

requested to reference the paragraph (e.g., § 851.4(a)) to which they refer where possible.

All information provided by commenters will be available for public inspection at the DOE Freedom of Information Reading Room, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585 between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays. The docket file material for this rulemaking will be under "EH-RM-03-WSH."

DOE also intends to enter all written comments on a Web site specially established for this proceeding. The Internet Web site is <http://www.eh.doe.gov/whs/rulemaking>. To assist DOE in making public comments available on a Web site, interested persons are to submit an electronic version of their written comments in accordance with the instructions in the **DATES** section of this notice of proposed rulemaking.

If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as two copies from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the Freedom of Information Act section on "Handling Information of a Private Business, Foreign Government, or an International Organization," 10 CFR 1004.11.

B. Public Hearings

Public hearings will be held at the time, date, and place indicated in the **DATES** and **ADDRESSES** sections of this notice of proposed rulemaking. Any person who is interested in making an oral presentation should, by 4:30 p.m. on the date specified, make a phone request to the number in the **DATES** section of this notice of proposed rulemaking. The person should provide a daytime phone number where he or she may be reached. Persons requesting an opportunity to speak will be notified as to the approximate time they will be speaking. Each presentation is limited to 10 minutes. Persons making oral presentations should bring three copies of their statement to the hearing and submit them at the registration desk.

DOE reserves the right to select the persons who will speak. In the event that requests exceed the time allowed, DOE also reserves the right to schedule speakers' presentations and to establish the procedures for conducting the

hearing. A DOE official will be designated to preside at each hearing, which will not be judicial or evidentiary. Only those persons conducting the hearing may ask questions. Any further procedural rules needed to conduct the hearing properly will be announced by the DOE presiding official.

A transcript of each hearing will be made available to the public. DOE will retain the record of the full hearing, including the transcript, and make it available on the Web site specially established for this proceeding. The Internet Web site is <http://www.eh.doe.gov/whs/rulemaking>. If DOE must cancel the hearing, it will make every effort to give advance notice.

Prior to holding the public hearings, DOE intends to hold one or more informal information workshops to allow contractors, workers and their representatives to familiarize themselves with the proposed regulation. DOE expects to hold these workshops which could include video or telephone conferencing, approximately three weeks after publication of the proposed regulation and will make information on times and locations available as soon as arrangements are finalized.

List of Subjects

10 CFR Part 850

Beryllium, Chronic beryllium disease, Hazardous substances, Lung diseases, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 851

Civil penalty, Federal buildings and facilities, Occupational safety and health, Safety, Reporting and recordkeeping requirements.

Issued in Washington, DC, on December 2, 2003.

Beverly Cook,

Assistant Secretary of Environment, Safety, and Health.

For the reasons set forth in the preamble, the Department of Energy proposes to amend chapter III of title 10 of the Code of Federal Regulations as follows:

PART 850—CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

1. The authority citation for part 850 is revised to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 29 U.S.C. 668; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*, E.O. 12196, 3 CFR 1981 comp., at 145 as amended.

2. Section 850.1 is revised to read as follows:

§ 850.1 Scope.

This part provides for establishment of a chronic beryllium disease prevention program (CBDPP) that supplements and is deemed an integral part of the worker safety and health program under part 851 of this chapter.

3. Section 850.4 is revised to read as follows:

§ 850.4 Enforcement.

DOE may take appropriate steps pursuant to part 851 of this chapter to enforce compliance by contractors with this part and any DOE-approved CBDPP.

4. A new part 851 is added to chapter III to read as follows:

PART 851—WORKER SAFETY AND HEALTH

Subpart A—General Provisions

Sec.

- 851.1 Scope.
- 851.2 Exclusions.
- 851.3 Definitions.
- 851.4 Enforcement.
- 851.5 Information and records.
- 851.6 Compliance Order.
- 851.7 Interpretation.
- 851.8 Guidance documents.
- 851.9 DOE operated workplaces.

Subpart B—Worker Safety and Health Program

- 851.100 General rule.
- 851.101 Worker safety and health program.
- 851.102 DOE approval of worker safety and health program.
- 851.103 Worker rights.

Subpart C—Enforcement Process

- 851.200 Purpose.
- 851.201 Investigations and inspections.
- 851.202 Settlement.
- 851.203 Preliminary notice of violation.
- 851.204 Final notice of violation.
- 851.205 Administrative appeal.
- 851.206 Direction to NNSA contractors.

Appendix A to Part 851—Generally Acceptable Worker Safety and Health Standards and Programs

Appendix B to Part 851—General Statement of Enforcement Policy

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.*; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*

Subpart A—General Provisions

§ 851.1 Scope.

This part governs the conduct of activities at DOE sites by or on behalf of DOE.

§ 851.2 Exclusions.

(a) This part does not apply to a DOE site: