Department of Energy
Washington, DC 20585

May 14, 2007

MEMORANDUM FOR PROGRAM SECRETARIAL OFFICERS

FROM: GLENN S. PODONSKY
CHIEF HEALTH, SAFETY AND SECURITY OFFICER
OFFICE OF HEALTH, SAFETY AND SECURITY

SUBJECT: Final Implementation of Title 10, Code of Federal Regulations, Part 851, "Worker Safety and Health Program"

In less than a week, we will be having our last complex-wide "Worker Safety and Health Program" (Rule) videoconference before the final implementation date of May 25, 2007. We would like to invite each of you to participate and hear where the Department of Energy (DOE) complex is with regard to approval of the required Worker Safety and Health Programs (WSHP). You are all aware of the Rule's requirement that no work may be performed at a covered workplace unless an approved WSHP is in place. Over the course of the past several months, we have routinely heard the reports from all of your sites that we are on track to have approved programs in place for all of our contractors by the May 25 date.

To make implementation of this Rule as simple and transparent as possible, the Office of Health, Safety and Security has been working with DOE Headquarters program offices, the Offices of the General Counsel (GC), Procurement, and field DOE and contractor staff to address implementation issues and concerns. We have held several videoconferences and workshops; developed a comprehensive Web site with key information, including frequently asked questions; GC positions and interpretative rulings; worker safety and health program approval guides; additional useful information and links; and published an implementation guide (DOE G 440.1-8). Over 100 implementation issues, both large and small, have been addressed and resolved. There is, however, one last issue that continues to cause concern with some of our contractors; that is the requirements contained in appendix A, Occupational Medicine section.

Everyone agrees that Occupational Medicine is an important functional area and should be covered by the Rule. The concerns, however, relate to how much of the medical program should be covered by the Rule and certain implementation difficulties, particularly for small contractors and subcontractors. The Office of Health and Safety has gathered together the key personnel to address these concerns, and all have agreed to work toward a reasonable approach that is both realistic and protects our workforce.

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We do not expect this remaining issue will stand in the way of coming into compliance with the Rule by the May due date. Meanwhile, if contractors do identify any other last-minute noncompliances, they should use the mechanisms in the Rule, which allow flexibility in implementation, such as applying for a variance or submitting a Noncompliance Tracking System report to address their implementation issues while they are being corrected.

The Worker Safety and Health Rule, like all rules, presents some implementation challenges; however, the Department and its contractors have found ways to effectively comply with the Rule's major milestone of approving contractors' WSHP. We are confident that we can continue to effectively implement this Rule and make any adjustments that are necessary to fulfill the Rule's objective of providing a safe and healthful working environment for all our contractor workers.

If there are any last-minute concerns regarding the implementation of this Rule, please feel free to contact the Office of Worker Safety and Health Policy at (301)903-6061.

cc: Clay Sell, DS
Raymond Orbach, US
William Ostendorff, NA-1
Dennis R. Spurgeon, US

Distribution List for Final Implementation of Title 10, Code of Federal Regulations, Part 851, "Worker Safety and Health Program"

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HSS
Office of Health, Safety and Security

CONCURRENCE SHEET

Subject: Final Implementation of 10 CFR 851, "Worker Safety and Health Program"	**Admin Review**	**Concurrence**
	HS-10	**Office:HS-11**
	Name: Susan Whitmore	**Name:** Bill McArthur
	Date: 5/11/07	**Date:** 5/11/07
Originating Office: HS-11	**Signature:**	**Signature:**
	HS-10	**Office:** HS-10
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	Date: 5/11/07	**Date:** 5/11/07
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bcc: HS-11 Chron	**Date:**	**Date:** 5/11/07
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Special Notes:	**Concurrence**	
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