

December 17, 2004

MEMORANDUM TO: J. E. Dyer, Director, NRR
J. R. Strosnider, Director, NMSS
P. H. Lohaus, Director, STP
R. P. Zimmerman, Director, NSIR
F. J. Congel, Director, OE
K. D. Cyr, General Counsel, OGC
S. J. Collins, Regional Administrator, Region I
W. A. Travers, Regional Administrator, Region II
J. A. Caldwell, Regional Administrator, Region III
B. S. Mallett, Regional Administrator, Region IV

FROM: Carl Paperiello, Director */RA/*
Office of Nuclear Regulatory Research

SUBJECT: FINAL DRAFT REPORT TO CONGRESS ON ABNORMAL
OCCURRENCES - FISCAL YEAR 2004

Attached for comment and concurrence is the draft Commission Paper (and attachments) regarding abnormal occurrences (AOs) for fiscal year (FY) 2004. Attachment 1 to the Commission Paper is the "Report to Congress on Abnormal Occurrences - Fiscal Year 2004." The AO Report includes previously submitted staff comments relating to AO write-ups. Appendix B to the AO Report, "Update of Previously Reported Abnormal Occurrences," gives one update of an event initially reported in the FY 2003 annual report to Congress. Appendix C, "Other Events of Interest," discusses events that do not meet the AO criteria but may be of interest to Congress and the public. Appendix C describes three nuclear power reactor related events and one materials event.

In May 2004, a working group was established to review the existing AO criteria and determine whether any changes were warranted. As a result of this review, new language that will amend Section I, "For All Licensees" (with regard to the criterion used to identify security incidents) and Section IV, "For Medical Licensees", of the AO criteria has been developed. To provide offices more time to review the newly proposed criteria, the working group will resume its efforts to present the revised criteria to the Commission for approval after the publication of the FY 2004 AO report to Congress.

This Commission paper is due to the EDO on February 8, 2005. Please respond by providing your comments and concurrence by January 12, 2005, in order to ensure timely issuance of this report.

If you have questions, please contact the RES AO coordinator, Andrea Jones at (301) 415-6231, e-mail ARJ.

Attachments: As stated

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DISTRIBUTION w/attachments:

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***See Previous Concurrence**

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FOR : The Commissioners

FROM: Luis A. Reyes
Executive Director for Operations

SUBJECT: FISCAL YEAR 2004 REPORT TO CONGRESS ON ABNORMAL
OCCURRENCES

PURPOSE:

To obtain Commission approval to submit the abnormal occurrences 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 AOs be reported to Congress annually. This paper presents a draft of the "Report to Congress on Abnormal Occurrences, Fiscal Year 2004" (NUREG-0090, Vol. 27) (Attachment 1).

DISCUSSION:

The draft AO report describes four events at NRC-licensed facilities that met the AO criteria in FY 2004. One event involved an uranium hexafluoride release at a fuel cycle facility; another event, also at a fuel cycle facility, revealed excessive uranium concentrations found in ash deposits in various locations in an incinerator; a third event involved a patient undergoing a therapeutic brachytherapy treatment; and the fourth event involved an overdose of sodium iodide (I-131) administered to a patient. The draft report also describes AOs that occurred at facilities licensed by Agreement States. During FY 2004, the Agreement States notified the NRC of 13 events at Agreement State licensed facilities that were determined to have met the AO criteria: 8 therapeutic medical events; 3 diagnostic medical events; 1 human exposure event involving an unintended dose of I-131 to an embryo/fetus; and 1 event involving an extremity overexposure to a radiopharmacist trainee. All the events meet the criteria for AO categorization as defined in Appendix A to the report.

Contact: Andrea R. Jones, RES
301-415-6231

Appendix B, "Update of Previously Reported Abnormal Occurrences," provides one update of an event initially reported in the fiscal year (FY) 2003 annual report to Congress. The update addresses inspection and enforcement actions undertaken after an unplanned radiological overexposure to a radiographer. The update was not available before the FY 2003 report was published. Appendix C, "Other Events of Interest," describes licensee record accountability discrepancies at two nuclear power plants, loss of offsite power at another nuclear power plant, and a stuck source in an exposed position at an irradiator facility.

In May 2004, a working group was established to review the existing AO criteria and determine whether any changes were warranted. The working group includes representatives of the NRC Offices of Nuclear Regulatory Research (RES); Nuclear Reactor Regulation (NRR); Nuclear Material Safety and Safeguards (NMSS); Nuclear Security and Incident Response (NSIR); and State and Tribal Programs (STP); as well as the NRC's four regional offices. The working group evaluated the AO criteria to determine whether the criteria are aligned with the NRC's Strategic Plan for FY 2004–2009; the FY 2005–2006 Performance Measures and Metrics; and the NRC's newest regulations. As a result of this review, the working group will propose newly developed language that will amend Section I, "For All Licensees" (with regard to the criterion used to identify security incidents); and Section IV, "For Medical Licensees," (with regard to the criterion used to identify medical event incidents). To provide staff with sufficient time to review the newly developed criteria, the working group will submit the criteria to the Commission for approval after the publication of the FY 2004 AO report to Congress.

COORDINATION:

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

RECOMMENDATION:

The staff recommends that the Commission approve the proposed AO report to Congress for FY 2004, and the proposed letters forwarding the AO report to Congress.

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

Luis A. Reyes
Executive Director
for Operations

Attachments:

1. Draft of "Report to Congress on Abnormal Occurrences, Fiscal Year 2004"
2. Letter to President of the Senate
3. Letter to Speaker of the House

In May 2004, a working group was established to review the existing AO criteria and determine whether any changes were warranted. The working group includes representatives of RES and the NRC's Offices of Nuclear Reactor Regulations (NRR), Nuclear Material Safety and Safeguards (NMSS), Nuclear Security and Incident Response (NSIR), and State and Tribal Programs (STP), as well as the NRC's four regional offices. The working group evaluated the AO criteria to ensure that each criterion is consistent with the NRC's Strategic Plan for FY 2004–2009, the FY 2005–2006 Performance Measures and Metrics, and the NRC's newest regulations. As a result of this review, new language that will amend Section I, "For All Licensees" (with regard to the criterion used to identify security incidents) and Section IV, "For Medical Licensees," of the AO criteria is being developed. To provide staff with sufficient time to review the newly proposed criteria, the working group will provide the revised criteria to the Commission for approval after the publication of the FY 2004 AO report to Congress.

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

The staff recommends that the Commission approve the proposed AO report to Congress for FY 2004, and the proposed letters forwarding the AO report to Congress.

Luis A. Reyes
Executive Director
for Operations

1. Draft of "Report to Congress on Abnormal Occurrences, Fiscal Year 2004",
2. Letter to President of the Senate
3. Letter to Speaker of the House

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