

ESH Coordinators Briefing

OSHA Status & 851 Rule

Brookhaven National Laboratory

3/30/05

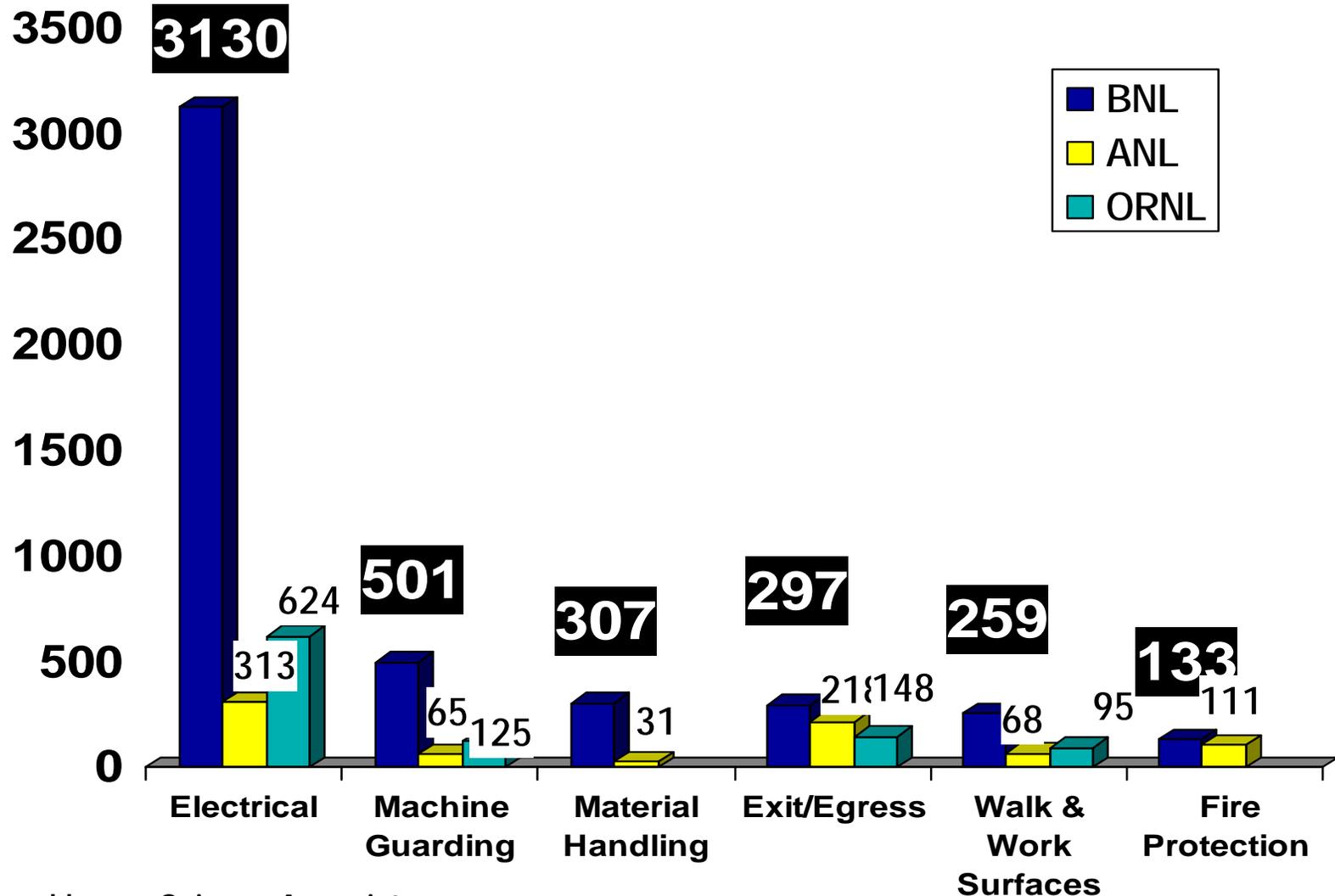
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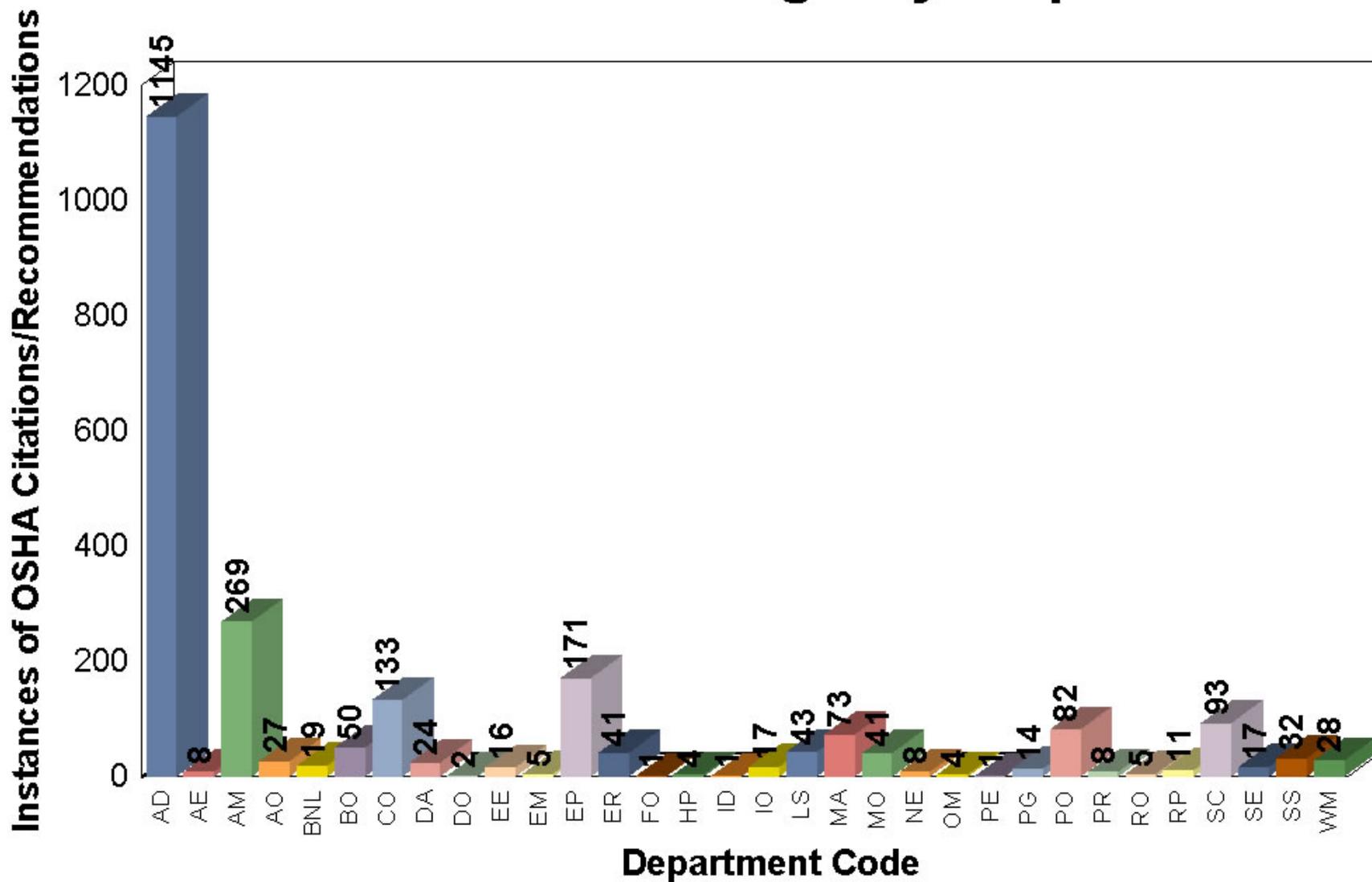
BNL OSHA Cost Estimate (summary)

