



## Department of Energy

Washington, DC 20585

November 16, 2005

MEMORANDUM FOR: DISTRIBUTION *2/11/05 [Signature]*  
FROM: RICHARD STARK  
DNFSB 2005-1 IMPLEMENTATION PLAN  
RESPONSIBLE MANAGER  
SUBJECT: Resolution of Document Type for New Packaging and  
Storage Criteria

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 Material Packaging. The IP establishes requirements for an independent Technical Review Board to provide a disciplined peer review of the products developed by the DOE 2005-1 Working Group.

Per the Implementation Plan, I am providing the 2005-1 Working Group (directives document type) analysis and conclusion. Please review the attached document and provide your comments to me by December 15, 2005.

I will set up a telecom the week of November 28 to discuss workings of TRB.

Attachment  
As Stated



1 DNFSB Recommendation 2005-1 was developed to address the Type B accident that  
2 occurred on August 3, 2003 at Los Alamos National Laboratory Plutonium Facility as  
3 well as nuclear material in storage at DOE facilities. The DNFSB recommended that  
4 DOE develop new requirements to address interim nuclear packaging and handling safety  
5 needs and the DNFSB further suggested that an Order and/or a Manual might be the  
6 appropriate directive type for this information.

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

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

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31 The DOE Directives System Manual (DOE M251.1A) provides definitions of DOE  
32 directives that need to be considered in selecting that appropriate directive document for  
33 our purpose. DOE M 251.1 provides the following definitions:

- 34 1. Regulations establish enforceable requirements pursuant to the Department's  
35 authority under law and in accordance with the Administrative Procedure Act.
- 36 2. Orders establish management objectives, requirements, and assignment of  
37 responsibilities for Federal employees; they also establish intended requirements  
38 for contractors.
- 39 3. Manuals identify procedural requirements for Federal employees and intended  
40 requirements for contractors that may supplement other directives and provide  
41 more instruction about how the provisions of those directives shall be carried out.  
42 Manuals supplement other DOE directives and are used to provide  
43 details or required procedures where necessary to enable fulfillment of  
44 requirements. Manuals may include some guidance, but they are primarily a  
45 means of providing requirements more detailed than those appropriate to an  
46 Order.

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

Because new additional requirements are necessary neither a guide nor a Technical Standard alone is appropriate. Rulemaking (additions to 835) could be used but rulemaking generally takes years to complete and the scope of the new requirements (generally detailed design and surveillance requirements) are not be suitable for rulemaking. This leaves us with an order or a manual (which is what the DNFSB suggested in the board recommendation). If we were to choose 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. If we choose to develop a manual we can combine the requirements and guidance into one document. The 2005-1 working group proposed that we develop a stand alone 10 CFR 835 manual that deals with the interim storage and handling of nuclear materials to solve the DNFSB issue.

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 concurred with the selection process and the selection.

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 is satisfying the DOE 2005-1 Implementation Plan.