

July 14, 2006

REDACTED VERSION FOR PUBLIC RELEASE

SECY-06-0125, "PROPOSED REORGANIZATION OF THE OFFICES OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS AND STATE AND TRIBAL PROGRAMS"

NOTE: The Staff Requirements Memorandum (SRM) associated with SECY-06-0125 - Proposed Reorganization of the Offices of Nuclear Materials Safety and Safeguards and State and Tribal Programs indicated that the "office titles, organizational changes, and functional statements for the proposed new ONMP and its three divisions should better reflect the roles of the Agreement States in the NMP and the importance of the intergovernmental liaison."

These areas continue to evolve based on interactions with internal and external stakeholders.

THE SECRETARIAT

# POLICY ISSUE NOTATION VOTE

REDACTED VERSION

June 1, 2006

SECY-06-0125

FOR: The Commissioners

FROM: Luis A. Reyes  
Executive Director for Operations

SUBJECT: PROPOSED REORGANIZATION OF THE OFFICES OF NUCLEAR  
MATERIAL SAFETY AND SAFEGUARDS AND STATE AND TRIBAL  
PROGRAMS

PURPOSE:

To obtain Commission approval of a proposed reorganization of the Office of Nuclear Material Safety and Safeguards (NMSS) including a merger of a portion of NMSS with the Office of State and Tribal Programs (STP).

SUMMARY

This reorganization would: (1) enhance integration of the National Materials Program (NMP) recognizing the increasing number of Agreement States, the value of their experience in administering the National Materials Program, and the importance of coordination between the Nuclear Regulatory Commission (NRC), the States, and other stakeholders and (2) provide increased focused management attention to high-level radioactive waste management, storage and disposal in preparation for receipt of a license application from the Department of Energy (DOE) for a proposed geologic repository at Yucca Mountain in Nevada. In addition, new and expanded nuclear power plant electricity generation will require substantially more nuclear fuel and potential disposal requirements for the future could exceed the capacity of the proposed Yucca Mountain repository. The President has proposed an international initiative to develop new proliferation-resistant recycling technologies in order to produce more energy, reduce

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waste, and minimize proliferation concerns. This reorganization will also (3) lay the groundwork and prepare the NRC to perform its regulatory role for new, expanded, and modified fuel cycle facilities. Further, it will provide a focus for new technology in international and domestic safeguards for these recycling facilities which will ensure that safeguards are designed into the process. Implementation of this reorganization, if approved, will begin October 2006. There are 17 unbudgeted positions necessary to effect this reorganization based on the current fiscal year (FY) 2007 budget estimate.

#### BACKGROUND:

NMSS currently regulates a diverse range of activities involving the use and handling of radioactive materials, including: uranium recovery; conversion, enrichment and fuel fabrication, medical, industrial, academic, and commercial uses of radioactive materials; transportation including certification of transport containers; spent fuel storage; safe management and disposal of low-level and high-level radioactive waste; and management of decommissioning of reactor and material facilities. The organization has been relatively stable over time with four technical divisions, including the Divisions of Fuel Cycle Safety and Safeguards (FCSS), Waste Management and Environmental Protection (DWMEP), Industrial and Medical Nuclear Safety (IMNS), and the Spent Fuel Project Office (SFPO). On March 22, 2004, the Division of High-Level Waste Repository Safety (HLWRS) was created to provide the necessary management focus to prepare for the receipt of a license application for a proposed geologic repository at Yucca Mountain. Also, NMSS was the first Office to reduce a layer of Senior Executive Service (SES) to allow an increase in the number of first-line supervisors in three of its Divisions. This reorganization will extend this change to other Divisions similar to the recent Offices of Nuclear Regulatory Research (RES) and Nuclear Reactor Regulation (NRR) reorganizations.

The Office of State and Tribal Programs (STP) is responsible for establishing and maintaining effective NRC communications and working relationships with the States, local governments, other Federal agencies and Native American Tribal Governments. STP encompasses two areas: the Agreement State Program and the Federal, State, and Tribal Liaison Program, which are implemented through NRC Headquarters and Regional Offices. Through the Agreement State Program, 34 States have signed formal agreements with the NRC, by which those States have assumed regulatory responsibility over certain byproduct, source, and small quantities of special nuclear material. NRC and State radiation safety regulatory programs are responsible for ensuring protection of public health and safety and the environment. There are approximately 21,600 licenses issued for medical, industrial and academic uses of radioactive materials in the United States. Currently, there are approximately 4,500 licenses issued by the NRC, and 17,100 licenses issued by the Agreement States. The National Materials Program (NMP) is a term developed by the NRC and the Agreement States in the late 1990s to define the broad collective framework within which both NRC and the Agreement States function in carrying out their respective radiation safety regulatory programs. This framework also includes the Organization of Agreement States, Inc. (OAS) and the Conference of Radiation Control Program Directors, Inc. (CRCPD). Through the Federal, State, and Tribal Liaison Program, NRC works in cooperation with Federal, State, and local governments, interstate organizations and Native American Tribal Governments to ensure that NRC maintains effective relations and communications with these organizations and promotes greater awareness and mutual understanding of the policies, activities, and concerns of all parties involved, as they relate to radiological safety at NRC licensed facilities.

