

10 CFR 851 Overview for Subcontractors

As a subcontractor to the Fermi National Accelerator Laboratory (Fermilab), you are required by the US Department of Energy (DOE) to comply with the requirements of 10 CFR Part 851. Detailed information about this regulation can be found at the DOE's Office of Health, Safety & Security 10 CFR 851 Worker Safety & Health Program web site.¹ You are responsible for reviewing the requirements of this regulation and determining the applicability to you and the subcontracted services you provide to Fermilab. Because the work you do is covered under Fermilab's mission to the DOE, your activities are covered under Fermilab's Worker Safety & Health Program (WSHP). This program is available to you at Fermilab's Worker Safety & Health Program web site.²

The following list identifies key steps/elements that will assist the subcontractor.

- 1) Your workers have specific rights and responsibilities defined in 10 CFR 851.20(b). You are responsible to ensure that your worker safety and health program complies with this.
- 2) You will need to work with your Fermilab Construction Coordinator/Task Manager/Service Coordinator or point of contact and Fermilab's ESH&Q Division to identify and assess hazards associated with operations applicable to your work [10 CFR 851.21]
- 3) Hazards applicable to your work must be controlled through hazard prevention and/or abatement [10 CFR 851.22]. The standard hazards control hierarchy must be used:
 - a. Elimination or substitution of the hazards, where feasible or appropriate;
 - b. Engineering controls, where feasible or appropriate;
 - c. Work practices and administrative controls that limit worker exposures; and
 - d. Personal protective equipment.
- 4) You must comply with the worker safety and health standards that are applicable to the hazards associated with your work [10 CFR 851.22]. These include:
 - a. 10 CFR 850, "**Chronic Beryllium Disease Prevention Program**"
 - b. 29 CFR, Parts 1904.4 through 1904.11, 1904.29 through 1904.33; 1904.44, and 1904.46, "**Recording and Reporting Occupational Injuries and Illnesses.**"
 - c. Title 29 CFR, Part 1910, "**Occupational Safety and Health Standards,**" excluding 29 CFR 1910.1096, "Ionizing Radiation."
 - d. Title 29 CFR, Part 1926, "**Safety and Health Regulations for Construction.**"
 - e. ACGIH "**Threshold Limit Values for Chemical Substances and Physical**

- Agents and Biological Exposure Indices**" when the ACGIH Threshold Limit Values (TLVs) are lower (more protective) than permissible exposure limits in 29 CFR 19103
- f. ANSI Z88.2-2004, "**American National Standard Practices for Respiratory Protection**"
- g. ANSI Z136.1-2000, "**Safe Use of Lasers**"
- h. ANSI Z49.1-1999, "**Safety in Welding, Cutting and Allied Processes,**" sections 4.3 and E4.3
- i. NFPA 70E-2004, "**Electrical Safety in the Workplace**"
- j. Any other additional specific safety and health requirement that Fermilab determines to be necessary to protect the safety and health of workers.

- 5) You must have a training and information program to ensure that all workers exposed or potentially exposed to hazards are provided with the training and information on that hazard in order to perform their duties in a safe and healthful manner [10 CFR 851.25]. Your Fermilab Construction Coordinator/Task Manager/Service Coordinator or Point of Contact will work with you to provide any specific training and information that Fermilab can provide associated with the hazards in the area(s) in which you will work. Training must be provided for new workers, before or at the time of initial assignment to a job involving exposure to a hazard; periodic training as often as necessary; and additional training when safety and health information or a change in workplace conditions indicates that a new or increased hazard exists.
- 6) You must establish and maintain complete and accurate records of all hazard inventory information, hazard assessments, exposure measurements, and exposure controls in the areas in which you work [10 CFR 851.25]. You must report all incidents that occur at Fermilab in the course of their work to your primary Fermilab Construction Coordinator/Task Manager/Service Coordinator or Point of Contact. In addition to accident/incident records that Fermilab will maintain, you should also maintain records associated with injuries and illnesses.
- 7) There are several Functional Areas that DOE has specifically focused on that are applicable to Fermilab operations. For each of these areas, you must work with your Fermilab Construction Coordinator/Task Manager/Service Coordinator or Point of Contact to determine a plan of action based upon the assessment of the hazard:
 - a. For each separately definable **CONSTRUCTION** activity (e.g., excavations, foundations, structural steel, roofing);
 - b. **FIRE PROTECTION** and emergency response;

¹ <http://energy.gov/ehss/worker-safety-and-health>

² <http://esh.fnal.gov/xms/subcontractor-safety>

10 CFR 851 Overview for Subcontractors

- c. **PRESSURE SAFETY** (e.g., pressure vessels, piping, etc.);
- d. **INDUSTRIAL HYGIENE** (chemical and physical worker exposures);
- e. **BIOSAFETY** (for any biohazardous materials);
- f. **MOTOR VEHICLE SAFETY** (for use of any government owned or leased vehicles and for driving on Fermilab property);
- g. **OCCUPATIONAL MEDICINE**: see details below.