- Final Audit Report received from OSHA March 1, 04
- BNL Cost estimate submitted to DOE April 2, 04.
- Results for 2530 Citations = 5503 instances
- Estimate \$5,459,794 + 1,637,938 (contingency)
 - Grand Total 7,097,732

Frequent General Industry Hazards Cited



BNL's OSHA Findings by Dept/Div.



BNL OSHA Findings

Laboratory Corrective Action Plan (status)

- CAP submitted 1/04
- CAP focused on addressing all items and future “cultural changes”
- BAO’s expectation is that all findings will be “addressed” (BNL contract calls for OSHA compliance and always has).

BNL OSHA Findings

Laboratory Corrective Action Plan (status) 4/04

■ CAP Strategy:

- ✓ Correct all "high hazard" citations (5 identified)
- ✓ Aggressively fix "quick fix" items
- ✓ Establish database to track and report status
- ✓ Prioritize each item (>quick fix) by hazard level, corrective action and who is responsible
- ✓ Identify those that will require new funding (ADS's)
- ✓ Identify those that will there will be a push back on, exemptions, equivalency or not valid citation.
- ✓ Defensible cost estimate
- ✓ Establishing additional initiatives to improve safety culture (long term).
- ✓ Complete remaining open items.

BNL OSHA SC Completion Goal

- 8/04 SC requested a new CAP with a 2 yr completion goal
- All OSHA findings must be addressed by 2/06*

*(within two yrs of audit results)

BNL OSHA Laboratory Revised Corrective Action Plan (status) 11/04

■ CAP Strategy:

- ✓ Develop technical justifications for exemptions
- ✓ Validate prioritization of each open item by risk level, corrective action and who is responsible
- ✓ Submit capital improvements to ADS system, Identify those that will require new funding (ADS's)
- ✓ Continuously refine cost estimate
- ✓ Establishing additional initiatives to improve safety culture (long term).
- ✓ Complete remaining open items.
- ✓ Submit completion report to Lab Director & DOE

BNL OSHA Finding Status

- Findings were adjusted from 5503 to 4649 (154 recommendations, 700 exemptions)
4649 is "official congressional number"
- 3293 Abated to date
- 1356 Remaining
- 59% complete