#### DISCUSSION:

Several factors have prompted staff to recommend this reorganization to the Commission. First, the staff believes the time is right to enhance integration of the NMP by merging the

NMSS Divisions of IMNS and DWMEP with STP to become the Office of the National Materials Program (ONMP). This action will improve the effectiveness of the extensive coordination between staff of STP and NMSS to facilitate the NMP. This new Office would consolidate activities now conducted by STP, IMNS, and DWMEP, as well as regulation of Uranium Mill Tailings Radiation Control Act (UMTRCA) Title I and Title II uranium recovery activities. This set of activities includes medical, industrial and academic uses of radioactive materials, increased controls of radioactive sources including international activities to support the Code of Conduct; implementation of the Energy Policy Act of 2005 mandating an NRC regulatory framework for certain naturally-occurring and accelerator-produced radioactive material (NARM); decommissioning; regulation of low-level radioactive waste; environmental reviews and evaluation of the Department of Energy's (DOE's) incidental waste reviews; rulemaking and oversight of Regional licensing, inspection, and liaison functions. These activities have a number of things in common which support their collocation in a single office, including the importance of managing public and worker exposures considering public proximity to many of these activities; significant stakeholder interest; and extensive experience by the States in regulating many of these activities. Recognizing the increasing number of Agreement States and the value of their experience in administering the NMP, including the new responsibilities to control NARM, the staff believes that effectiveness could be enhanced by bringing together, in one office, the staff primarily responsible for developing and implementing regulatory policy and programs for nuclear materials users. This merger recognizes the importance of coordination between NRC, the States, and other stakeholders. Many of these activities benefit from early and effective Agreement State involvement, which has increased significantly over the last few years. In addition, management of State-related activities would be enhanced with the availability of first-line supervisors as proposed in the reorganization.

Additional considerations have prompted the recommendation to consolidate the Divisions of HLWRS, SFPO, and FCSS into a new NMSS to provide a systematic focus on the management of fuel cycle safety, including uranium conversion, uranium enrichment, fuel fabrication, and transportation, storage and disposal of spent fuel and high-level radioactive waste. These activities have been safely regulated for years. However, emerging work involving new fuel cycle technologies and industry initiatives to increase production are considerations in this reorganization. In addition, DOE is discussing a number of possible changes in transportation packaging, aging, and handling at reactor sites or at surface facilities of a proposed Yucca Mountain facility. Also, DOE is preparing to submit a license application to the NRC for a proposed geologic repository at Yucca Mountain in Nevada. Recent changes to the Environmental Protection Agency standard and conforming changes to NRC requirements could raise additional issues during pre-licensing. The reorganization will facilitate more focused management attention for these activities.

Another factor stems from the fact that the expected new and expanded nuclear power plant electricity generation will require substantially more nuclear fuel. Also, potential disposal capacity requirements for the future could exceed the capacity of the proposed Yucca Mountain repository. In addition, the President has proposed an international initiative, the Global Nuclear Energy Partnership (GNEP) to develop new proliferation-resistant recycling technologies in order to produce more energy, reduce waste, and minimize the proliferation concerns. This reorganization will lay the groundwork and prepare the NRC to perform its potential regulatory role for new, expanded, and modified commercial fuel cycle facilities which may include recycling, transmutation and actinide burning. With the transfer of domestic and international safeguards responsibilities for fuel cycle facilities to NMSS, it will also ensure better integration of that design process and safeguards reviews. It will also facilitate integration of any new safeguards technologies across fuel cycle facilities. NMSS will work with the Office of Nuclear Security and Incident Response (NSIR) to ensure continued coordination on related physical security policy and implementation for fuel cycle facilities which will remain

with NSIR. Because of the interrelationship between safeguards and physical security, critical skills in these disciplines will be needed in each office to facilitate coordination.