- h. **ELECTRICAL SAFETY** to comply with the requirements of 29 CFR 1910, 29 CFR 1926, and NFPA 70E

It is important to note that the DOE has the authority to implement investigation and enforcement actions for violations of any of the provisions of 10 CFR 851. Enforcement actions may take the form of either civil penalties or contract penalties (but not both) and are limited to a maximum of "the total amount of fees paid by DOE to the contractor in that fiscal year." [reference: 10 CFR 851.5].

Provide the Occ Med provider information on, and the opportunity to participate in, worker safety and health team meetings and committees;

Give Occ Med provider access to the workplace for evaluation of job conditions and issues relating to workers' health.

Occ Med provider must:

- Plan and implement the occupational medicine services; and
- Participate in worker protection teams to build and maintain necessary partnerships among workers in establishing and maintaining a safe and healthful workplace.

A record, containing any medical, health history, exposure history, and demographic data collected for the occupational medicine purposes, must be developed and maintained for each employee for whom medical services are provided.

- Records must be kept confidential. Psychological records must be maintained separately from medical records
- Access to these records must be provided in accordance with DOE regulations implementing the Privacy Act and the Energy Employees Occupational Illness Compensation Program Act.

Occ Med provider must determine the content of the worker health evaluations, which must be conducted under the direction of a licensed physician and workers must be informed of the purpose and nature of the medical evaluations and tests being offered. The purpose, nature and results of evaluations and tests must be communicated verbally and in writing to each worker; the communication must be documented in the worker's medical record; and the following fitness for duty health evaluations must be conducted when determined necessary by the Occ Med provider:

- At time of employment entrance or transfer to a job with new functions and hazards, to establish a baseline record of physical condition and assure fitness for duty.
- Periodic, hazard-based medical monitoring or qualification-based fitness for duty evaluations required by regulations and standards, or as recommended by the occupational medicine services provider.

Specific requirements for Occupational Medical Program:

Occupational Medicine 10 CFR 851 Appendix A

Subcontractors **may be required** to implement a comprehensive occupational medical program if they are covered by the scope below. You will need to certify that if you are covered by this scope, you will be able to provide such coverage for your employees working at Fermilab. This can be performed by your own in-house occupational medicine provider or through an occupational medicine clinic. Fermilab's Occupational Medical Department is available to provide emergency medical care in the event of an on-site injury; however, you are responsible for other elements of this requirement. If you have any questions, please contact Fermilab Medical (630-840-8448).

Must have comprehensive occupational medicine services for workers employed at a covered work place who:

- Work on a DOE site for more than 30 days in a 12-month period; or
- Are enrolled for any length of time in a medical or exposure monitoring program required by this rule and/or any other applicable Federal, State or local regulation, or other obligation.

Occupational medicine services must be under the direction of a licensed practitioner in the State

Contractor must provide the Occ Med provider with:

- Current information about actual or potential work-related site hazards (chem, rad, physical, bio, or ergonomic);
- Employee job-task and hazard analysis information, including essential job functions;
- Actual or potential work-site exposures of each employee; and
- Personnel actions resulting in a change of job functions, hazards or exposures.

Must notify the Occ Med provider when an employee has been absent because of an injury or illness for more than 5 consecutive workdays.

10 CFR 851 Overview for Subcontractors

- Diagnostic examinations will evaluate employee's injuries and illnesses to determine work-relatedness, the applicability of medical restrictions, and referral for definitive care, as appropriate.
- After any absence due to any injury or illness of 5 or more consecutive workdays, a return to work evaluation will determine the individual's physical and psychological capacity to perform work and return to duty.
- At the time of separation from employment, individuals shall be offered a general health evaluation to establish a record of physical condition.

Occ Med provider must monitor ill and injured workers to facilitate their rehabilitation and safe return to work and to minimize lost time and its associated costs. The Occ Med provider must place an individual under medical restrictions when health evaluations indicate that the worker should not perform certain job tasks. The Occ Med provider must notify the worker and contractor management when employee work restrictions are imposed or removed.

Occupational medicine provider physician and medical staff must, on a timely basis, communicate results of health evaluations to management and safety and health protection specialists to facilitate the mitigation of worksite hazards.

The occupational medicine provider must include measures to identify and manage the principal preventable causes of premature morbidity and mortality affecting worker health and productivity.

The contractor must include programs to prevent and manage these causes of morbidity when evaluations demonstrate their cost effectiveness.

Contractors must make available to the Occ Med provider appropriate access to information from health, disability, and other insurance plans (de-identified as necessary) in order to facilitate this process.

The Occ Med provider must review and approve the medical and behavioral aspects of employee counseling and health promotional programs, including the following types:

- Contractor-sponsored or contractor-supported Employee Assistance Programs (EAPs);
- Contractor-sponsored or contractor-supported alcohol and other substance abuse rehabilitation programs; and
- Contractor-sponsored or contractor-supported wellness programs.
- The Occ Med provider must review the medical aspects of immunization programs, blood-borne pathogens programs, and bio-hazardous waste

programs to evaluate their conformance to applicable guidelines.

- The Occ Med services provider must develop and periodically review medical emergency response procedures included in site emergency and disaster preparedness plans. The medical emergency responses must be integrated with nearby community emergency and disaster plans.³

³ Source from SLAC-I-720-OA21S-003-R000, dated 21 May 2007