
- Estimated Cost of Subcontractors Achieving OccMed Compliance is \$700 to \$1,000 per employee, per year based on costs reported by subcontractors to date
- As this is a change to existing contract BSA anticipates having to absorb the cost of the subcontractor OccMed program
- It is anticipated that new contracts will have the cost of OccMed contained in their bids

PNNL, ORNL, and INL Treatment of 851

- PNNL is not taking advantage of any exclusions for 851 coverage because of legal uncertainty of those exclusions without Interpretive Ruling from DOE General Counsel
- ORNL and INL made business decision to take advantage of all exclusions
- PNNL does not have an OccMed problem because DOE funds a separate OccMed program in Richland
- ORNL is seeking a variance that would exempt its subcontractors from all OccMed requirements not required by OSHA
- INL wants variance similar to ORNL but unable to advance request beyond local DOE office

Questions?