### Organizational Structure

Elements of NMSS would be merged with STP in the new ONMP. A common element of these programs is that close NRC and State coordination and cooperation are important for effective program implementation. This ONMP would have three technical divisions: (1) Division of Industrial and Medical Nuclear Safety (IMNS), (2) Division of Waste Management and Environmental Protection (DWMEP), and (3) Division of Program Policy and Coordination (PPC). Elements of the current NMSS programs and organizations dealing with fuel cycle including uranium conversion, enrichment and fuel fabrication, spent fuel and high-level waste storage, transportation, and disposal would be included in a new NMSS. This Office would have three technical divisions: (1) Fuel Cycle Safety and Safeguards (FCSS), (2) Division of Spent Fuel Storage and Transportation (SFST) and (3) High-Level Waste Repository Safety (HLWRS). In addition, the lead responsibility for domestic and international safeguards policy and regulation for fuel cycle facilities, including materials control and accountability (MC&A) will be transferred from NSIR to NMSS FCSS. The transfer of this lead responsibility recognizes the fundamental relationship between the design of safeguards, including MC&A, with the design of the materials process itself. FCSS will work with NSIR to ensure a complete and comprehensive security interface to ensure consistency between safeguards and physical security requirements for these facilities. Also, the staff will ensure that any new safeguards technologies or lessons learned which result from recycling initiatives are considered for other fuel cycle facilities, as appropriate.

The staff believes the proposed reorganization will improve the effectiveness of the current NMSS and STP programs. NMSS, as it currently exists, has responsibility for an extremely diverse range of regulated activities. Under the proposed reorganization, the span of responsibilities for the two new offices would be better focused, thus allowing enhanced management attention, improved coordination and integration of related regulatory activities. This is particularly important recognizing the unique precicensing and licensing responsibilities for a proposed geologic repository, the renewed interest in fuel cycle activities spurred on by the international expansion in nuclear power, and potential new national policies and direction for managing the fuel cycle. However, it should be noted that the proposed organization will also bring challenges in coordination. The rulemaking staff in ONMP will now be a center of excellence serving NMSS, ONMP, and NSIR as will the environmental review group in ONMP. Additional challenges will result from the need for infrastructure to address events analysis and follow-up, allegations, enforcement and generic issues in the new Office.

In the reorganized offices, divisions would average in size from approximately 50 to 70 staff. (See Enclosures 1 and 2). First-line supervisors would be redesignated as branch chiefs consistent with the RES and NRR reorganizations. If the Commission approves the reorganization, each Office will be developed at the branch and section level to best serve the mission of the organization and the Agency. It is intended that the supervisor-to-staff ratio ultimately will be 8.5:1. A significant portion of NMSS new hires are at entry level, and NMSS has made an effort to reduce the size of sections to provide for better first-line supervision. Although the proposed organization is expected to be stable in FY 2007, uncertainties in resources for the out years, stemming from changes in the number of Agreement States, uncertainty in the date when DOE will submit a high level waste (HLW) license application, and uncertainty on timing of the GNEP initiative, may result in the need for additional modifications to the organization. The structure of the proposed organization provides flexibility to accommodate the modifications.

A total of 36 staff are proposed for the Program Planning, Budgeting and Program Analysis (PBPA) functions in both offices. Given the resources for the PBPA organizations, we will look at the best way to organize these areas. Our PBPA functions consist of program-specific information technology projects, such as the National Source Tracking System as well as routine functions such as personnel, budget and contract management. We may change the scope of work or transfer functions to allow us to operate with the staff size proposed for the PBPA organizations. This may require changes in the organizational structures and functional statements for these organizations.

#### Impact on SES Positions

The proposed reorganization would include 10 SES positions in ONMP and 12 SES positions for NMSS, for a total of 22 positions. The current NMSS office has 19 SES positions and STP has 2 SES positions. Four of the six technical divisions would have a director and two deputy directors (instead of a deputy division director and two SES branch chiefs). The remaining two divisions would have a director and a single deputy, reflecting their smaller current and expected size. The proposed reorganization (see Enclosure 3) is therefore consistent with the Agency's efforts to reduce layers of management as discussed in SECY-03-0011, "Response to June 27, 2002, SRM on Human Capital Management and Workforce Planning," dated January 27, 2003. Uncertainties exist regarding the number of new Agreement States and subsequent decline in fee base, the date of DOE's HLW license application and the NRC's role in the new recycling initiative, which could impact resources and may necessitate further reorganization. Thus, the number of SES positions could change from this proposal. The staff will base decisions regarding SES and other supervisory reassignments on performance history and demonstrated management, technical and administrative competencies. If the Commission approves the reorganization, the staff will address actions necessary to implement the reorganization by October 2006. This transition period will allow time to address implementation issues including space planning and human resource activities. It will also facilitate budget execution at the beginning of the fiscal year.

