

Department of Energy

§ 851.27

subcontractor workers are recorded and reported accurately and consistent with DOE Manual 231.1-1A, Environment, Safety and Health Reporting Manual, September 9, 2004 (incorporated by reference, see § 851.27).

(3) Comply with the applicable occupational injury and illness record-keeping and reporting workplace safety and health standards in § 851.23 at their site, unless otherwise directed in DOE Manual 231.1-1A.

(4) Not conceal nor destroy any information concerning non-compliance or potential noncompliance with the requirements of this part.

(b) *Reporting and investigation.* Contractors must:

(1) Report and investigate accidents, injuries and illness; and

(2) Analyze related data for trends and lessons learned (reference DOE Order 225.1A, Accident Investigations, November 26, 1997).

§ 851.27 Reference sources.

(a) *Materials incorporated by reference*—(1) *General.* The following standards which are not otherwise set forth in part 851 are incorporated by reference and made a part of part 851. The standards listed in this section have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) *Availability of standards.* The standards incorporated by reference are available for inspection at:

(i) National Archives and Records Administration (NARA). For more information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html

(ii) U.S. Department of Energy, Office of Health, Safety and Security, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585.

(iii) American National Standards Institute Headquarters, 25 West 43rd Street, New York, NY 10036. Telephone number: 212-642-4980, or go to: <http://www.ansi.org>.

(iv) National Fire Protection Association, 1 Batterymarch Park, Quincy,

MA 02169. Telephone: 617 770-3000, or go to: <http://www.nfpa.org>.

(v) American Conference of Governmental Industrial Hygienist (ACGIH), 1330 Kemper Meadow Drive, Cincinnati, OH 45240. Telephone number 513-742-2020, or go to: <http://www.acgih.org>.

(vi) American Society of Mechanical Engineers (ASME), P.O. Box 2300 Fairfield, NJ 07007. Telephone: 800-843-2763, or go to: <http://www.asme.org>.

(b) *List of standards incorporated by reference.* (1) American National Standards Institute (ANSI) Z88.2, "American National Standard for Respiratory Protection," (1992).

(2) ANSI Z136.1, "Safe Use of Lasers," (2000).

(3) ANSI Z49.1, "Safety in Welding, Cutting and Allied Processes," sections 4.3 and E4.3, (1999).

(4) National Fire Protection Association (NFPA) 70, "National Electrical Code," (2005).

(5) NFPA 70E, "Standard for Electrical Safety in the Workplace," (2004).

(6) American Conference of Governmental Industrial Hygienists, "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," (2005).

(7) American Society of Mechanical Engineers (ASME) Boilers and Pressure Vessel Code, sections I through XII including applicable Code Cases, (2004).

(8) ASME B31 (ASME Code for Pressure Piping) as follows:

(i) B31.1—2001—Power Piping, and B31.1a—2002—Addenda to ASME B31.1—2001;

(ii) B31.2—1968—Fuel Gas Piping;

(iii) B31.3—2002—Process Piping;

(iv) B31.4—2002—Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids;

(v) B31.5—2001—Refrigeration Piping and Heat Transfer Components, and B31.5a—2004, Addenda to ASME B31.5—2001;

(vi) B31.8—2003—Gas Transmission and Distribution Piping Systems;

(vii) B31.8S—2001—Managing System Integrity of Gas Pipelines;

(viii) B31.9—1996—Building Services Piping;

(ix) B31.11—2002—Slurry Transportation Piping Systems; and

§ 851.30

10 CFR Ch. III (1–1–14 Edition)

(x) B31G—1991—Manual for Determining Remaining Strength of Corroded Pipelines.

(9) DOE Manual 231.1–1A, Environment, Safety and Health Reporting Manual, September 9, 2004.

(10) DOE Manual 440.1–1A, DOE Explosives Safety Manual, Contractor Requirements Document (Attachment 2), January 9, 2006.

[71 FR 6931, Feb. 9, 2006, as amended at 71 FR 68733, Nov. 28, 2006]

Subpart D—Variances

§ 851.30 Consideration of variances.

(a) Variances shall be granted by the Under Secretary after considering the recommendation of the Chief Health, Safety and Security Officer. The authority to grant a variance cannot be delegated.

(b) The application must satisfy the requirements for applications specified in § 851.31.

[71 FR 6931, Feb. 9, 2006, as amended at 71 FR 68733, Nov. 28, 2006]

§ 851.31 Variance process.

(a) *Application.* Contractors desiring a variance from a safety and health standard, or portion thereof, may submit a written application containing the information in paragraphs (c) and (d) of this section to the appropriate CSO.

(1) The CSO may forward the application to the Chief Health, Safety and Security Officer.

(2) If the CSO does not forward the application to the Chief Health, Safety and Security Officer, the CSO must return the application to the contractor with a written statement explaining why the application was not forwarded.

(3) Upon receipt of an application from a CSO, the Chief Health, Safety and Security Officer must review the application for a variance and make a written recommendation to:

- (i) Approve the application;
- (ii) Approve the application with conditions; or
- (iii) Deny the application.

(b) *Defective applications.* If an application submitted pursuant to § 851.31(a) is determined by the Chief Health, Safety and Security Officer to be in-

complete, the Chief Health, Safety and Security Officer may:

(1) Return the application to the contractor with a written explanation of what information is needed to permit consideration of the application; or

(2) Request the contractor to provide necessary information.

(c) *Content.* All variance applications submitted pursuant to paragraph (a) of this section must include:

(1) The name and address of the contractor;

(2) The address of the DOE site or sites involved;

(3) A specification of the standard, or portion thereof, from which the contractor seeks a variance;

(4) A description of the steps that the contractor has taken to inform the affected workers of the application, which must include giving a copy thereof to their authorized representative, posting a statement, giving a summary of the application and specifying where a copy may be examined at the place or places where notices to workers are normally posted; and

(5) A description of how affected workers have been informed of their right to petition the Chief Health, Safety and Security Officer or designee for a conference; and

(6) Any requests for a conference, as provided in § 851.34.

(d) *Types of variances.* Contractors may apply for the following types of variances:

(1) *Temporary variance.* Applications for a temporary variance pursuant to paragraph (a) of this section must be submitted at least 30 days before the effective date of a new safety and health standard and, in addition to the content required by paragraph (c) of this section, must include:

(i) A statement by the contractor explaining the contractor is unable to comply with the standard or portion thereof by its effective date and a detailed statement of the factual basis and representations of qualified persons that support the contractor's statement;

(ii) A statement of the steps the contractor has taken and plans to take, with specific dates if appropriate, to protect workers against the hazard covered by the standard;