BNL OSHA Spending Status

- ~Estimate \$5,000,000 (without contingency) decreasing due to actual costs.
- \$2,210,614 spent to date.
- \$1,938,000 (received from DOE).
- ~\$2,789,000 remaining to be spent.
- 31% spent

BNL OSHA Exemptions Status

- Approved Exemption Requests - 700 findings (\$277,000)
 - Temporary wiring in the RHIC ring
 - Fire Extinguisher inspection frequency
- Pending Exemption Requests - 273 findings (\$495,423)
 - Temporary Wiring
 - Relocatable Power Taps
 - Guarding of live parts
 - Built prior to 1972
 - Identification of disconnecting means

BNL OSHA Findings Path Forward

- Address findings in a risk prioritized order by 2/06.
 - Higher risk findings that can not be completed now require interim mitigation and systems/equipment may need be taken out of service if not complete by 2/06.
- Reduce the number of “new” findings. (Increased hazard recognition knowledge in field, (e.g., new Tier 1 SA & OSHA training requirements)
- Mechanism to capture and manage (track and trend) “new” findings (851 issues)
- Update and QA tracking database to support ongoing DOE reporting and closeout requirements.
- Continue to define future funding possibilities (through office of Science and/or Congress)

BNL OSHA Findings Path Forward (long term-culture improvements)

- Directorates Safety Improvement Plans (attributes)
 - Written expectations and goals
 - Associated metrics including flow-down of accountability, increased management visibility, observation training, OSH reviews, leadership training.
 - Increased employee involvement and communication, employee safety committees
 - Review of Tier 1 program
- Laboratory Initiatives
 - Aggressive performance measures (orbach goals)
 - 18001 (pilot organizations and future lab rollout)
 - Traffic Safety Initiative
 - Safety Leadership training/development
 - Employee involvement opportunities
 - Individual accountability

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10 CFR 851 Rule

Worker Safety and Health Program "Proposed Rule"

Overview

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10 CFR 851 Rule Overview

■ Contractor Responsible to:

- Ensure workplace is free of recognized hazards;
- Provide workers with adequate protection;
- Comply with workplace safety and health requirements (as established by the Rule);
- Comply with compliance orders;
- Ensure work is performed in accordance with approved program;
- Report and investigate each occurrence, near miss that could cause death or serious injury.

10 CFR 851 Assumptions (DOE)

- DOE assumes that contractors already have program(s) in place to comply with rule, e.g., ISM;
- DOE assumes no significant increase in costs;
- Rule provides DOE with enforcement mechanism similar to PAAA;
- Rule pulls in consensus requirements and makes them mandatory e.g, ANSI, ASTM etc.

10 CFR 851- Rule Development Time Line

- 2002 Congress directed DOE to promulgate regulations on WS&H for contractors with Price Anderson indemnification;
- Rule first published 12/03 to codify existing practices in order to ensure worker safety and health;
- Comment period yielded significant feedback (including BNL and Battelle)
- Rule re-issued for comment 1/05
- BNL & Battelle have submitted first set of comments on 2/25/05, Rule & comments distributed to wider BNL distribution 3/30/05.
- Final comments due 4/15/05
- Final rule could be promulgated in as little as 6 months from end of comment period.

10 CFR 851 Changes based on 2/03 Comments

- Codifies minimum set of safety and health requirements that would be legally binding;
- Establishes formal exemption process;
- Delineates role of worker safety and health program and its relationship to ISM;
- Set forth general duties of contractors responsible for DOE workplaces;
- Limits scope of regulations to contractor activities.

10 CFR 851- Future Timeline

- Rule timeline;
 - Contractor written program due, 180 days after effective date, requires DOE approval initial and annual
 - Contractors must achieve compliance with Rule within 1 year of effective date
 - We must reapply for all waivers
 - Contractors are subject to a civil penalty of up to \$70k per day per violation up to contract annual fee.

10 CFR 851- Issues

- Existing OSHA violations - will the lab be fined \$70k/day or grand fathered?
- New OSHA violations (or other Rule violations) - will need to be identified, tracked and any repeat/trends/high risk/program deficiencies will need to be looked at with a PAAA type committee for possible NTS reportability.
- DOE will likely impose fines if issue rises to reportability stage.

10 CFR 851- Issues

- Minimum set of standards (OSHA, ANSI, NFPA etc.) is exhaustive
- External Regulation impact - BNL/Battelle position is that moving to ER sooner than later would be better, 851 goes away, OSHA already has an enforcement/appeal and exemption program in place.

10 CFR 851- Issues

- Resources for:
 - Facility upgrades to meet basic NFPA codes
 - Dual requirements, (e.g., 851, existing DOE Orders, etc)
 - Developing a self reporting and evaluation scheme (similar to PAAA) however volume of worker safety and health issues will far exceed PAAA issues.
 - Developing exemption(s) where warranted
 - Multiple reporting requirements (PAAA, ORPS, CAIRs, NTS, 851)