#### Consistency With Agency Supervisory Ratio Target

The staff has evaluated the impact of the proposed reorganization on various management targets. In the proposed reorganization, the staff would continue to operate within management targets for supervisory ratios and GG-14 and above positions. Based on current projections, the supervisory ratio in the proposed organization would be less than 8.5:1 target. The proposed organizational structure provides flexibility to accommodate anticipated growth in HLWRS to conduct a review of DOE's HLW application, in SFPO to review transport aging and disposal (TAD) package applications, and in FCSS, if NRC's responsibilities are consistent with planned growth in the national initiative. Further, it will be flexible enough to handle the additional number of supervisory GG-15 positions that may be needed to achieve improved staff oversight at the first-line supervisory level. The proposed reorganization would not reduce the existing number of Senior Level System (SLS) employees.

#### Modified Functional Statements

Functional statements for each division in the current and proposed organizations are enclosed (Enclosures 4 and 5). The proposed functional statements reflect the organizational realignment. As discussed earlier, some functions have been realigned to provide better management focus to related activities. The staff believes the proposed reorganization will generally improve the effectiveness of current programs by reducing the overall responsibilities of a single office and improving access to supervisors and management. Under the proposed reorganization, the span of responsibilities for the two new offices would be better focused, thus

allowing enhanced management attention and coordination and integration of related regulatory activities. This is particularly important given the expanded regulatory responsibilities assigned to NRC in the Energy Policy Act of 2005, the continuing and important role of Agreement States, the unique, first-of-a-kind licensing responsibility for a proposed geologic repository, the renewed interest in fuel cycle activities spurred on by the international expansion in nuclear power, and potential new national policies and direction for managing the fuel cycle. ONMP will provide rulemaking for NMSS, and NSIR. ONMP will also provide environmental reviews for NMSS and NSIR. This will require inter-office coordination similar to that which occurs today through the integrated rulemaking plan and the IMNS rulemaking group, which supports NMSS and NSIR. As stated previously, the functional statements for PBPA may change.

#### Implementation of the Proposed Organization

Upon Commission approval, the reorganization, or any future changes to the reorganization, would be implemented once appropriate Union interactions have been completed. NMSS and STP management have held preliminary discussions with the NMSS Labor/Management Partnership Committee on the basic framework, goals, and objectives of the proposed reorganization. As the staff continues to refine the staffing plan, it may be necessary to establish additional branches in order to ensure appropriate staff-to-supervisor ratios.

The staff requests Commission approval to move ahead to address actions needed to begin the reorganization by October 2006. This transition period will allow time to address implementation issues including space planning and human resource activities. It will also facilitate budget execution at the start of a fiscal year.

#### RESOURCES:

The proposed reorganization would be implemented based on FY 2007 current budget estimates. Implementation of this reorganization will require approximately 17 unbudgeted positions in FY 2007 (to provide secretarial and technical support for the new Office Director; for a PBPA SES supervisor for the new office; for a non-SES safeguards supervisor; for 3 non-SES managers for first-line supervision and a secretary for the new Division; for program management and support in both offices; to continue functions such as coordination of generic issues, allegations, events, and risk activities in both offices; and to coordinate control of sources). Seventeen FTEs for these positions will be included in the FY 2008 budget subsequent to the Commission decision on this paper.

Ten FTEs in Headquarters and two FTEs in the Regions will be transferred from NSIR to NMSS to accomplish the shift of domestic and international safeguards responsibilities for fuel cycle facilities to NMSS in the Divisions of FCSS. The FY 2007 and FY 2008 budget will be adjusted to reflect this transfer.

#### COMMITMENT:

The staff commits to implement the reorganization consistent with the recommendations discussed below and upon Commission approval.

#### RECOMMENDATIONS:

The staff recommends that the Commission approve the proposed reorganization as discussed herein.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection to the proposed reorganization. The Office of the Chief Financial Officer has reviewed this paper and has no objection to the proposed reorganization.

***/RA by Martin J. Virgilio Acting For/***

Luis A. Reyes  
Executive Director  
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Enclosures:

1. Existing Organizational Chart for the Office of Nuclear Material Safety and Safeguards
2. Proposed Organizational Charts for the Office of Nuclear Material Safety and Safeguards and the Office of National Materials Program
3. NMSS Current and Proposed Senior Executive Service Management Positions
4. Current NMSS and STP Functional Statements
5. Proposed NMSS and ONMP Functional Statements



The Commissioners

COORDINATION:

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