

## **POLICY ISSUE NOTATION VOTE**

March 9, 2006

SECY-06-0055

FOR: The Commissioners

FROM: Luis A. Reyes  
Executive Director for Operations

SUBJECT: REPORT TO CONGRESS ON ABNORMAL OCCURRENCES:  
FISCAL YEAR 2005

### PURPOSE:

To obtain Commission approval to submit the abnormal occurrence report to Congress.

### BACKGROUND:

Section 208 of the Energy Reorganization Act of 1974 (Public Law 93-438) defines an "abnormal occurrence" (AO) as an unscheduled incident or event that the U.S. Nuclear Regulatory Commission (NRC) determines to be significant from the standpoint of public health or safety. The Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66) requires that the NRC must report AOs to Congress annually. Enclosure 1 to this paper presents the "Report to Congress on Abnormal Occurrences: Fiscal Year 2005" (NUREG-0090, Vol. 28).

### DISCUSSION:

The AO report describes three events at NRC-licensed facilities that meet the criteria to be classified as AOs, as defined in Appendix A to the report. All three events occurred at medical institutions. The first event involved a patient who received the incorrect dose distribution while undergoing therapeutic brachytherapy treatment. The second event involved an infant who was administered the incorrect diagnostic dosage of technetium-99m. The third event involved three patients who received unintended radiation doses to the skin of their inner thighs while undergoing therapeutic treatment. Reports from Agreement States are also included.

CONTACT: Sheryl A. Burrows, RES/DSARE, 301-415-6086

NOTE: SECY PAPER TO BE RELEASED TO THE PUBLIC 5 DAYS AFTER DISPATCH OF THE REPORT TO CONGRESS.

Agreement States are those States that have entered into formal agreements with the NRC pursuant to Section 274 of the Atomic Energy Act (AEA) to regulate certain quantities of AEA material at facilities located within their borders. During Fiscal Year (FY) 2005, there were 33 Agreement States and six events were reported at Agreement State-licensed facilities, including five therapeutic medical events and one diagnostic medical event. All six events met the criteria for AO categorization.

Appendix A to this report presents the NRC's criteria for selecting AOs, as well as the guidelines for selecting "Other Events of Interest." Appendix B, "Updates of Previously Reported Abnormal Occurrences," does not contain any updated information on AO events reported in the FY 2004 Report to Congress on Abnormal Occurrences because no new significant information became available.

Appendix C, "Other Events of Interest," presents information concerning events that are not reportable to Congress as AOs, but are included in this report based on the Commission's guidelines, as listed in Appendix A to this report. Specifically, this appendix contains one new event on safe-shutdown safety-related systems at the Kewaunee Power Station and updated information on a spent fuel record accountability discrepancy at the Humboldt Bay Power Plant. One event, considered for inclusion, involved a radiography source that fell overboard during an attempted transfer of the device from an offshore platform to a boat. After an extensive search, the device was determined to be unrecoverable. The event in question was evaluated against the Agency's Strategic Plan Performance Measure, but did not violate it because of its low risk significance. However, the insights gained from this event caused the Agency to enhance the verification and validation statement for the performance measure dealing with unrecovered losses or thefts of risk-significant sources. The enhancement made the metric more risk-informed by allowing an assessment of the risk-significance of each event based on the circumstances surrounding each loss. Staff did not include this event in the draft Report to Congress because it did not meet the spirit or intent of the event of interest criteria.

In SECY-05-0035, "Report to Congress on Abnormal Occurrences: Fiscal Year 2004," the staff discussed its effort to revise the existing AO criteria. The staff has since proposed to amend the existing AO criteria to ensure that the criteria are consistent with the NRC's Strategic Plan for Fiscal Year (FY) 2004–2009 and the NRC rulemaking on Title 10, Part 35, of the Code of Federal Regulations (10 CFR Part 35), "Medical Use of Byproduct Material." The staff has also proposed to add risk-informed criteria, based on the NRC Accident Sequence Precursor Program and the Reactor Oversight Process, for determining abnormal occurrences at commercial nuclear power plants for the report to Congress. The Commission has approved staff's proposal and directed the staff to publish the revised AO Policy Statement in the *Federal Register* for public comment. The revised AO Policy Statement was published on March 1, 2006, and the comment period ends on May 30, 2006.

