

workplaces for which the contractor is responsible; and

(ii) Coordinate with the other contractors responsible for covered workplaces at the site to ensure that the worker safety and health programs at the site are integrated and consistent.

(e) If a worker safety and health program sets forth a reasonable basis for characterizing particular workplaces as:

(1) Transitional workplaces, it must provide sufficient flexibility to take into account the special circumstances of those workplaces; or

(2) National security workplaces, it must provide sufficient flexibility to achieve national security missions in an efficient and timely manner in those workplaces.

§ 851.102 DOE approval of worker safety and health program.

(a) Beginning one year after publication of the final rule, no work may be performed at a covered workplace unless the PSO has approved the worker safety and health program for the workplace through the issuance of a worker protection evaluation report that determines the worker safety and health program will achieve a level of protection at least substantially equivalent to the level of protection that existed in 2002 for DOE workplaces comparable to those covered workplaces addressed by the program.

(b) Within 180 days after publication of the final rule, a contractor responsible for establishing a worker safety and health program must submit for DOE approval a worker safety and health program that meets the requirements of this subpart.

(c) A contractor must maintain a worker safety and health program by:

(1) Evaluating and updating the worker safety and health program to reflect changes in the activities and hazards;

(2) Annually submitting to DOE either an updated worker safety and health program for approval or a letter stating that no changes are necessary in the currently approved worker safety and health program; and

(3) Incorporating in the worker safety and health program any changes, conditions, or workplace safety and health standards directed by DOE.

§ 851.103 Worker rights.

A worker at a covered workplace has the right, without reprisal, to:

(a) Participate in activities described in this section on official time;

(b) Have access to:

(1) DOE safety and health publications;

(2) The DOE-approved worker safety and health program for the covered workplace; and

(3) The standards, controls and procedures applicable to the covered workplace;

(c) Observe monitoring or measuring of hazardous agents;

(d) Have access to monitoring and measuring results and be notified when such results indicate the worker was overexposed to hazardous materials;

(e) Accompany DOE personnel during an inspection of the workplace;

(f) Request and receive results of inspections and accident investigations;

(g) Express concerns related to worker safety and health;

(h) Decline to perform an assigned task because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm to the worker coupled with a reasonable belief that there is insufficient time to seek effective redress through the normal hazard reporting and abatement procedures;

(i) Stop work, through the worker's supervisor, when the worker discovers employee exposures to imminently dangerous conditions or other serious hazards; provided that any stop work authority must be exercised in a justifiable and responsible manner in accordance with established procedures; and

(j) Have access to an appropriate safety and health poster that informs the worker of relevant rights and responsibilities.

Subpart C—Enforcement Process

§ 851.200 Purpose.

This subpart establishes the procedures for investigating the nature and extent of a violation of the requirements of this part, for determining whether a violation of a requirement of this part has occurred, and for imposing an appropriate remedy.

§ 851.201 Investigations and inspections.

(a) The Director may initiate and conduct investigations and inspections relating to the scope, nature and extent of compliance by a contractor with the requirements of this part and take such action as the Director deems necessary and appropriate to the conduct of the investigation or inspection.

(b) Any person may request the Director to initiate an investigation or inspection pursuant to paragraph (a) of this section. A request for an investigation or inspection sets forth the subject matter or activity to be investigated or inspected as fully as

possible and includes supporting documentation and information.

(c) The Director must inform any contractor that is the subject of an investigation or inspection in writing at the initiation of the investigation or inspection of the general purpose of the investigation or inspection.

(d) DOE shall not disclose information or documents that are obtained during any investigation or inspection unless the Director directs or authorizes the public disclosure of the investigation. Upon such authorization, the information or documents are a matter of public record and disclosure is not precluded by the Freedom of Information Act, 5 U.S.C. 552 and part 1004 of this title.

(e) A request for confidential treatment of information for purposes of the Freedom of Information Act does not prevent disclosure by the Director if the Director determines disclosure to be in the public interest and otherwise permitted or required by law.

(f) During the course of an investigation or inspection, any contractor may submit any document, statement of facts or memorandum of law for the purpose of explaining the contractor's position or furnish information which the contractor considers relevant to a matter or activity under investigation or inspection.

(g) The Director may convene an informal conference to discuss any situation that might be a violation of a requirement of this part, its significance and cause, any correction taken or not taken by the contractor, any mitigating or aggravating circumstances, and any other useful information. A conference is not normally open to the public and DOE does not make a transcript of the conference. The Director may compel a contractor to attend the conference.

(h) If facts disclosed by an investigation or inspection indicate that further action is unnecessary or unwarranted, the Director may close the investigation without prejudice to further investigation or inspection at any time that circumstances so warrant.

(i) If facts disclosed by an investigation or inspection indicate that corrective action is necessary or warranted, the Director may issue an enforcement letter that closes the investigation subject to the implementation of the corrective actions identified in the enforcement letter.

(j) The Director may issue enforcement letters that communicate DOE's expectations with respect to any aspect of the requirements of this part, including identification and reporting of issues, corrective actions, and implementation of the contractor's