POLICY ISSUE
(Notation Vote)

February 28, 2013 SECY-13-0024

FOR: The Commissioners

FROM: R. W. Borchardt
Executive Director for Operations

SUBJECT: REPORT TO CONGRESS ON ABNORMAL OCCURRENCES: FISCAL YEAR 2012

PURPOSE:

To obtain Commission approval to submit to Congress the "Report to Congress on Abnormal Occurrences: Fiscal Year (FY) 2012."

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 the NRC to report AOs to Congress annually. Enclosure 1 to this paper presents a draft of the "Report to Congress on Abnormal Occurrences: Fiscal Year 2012" (NUREG-0090, Volume 35).

DISCUSSION:

The enclosed draft AO report describes 22 total events: four events involving NRC licensees and 18 events involving by Agreement State licensees. The first event at an NRC-licensed facility involved a high safety significant occurrence at a commercial nuclear power plant. The other three NRC-licensee events were medical events, as defined in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 35, "Medical Use of Byproduct Material." The first Agreement State licensee event involved radiation exposure to an embryo/fetus, and the second event involved an exposure to a radiographer. The other 16 Agreement State licensee events were medical events, as defined in 10 CFR Part 35. Conspicuously, two of the 16 Agreement State licensee medical AOs involved permanent prostate brachytherapy implants, which involved multiple medical events at each treatment facility. Because each of these two

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event descriptions address the licensee's permanent prostate brachytherapy implant program as a whole, one event report is provided for each of these two events. All of the events meet the criteria for AO categorization, as defined in Appendix A, "Abnormal Occurrence Criteria and Guidelines for Other Events of Interest," to the enclosed report.

Historically, the NRC reports about 15 AOs on average in the "Report to Congress on Abnormal Occurrences" in a year. In FY 2012, nineteen of the 22 AO events were medical events, as defined in 10 CFR Part 35. It should be noted that seven of the 19 medical AO events occurred in previous fiscal years and the NRC completed its evaluation in FY 2012. The remaining AOs involve one commercial reactor event, one event involving radiation exposure to an embryo/fetus, and one event involving radiation exposure to a radiographer. In addition to the 22 events in this report, the staff has identified four additional events in FY 2007–FY 2012 that are potential AOs and for which additional information is required. Reasons why the additional information has not been provided include ongoing predecisional enforcement actions that must be resolved and the additional time needed for follow-up of certain events. The staff is working with the Agreement States and their licensees to obtain the necessary information, and a future report will include these events, as appropriate.

Appendix B, "Updates of Previously Reported Abnormal Occurrences," to the enclosed report provides updated information for three events reported in the FY 2011 "Report to Congress on Abnormal Occurrences." These events are a radiation exposure event at Caribbean Inspection & NDT Services, Inc., in Port Lavaca, Texas; a commercial nuclear power plant event at Browns Ferry Nuclear Plant, Unit 1, in Athens, Alabama; and a medical event at Lovelace Medical Clinic in Albuquerque, New Mexico. During FY 2012, the NRC identified eight additional events as meeting the guidelines for inclusion in Appendix C, "Other Events of Interest." The number of Appendix C events has increased over previous years' reports due to the heightened awareness by the public, Congress, and media regarding events involving radioactive materials. Five of these events occurred at nuclear power plants, one event involved a medical treatment device, one event involved a lost well logging source, and the last event involved a fuel cycle facility. Appendix D, "Glossary," contains definitions of terms used throughout this report. Appendix E, "Conversion Table," presents conversions commonly used when calculating doses.

POTENTIAL AO CRITERIA REVISIONS

The NRC initially issued the AO criteria in a policy statement that the Commission published in the *Federal Register* (FR) 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, which became effective on the same date, established the criteria that the NRC uses to define AOs for the purpose of the enclosed report, as set forth in Appendix A.

In SECY-07-0037, "Report to Congress on Abnormal Occurrences: Fiscal Year 2006," dated February 22, 2007 (see Agencywide Documents Access and Management System (ADAMS) Accession No. ML070170294), the staff informed the Commission that it would coordinate potential revisions to the AO criteria for Commission consideration. In SECY-12-0032, "Report to Congress on Abnormal Occurrences: Fiscal Year 2011," dated February 25, 2012, (see ADAMS Accession No. ML113260103), the staff informed the Commission that it would submit a paper with revised AO criteria to the Commission for approval in FY 2012. However, as a result of additional discussion of the criteria at its September 2012 meeting, the Advisory Committee on the Medical Use of Isotopes (ACMUI) has formed a subcommittee to perform an additional review of the staff's proposed AO medical event criteria (Criteria III.C), and the staff is

awaiting the subcommittee's report. The staff estimates that the ACMUI will provide its final recommendations for Criteria III.C sometime in the late spring or early summer 2013. After receiving the ACMUI recommendations, the staff will evaluate and incorporate appropriate changes into the proposed revised AO criteria, and will provide the criteria to the Agreement States for a 30 day review and comment period. The staff anticipates that the SECY paper with the revised AO criteria will be submitted to the Commission for approval in fall 2013.

RECOMMENDATION:

The staff recommends that the Commission approve the proposed FY 2012 AO report to Congress, as well as the proposed letter forwarding the report to Congress.

After receiving Commission approval to proceed with the report, the staff will submit the enclosed letter to transmit the report to the Speaker of the U.S. House of Representatives and to the NRC's oversight committees. The NRC's Office of Congressional Affairs will then arrange for appropriate distribution to Congress. The NRC staff also will issue a *Federal Register* notice describing the AOs and announcing publication of the enclosed report.

COORDINATION:

The Office of the General Counsel has reviewed the draft AO report and has no legal objection. No additional budgetary resources are needed for this effort. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objection.

/Michael F. Weber for/
R. W. Borchardt
Executive Director
for Operations

Enclosures:
1. NUREG-0090, Volume 35, "Report to Congress on Abnormal Occurrences: Fiscal Year 2012"
2. Congressional Letters

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