

POLICY ISSUE NOTATION VOTE

February 27, 2011

SECY-11-0027

FOR: The Commissioners

FROM: R. W. Borchardt
Executive Director for Operations

SUBJECT: REPORT TO CONGRESS ON ABNORMAL OCCURRENCES FISCAL
YEAR 2010

PURPOSE:

To obtain Commission approval and guidance on staff recommendations of events to submit in the Fiscal Year (FY) 2010 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 must report AOs to Congress annually. Enclosure 1 to this paper presents a draft of the "Report to Congress on Abnormal Occurrences: Fiscal Year 2010" (NUREG-0090, Vol. 33).

DISCUSSION:

The enclosed draft AO report describes eight events at NRC-licensed or regulated facilities and seven events at Agreement State-licensed facilities. The first NRC-licensed event involved radiation exposure to an embryo/fetus. The other seven NRC-licensed 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-licensed events involved radiation exposure to an embryo/fetus. The other five Agreement State-licensed events were medical events as defined in 10 CFR Part 35. All of the events meet the criteria for AO categorization as defined in Appendix A to the enclosed report.

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DAYS AFTER DISPATCH OF THE LETTER(S).**

Historically, about 10 AOs are reported in the “Report to Congress on Abnormal Occurrences” in an average year. For this FY 2010 report, 15 AOs are described; however, only 6 of those AOs occurred in FY 2010. The remaining nine AOs occurred previously and the NRC’s evaluation was completed in FY 2010. In addition to the 15 events in this report, the staff has identified an additional 15 events in FY 2006–FY 2010 that are potentially AOs for which additional information about the event is required. Reasons for the missing information include pending escalated enforcement action that prevents the release of certain information until resolution and the extra time required for the followup of certain events. Staff is working with the Agreement States and licensees to obtain the necessary information, and the events will be included in a future report.

Appendix B, “Updates of Previously Reported Abnormal Occurrences,” of Enclosure 1 provides updated information for two events reported in the FY 2009 Report to Congress on Abnormal Occurrences. These were medical events at the Gamma Knife Center of the Pacific in Honolulu, Hawaii, and the Veterans Affairs San Diego Health Care System in San Diego, California. During FY 2010, four items were identified as meeting the guidelines for inclusion in Appendix C, “Other Events of Interest.” Three of these events occurred at nuclear power plants and the other event occurred at a nuclear fuel cycle facility. Appendix D, “Glossary,” contains a glossary of terms used throughout this report. Appendix E, “Conversion Table,” presents commonly used conversions when calculating doses.

One of the events discussed in Appendix C is currently under evaluation by the staff and involves a potential significant accident precursor that could meet the AO criteria. This event occurred at a commercial nuclear reactor, the H.B. Robinson Steam Electric Plant, Unit 2, on March 28, 2010. The event is discussed in Licensee Event Report 261/10-002, “Plant Trip due to Electrical Fault,” dated May 27, 2010 (see ADAMS ML101530502). At this time, the staff is completing analysis to determine if this event meets the criteria for a significant accident precursor (i.e., a conditional core damage probability of greater than or equal to 1×10^{-3}). An event is considered for inclusion in the “Other Events of Interest” section of the AO report if it has received significant media coverage or caused increased attention to, or oversight of, a program area, including a group of similar events that have resulted in licensed materials entering the public domain in an uncontrolled manner. This event does not currently meet those specific criteria. Although there has not been Congressional or public interest in this event to date, there is the potential for stakeholders to perceive this event to be of high health and safety significance in the future once the staff’s analysis is complete. Based on this consideration, the staff recommends that this event be included in the AO report in Appendix C. The staff will also report the required information in next year’s AO report and the FY 2011 Performance and Accountability Report to Congress, if the final analysis indicates that this event meets the reporting criteria.

However, should the Commission determine that the H.B. Robinson event should not be included in Appendix C, "Other Events of Interest," of the FY 2010 AO Report, Enclosure 3 provides a modified version of the standard transmittal letter to Congress, which includes a brief description of the event and a statement that the staff will report the required information if the final analysis indicates the reporting criteria are met.

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 criteria that NRC used to define AOs for the purpose of the enclosed report as set forth in Appendix A, which became effective on October 12, 2006.

COORDINATION:

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

In SECY-07-0037 the Office of Nuclear Regulatory Research informed the Commission they will continue to coordinate with the Offices of Federal and State Materials and Environmental Management Programs (FSME), New Reactors (NRO), Nuclear Reactor Regulation (NRR), and other program offices for revisions to the AO criteria. The current AO criteria have been in effect for 4 years and will be reevaluated this year. This reevaluation may include but is 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."

RECOMMENDATION:

The staff requests that the Commission:

1. Approve the staff's recommendation to include the H.B. Robinson event in Appendix C, "Other Events of Interest," to the AO report with the standard transmittal letter to Congress (Enclosure 2).
2. Approve publication and transmittal of the AO Report with Enclosure 2, or Enclosure 3 if the Commission determines that the H.B. Robinson event should not be included in Appendix C under item 1 above, and any other revisions that the Commission directs.

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

/RA Michael F. Weber for/

R. W. Borchardt
Executive Director
for Operations

Enclosures:

1. NUREG-0090, Vol. 33, "Report to Congress on Abnormal Occurrences: Fiscal Year 2010"
2. Standard Transmittal to Congress
3. Transmittal Letter with Discussion of H.B. Robinson Event

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