



Department of Energy

Washington, DC 20585

January 26, 2006

The Honorable A. J. Eggenberger
Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue, NW, Suite 700
Washington, D.C. 20004 – 2901

Dear Mr. Chairman:

On August 17, 2005, the Secretary of Energy approved the DOE Implementation Plan (IP) that addresses Defense Nuclear Facilities Safety Board (DNFSB) Recommendation 2005-1, Nuclear Materials Packaging. One of the deliverables in the IP is the DOE resolution of the DOE document type that will be used for the new packaging and storage criteria.

Per the implementation plan the 2005-1 working group has reviewed this matter and has selected a manual supporting 10 CFR 835 as the appropriate directive document type. The enclosed analysis describes the working group review.

Sincerely,

A handwritten signature in black ink that reads "Richard M. Stark".

Richard M. Stark
DNFSB 2005-1 IMPLEMENTATION PLAN
RESPONSIBLE MANAGER

Attachment
As Stated

cc:

R. Hardwick. EH-2

R. Rosen. DNFSB

R. McMorland.

M. Whitaker. DR-1

G. Roberson

Recommendation 2005-1 Document Type Analysis

DNFSB Recommendation 2005-1 was developed to address a Department safety issue that was identified in the Type B accident that occurred on August 3, 2003, at the Los Alamos National Laboratory Plutonium Facility dealing with nuclear material in interim storage. The principal safety issue is no explicit Department-wide interim storage requirement currently exists to ensure the safe packaging of nuclear material. The DNFSB recommended that DOE develop new requirements to address interim nuclear material packaging and handling safety needs, and the DNFSB further suggested that an Order and/or a Manual might be the appropriate directive type for this information.

In the Implementation Plan for 2005-1 DOE committed to look for, reconcile and integrate all existing DOE directives and guidance dealing with interim storage packaging and handling of nuclear materials as well as to establish new requirements in order to fully address and resolve the safe handling issues. The 2005-1 Implementation Plan has a commitment to determine the type of directives document best suited to present the resulting compilation of new and existing requirements and guidance. The purpose of this paper is to document the review of the matter and select the appropriate directive type (rule, order, guide, manual, or standard) that defines DOE's requirements for safe handling and storage of nuclear materials outside an engineered confinement barrier.

The DOE 2005-1 working group reviewed the existing requirements for interim nuclear material packaging storage and handling and found that a number of important and relevant requirements already exist in 10 CFR 835 as well as in associated 835 guidance and in guidance found in DOE STD 3009. These existing requirements and guidance are therefore being fully integrated into the new requirements document. The DOE 2005-1 working group also determined that a number of new detailed requirements and guidance dealing with package design and package surveillance are needed to supplement the existing DOE requirements and guidance. The final directive type needed to satisfy Board Recommendation 2005-1 is one that will incorporate the current requirements, new supplemental requirements, and new detailed guidance.

The DOE Directives System Manual (DOE M251.1A) provides definitions of DOE directives that were considered in selecting the appropriate directive document for Board Recommendation 2005-1. DOE M 251.1 provides the following definitions:

1. Regulations establish enforceable requirements pursuant to the Department's authority under law and in accordance with the Administrative Procedure Act.
2. Orders establish management objectives, requirements, and assignment of responsibilities for Federal employees; they also establish intended requirements for contractors.
3. Manuals identify procedural requirements for Federal employees and intended requirements for contractors that may supplement other directives and provide more instruction about how the provisions of those directives shall be carried out. Manuals supplement other DOE directives and are used to provide details or required procedures where necessary to enable fulfillment of

requirements. Manuals may include some guidance, but they are primarily a means of providing requirements more detailed than those appropriate to an Order.

4. Technical Standards are non-mandatory criteria managed under the Technical Standards Program to provide guidance to contractors and DOE personnel on acceptable ways for meeting requirements.
5. Guides provide non-mandatory, supplemental information about acceptable methods for implementing requirements. Guides shall not impose additional requirements.

Because new additional requirements are necessary for 2005-1, neither a guide nor a Technical Standard are appropriate. Rulemaking (additions to 835) could have been used but rulemaking generally takes years to complete and the scope of the new requirements (generally detailed design and surveillance requirements) is not suitable for rulemaking. This left us with either an order or a manual (which is what the DNFSB suggested in the Board recommendation). If we chose to develop an order we would also need a corresponding guide to handle the necessary and useful non-requirements information that we need to include. By choosing to develop a manual we can combine the requirements and guidance into one document. The 2005-1 working group therefore selected a 10 CFR 835 manual that deals with the interim storage and handling of nuclear materials to address and resolve the commitment made in the DOE 2005-1 Implementation Plan as the best document type.

The DOE 2005-1 working group reviewed this directive selection process with the Office of Nuclear and Facility Safety Policy (EH-22), the Office of Worker Protection Policy and Programs (EH-52), the Office of Price-Anderson Enforcement (EH-6), the Office of Management (DOE Directives Management)(MA-43) and the Office of General Council (GC-52). Each office concurred with the selection process and the selection.

Additionally, the DOE 2005-1 Technical Review Board reviewed this matter and also concurred with the selection process and the selection.

In conclusion, a new DOE 10 CFR 835 manual dealing with the interim storage and handling of nuclear materials is the appropriate directive to satisfy the needs of DOE and resolve the commitment of the DOE 2005-1 Implementation Plan.