

**POLICY ISSUE
NOTATION VOTE**

February 22, 2007

SECY-07-0037

FOR : The Commissioners

FROM: Luis A. Reyes
Executive Director for Operations

SUBJECT: REPORT TO CONGRESS ON ABNORMAL OCCURRENCES:
FISCAL YEAR 2006

PURPOSE:

To obtain Commission approval to submit the fiscal year (FY) 2006 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 NRC report AOs to Congress annually. Enclosure 1 to this paper presents the "Draft Report to Congress on Abnormal Occurrences Fiscal Year 2006."

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SECY NOTE: THIS PAPER TO BE MADE PUBLICLY AVAILABLE 5 DAYS AFTER DISPATCH OF THE LETTERS TO CONGRESS.

DISCUSSION:

The draft AO report describes three events at NRC-licensed facilities and six events at Agreement-State licensed facilities that meet the AO classification criteria, as defined in Appendix A, "Abnormal Occurrence Criteria and Guidelines for Other Events of Interest." The three AOs at NRC-licensed facilities include a spill of high-enriched uranium solution at a fuel fabrication facility, a medical event, and an unintended dose to an embryo/fetus. The six AOs at Agreement State-licensed facilities include four medical events, one unintended dose to an embryo/fetus, and one industrial event.

Appendix B, "Updates of Previously Reported Abnormal Occurrences," notes that NRC does not have any updated information on events reported in the FY 2005 AO report. Appendix C, "Other Events of Interest," presents nine events of interest identified during FY 2006 on groundwater contamination due to undetected leakage of radioactive water at nuclear power plants.

In SECY-06-0055, "Report to Congress on Abnormal Occurrences: Fiscal Year 2005," the staff discussed its efforts to revise the existing AO criteria. The revised AO Policy Statement was published for public comment in May 2006 and no public comments were received. The revised criteria became effective on October 12, 2006, and is currently being used to select potential AOs for the annual report to Congress in FY 2007. The revised criteria are more risk-informed and consistent with the NRC's Strategic Plan for FY 2004-2009; 10 CFR Part 35, "Medical Use of Byproduct Material;" and Appendix P to 10 CFR Part 110, "Category 1 and 2 Radioactive Material." The revised criteria can be found in Appendix D, "Revised Abnormal Occurrence Criteria and Guidelines for Other Events of Interest."

Also, the Energy Policy Act of 2005 (EPAAct) expanded the NRCs regulatory jurisdiction by amending the definition of byproduct material to include discrete sources of radium-226, accelerator-produced radioactive material, and discrete sources of naturally occurring radioactive material. The staff is developing a rule to implement the EPAAct. Once the rule is promulgated, the NRC and Agreement States will monitor events that may meet the revised AO criteria.

After receiving Commission approval for the Chairman's signature, the staff will submit the letters to the President of the Senate and the Speaker of the House. NRC's Office of Congressional Affairs will then arrange for appropriate distribution of the report to Congress. The NRC staff also will issue a *Federal Register* notice describing the FY 2006 NRC and Agreement State licensee AOs and announcing publication of this report.

RECOMMENDATION:

The staff recommends that the Commission approve the draft AO report to Congress for FY 2006, and the proposed letters forwarding this report to Congress (Enclosures 2 and 3).

The Commissioners

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COORDINATION:

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

/RA/

Luis A. Reyes
Executive Director
for Operations

Enclosures:

1. Draft Report to Congress on Abnormal Occurrences Fiscal Year 2006
2. Letter to Richard B. Cheney, President of the United States Senate
3. Letter to Nancy Pelosi, Speaker of the United States House of Representatives

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