

(d) Nothing in this part shall relieve any contractor from safeguarding classified, confidential, and controlled information, including Restricted Data or national security information, in accordance with the applicable provisions of federal statutes and the rules, regulations, and orders of any federal agency.

§ 851.6 Compliance Order.

(a) The Secretary may issue to any contractor a Compliance Order that:

(1) Identifies a situation that violates, potentially violates, or otherwise is inconsistent with a requirement of this part;

(2) Mandates a remedy, work stoppage, or other action; and, (3) States the reasons for the remedy, work stoppage, or other action.

(b) A Compliance Order is a final order that is effective immediately unless the Order specifies a different effective date.

(c) Within 15 calendar days of the issuance of a Compliance Order, the recipient of the Order may request the Secretary to rescind or modify the Order. A request does not stay the effectiveness of a Compliance Order unless the Secretary issues an order to that effect.

§ 851.7 Interpretation.

(a) The Office of the General Counsel is solely responsible for formulating and issuing any interpretation concerning a requirement in this part.

(b) Any written or oral response to any written or oral question which is not provided pursuant to paragraph (a) of this section does not constitute an interpretation and does not provide any basis for action inconsistent with a requirement of this part.

§ 851.8 Guidance documents.

(a) Except as provided in paragraph (c) of this section, a guidance document does not establish any requirement legally enforceable pursuant to this part.

(b) Except as provided in paragraph (c) of this section, DOE may not conduct an inspection or investigation to determine compliance with this part on the basis of whether a contractor's actions or omissions are inconsistent with a guidance document.

(c) A provision of a guidance document is legally enforceable pursuant to this part only to the extent it is explicitly:

(1) Included by a contractor in the set of workplace safety and health standards identified pursuant to § 851.101(c)(3)(ii)(B) of this part; or

(2) Selected or used by a contractor as a procedure, control, or work process to

perform work in a tailored manner for particular covered workplaces in accordance with § 851.101(c)(4).

§ 851.9 DOE operated workplaces.

With respect to a covered workplace operated by DOE, DOE must ensure work is performed consistent with the requirements of this part, including the establishment, maintenance and implementation of a worker safety and health program.

Subpart B—Worker Safety and Health Program

§ 851.100 General rule.

The contractor responsible for a covered workplace must ensure:

(a) The covered workplace is free from recognized hazards that are causing or are likely to cause death or serious bodily harm; and

(b) Work is performed in accordance with the worker safety and health program for the covered workplace, as approved by DOE.

§ 851.101 Worker safety and health program.

(a) A contractor responsible for one or more workplaces at a DOE site must establish and maintain a worker safety and health program for those workplaces.

(b) A worker safety and health program must:

(1) Provide for eliminating, limiting or mitigating the identified workplace hazards in a manner that is necessary and sufficient to provide adequate protection of workers; and

(2) Be tailored to reflect the activities and hazards in particular work environments.

(c) In establishing a worker safety and health program, a contractor must:

(1) Identify and analyze, as appropriate at the site, facility, activity and workplace level:

(i) The work to be performed;

(ii) The work environment, including designs and features of facilities, equipment, operations and procedures important to a safe and healthful workplace;

(iii) Existing and potential workplace hazards; and

(iv) The risk of worker injury or illness associated with the identified workplace hazards.

(2) Include a set of workplace safety and health standards that achieves a level of protection at least substantially equivalent to the level of protection that existed in comparable DOE workplaces in 2002;

(3) Select and document the included set of workplace safety and health standards that are necessary and

sufficient to provide adequate protection of workers:

(i) With respect to beryllium, by incorporating the chronic beryllium disease prevention program adopted pursuant to part 850 of this chapter; and

(ii) With respect to other workplace hazards identified and analyzed pursuant to (c)(1) of this section by identifying and incorporating a set of provisions that are necessary and sufficient to protect workers from the identified hazards, provided that the set is based on:

(A) The workplace safety and health standards in Appendix A of this part;

(B) Other workplace safety and health standards; or

(C) A combination of the workplace safety and health standards in paragraphs (c)(3)(ii)(A) and (c)(3)(ii)(B) of this section.

(4) Describe in sufficient detail how work will be performed in accordance with the set of selected workplace safety and health standards, including:

(i) Selection process and use of procedures, controls, and work processes in a tailored manner for particular covered workplaces;

(ii) Preference for implementation on the basis of the following hierarchy in descending order: engineering controls, administrative controls, work practices, and personal protective equipment; and

(iii) Integration of the program on site, facility, activity and workplace levels, taking into account differences and similarities between the work, hazards, and workplace safety and health standards and, if applicable, coordination with other worker safety and health programs at the site;

(5) Describe how feedback and continuous improvement will be provided for elements of the worker safety and health program.

(6) Prioritize the abatement of hazards on the basis of risks to workers;

(7) Address how the following features will be incorporated into the worker safety and health program:

(i) Line management commitment;

(ii) Information and training;

(iii) Ongoing workplace monitoring and observation;

(iv) Medical surveillance; and

(v) Applicability to subcontractors.

(d)(1) If a contractor is responsible for more than one covered workplace at a DOE site, the contractor must establish and maintain a single worker safety and health program for the workplaces at the site for which the contractor is responsible

(2) If more than one contractor is responsible for covered workplaces at a DOE site, each contractor must:

(i) Establish and maintain a worker safety and health program for the