Furthermore, the staff is working on a plan for implementing the proposed risk-informed AO criteria for commercial nuclear power plants. The staff will provide the plan to the Commission in June 2006. Until actions under this plan are completed, the staff will continue to use the deterministic criteria when the risk-informed criteria cannot produce applicable or timely results for the AO report.

COORDINATION:

The Office of the General Counsel has reviewed the AO report and has no legal objection.

RECOMMENDATION:

The staff recommends that the Commission approve the proposed AO report to Congress for FY 2005 as well as the proposed letters forwarding the AO report to Congress (Enclosures 2 and 3).

After receiving approval from the Commission for the Chairman's signature, the staff will submit the letters to the President of the Senate and the Speaker of the House. The NRC's Office of Congressional Affairs will then arrange for appropriate distribution to Congress. The NRC staff will also issue a *Federal Register* notice describing the NRC and Agreement State licensee AOs and announcing publication of the report.

*/RA/*

Luis A. Reyes  
Executive Director  
for Operations

Enclosures:

1. AO Report
2. Senate Letter
3. House of Representatives Letter

COORDINATION:

The Office of the General Counsel has reviewed the AO report and has no legal objection.

RECOMMENDATION:

The staff recommends that the Commission approve the proposed AO report to Congress for FY 2005 as well as the proposed letters forwarding the AO report to Congress (Enclosures 2 and 3).

After receiving approval from the Commission for the Chairman's signature, the staff will submit the letters to the President of the Senate and the Speaker of the House. The NRC's Office of Congressional Affairs will then arrange for appropriate distribution to Congress. The NRC staff will also issue a Federal Register notice describing the NRC and Agreement State licensee AOs and announcing publication of the report.

*/RA/*

Luis A. Reyes  
Executive Director  
for Operations

Enclosures:

1. AO Report
2. Senate Letter
3. House of Representatives Letter

WITS 198700108

E:\Filenet\ML053480034.wpd PACKAGE NO.: ML053480028  
 OAR in ADAMS? (Y or N) Y ADAMS ACCESSION NO.: ML053480034 TEMPLATE NO. SECY-012  
 Publicly Available? (Y or N) N DATE OF RELEASE TO PUBLIC Norm SENSITIVE? N  
**To receive a copy of this document, indicate in the box: "C" = Copy without enclosures "E" = Copy with enclosures "N" = No copy**

OFFICE	DSARE	<input type="checkbox"/>	C	DSARE	<input type="checkbox"/>	C	DSARE	<input type="checkbox"/>	N	D/DSARE	<input type="checkbox"/>	D/STP	<input type="checkbox"/>	D/OE	<input type="checkbox"/>
NAME	SBurrows		SBush-Goddard		CLui		FEltawila		JRSchlueter		MRJohnson				
DATE	12/28/2005		12/28/2005		12/28/2005		12/28/2005		1/19 /2006		1/ 03/2006				
OFFICE	D/OGC	<input type="checkbox"/>	RI	<input type="checkbox"/>	RII	<input type="checkbox"/>	RIII	<input type="checkbox"/>	D/NMSS	<input type="checkbox"/>	RIV	<input type="checkbox"/>			
NAME	STreby		SJCollins		WATravers		JACaldwell		JRStrosnider		BSMallett				
DATE	1/13/2006		1/19/2006		1/12/2006		1/20/2006		1/26/2006		1/17/2006				
OFFICE	D/NRR	<input type="checkbox"/>	D/NSIR	<input type="checkbox"/>	TechEditor	<input type="checkbox"/>	D/RES	<input type="checkbox"/>	DEDOMRS	<input type="checkbox"/>	EDO	<input type="checkbox"/>			
NAME	JEDyer		RPZimmerman		PKleene		CPaperiello		MVirgilio		LReyes				
DATE	1/26/2006		1/22/2006		1/26/2006		2/ 01 /06		03/09/06		03/09/06				
OFFICE	SISPRReview	<input type="checkbox"/>	SISPRReview	<input type="checkbox"/>											
NAME	SBurrows		CLui												
DATE	1/27/2006		1/30/2006												

