POLICY ISSUE
(Notation Vote)

March 5, 2010 SECY-10-0024

FOR: The Commissioners

FROM: R.W. Borchardt
Executive Director for Operations

SUBJECT: REPORT TO CONGRESS ON ABNORMAL OCCURRENCES FISCAL YEAR 2009

PURPOSE:

To obtain Commission approval to submit the Fiscal Year (FY) 2009 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.

A draft of the "Report to Congress on Abnormal Occurrences: Fiscal Year 2009" (NUREG-0090, Vol. 32) is presented as Enclosure 1 to this paper. The draft AO report describes three events at NRC-licensed or regulated facilities and six events at Agreement State-licensed facilities. All three NRC-licensee events were medical events, as defined in Title 10, Part 35, of the *Code of Federal Regulations* (10 CFR Part 35). The first and second Agreement State events involved radiation exposure to an embryo/fetus. The other four Agreement State events were medical events, as defined in 10 CFR Part 35.

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DISCUSSION:

All of the events meet the criteria for AO categorization. The NRC initially promulgated the AO criteria in a policy statement that the Commission published in the *Federal Register* on February 24, 1977 (42 FR 10950), followed by several revisions in subsequent years. The most recent revision to the AO criteria was published in the *Federal Register* on October 12, 2006 (71 FR 60198). That revision established the criteria that the NRC used to identify AOs for the enclosed report. These criteria are reproduced in Appendix A of the report.

The AO report contains several additional appendices. Appendix B, “Updates of Previously Reported Abnormal Occurrences,” provides updated information for one event reported in the FY 2008 Report to Congress on Abnormal Occurrences regarding medical events at the Department of Veterans Affairs. During FY 2009, one item was identified as meeting the guidelines for inclusion in Appendix C, "Other Events of Interest." Appendix D, “Glossary,” contains a glossary of terms used throughout this report. Appendix E, “Conversion Table,” presents commonly used conversions when calculating doses.

A proposed letter for forwarding the AO report to Congress is provided as Enclosure 2 to this paper. After receiving Commission approval and the Chairman’s signature, the staff will submit a letter and report to the President of the Senate and the Speaker of the House. The Office of Congressional Affairs will then arrange for appropriate distribution to Congress. The staff will also issue a *Federal Register* notice describing the NRC and Agreement State licensee AOs and announcing publication of the final AO report.

Currently, the Office of Nuclear Regulatory Research is coordinating with the Offices of Federal and State Materials and Environmental Management Programs (FSME), New Reactors (NRO), and Nuclear Reactor Regulation (NRR) for potential revisions to the AO criteria. These revisions may include, but are not limited to: (1) FSME revision to the medical event category of Criteria III.C, “For Medical Licensees”, (2) NRO creating new criteria for new reactor construction, and (3) NRR revising footnote 8, for the accident sequence precursor program, of Criteria II, “For Commercial Nuclear Power Plant Licensees.” The revised AO criteria will be presented to the Commission in a future paper.

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 FY 2009 AO report to Congress, as well as the proposed letter forwarding the report to Congress (Enclosure 2).

/RA by Martin J. Virgilio for/

R. W. Borchardt
Executive Director
for Operations

Enclosures:
1. NUREG-0090, Vol. 32, "Report to Congress on Abnormal Occurrences: Fiscal Year 2009"
2. House of Representatives Letter

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