



FY 2013

USNRC | OFFICE OF INVESTIGATIONS

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ABSTRACT

This report provides the Commission with an overview of the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations' (OI) activities, mission, and purpose, along with the framework of case inventory with highlights of significant cases that the NRC OI completed during Fiscal Year 2013 (reference SRM COMJC-89-8, dated June 30, 1989). This is the 25th OI Annual Report.

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FISCAL YEAR 2013 HIGHLIGHTS

During Fiscal Year (FY) 2013, the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) maintained a mission-driven, high-performing, workforce, which strengthened its dedication to investigative excellence, professional standards, and stakeholder outreach. OI is comprised of experienced Federal criminal investigators and professional support staff who continuously exceed the expectations of both internal and external stakeholders. OI seized upon opportunities for program improvement, operational awareness, and professional and technical development in accomplishing its independent role within the mission of the NRC.

The following are significant achievements during FY 2013:

- OI closed 123 investigations. Of these investigations, 95 percent developed sufficient information to reach a conclusion of substantiated or unsubstantiated regarding willful wrongdoing. This exceeded OI's performance goal of 90 percent.
- Of the 117 investigations closed with sufficient information to reach a conclusion (substantiated or unsubstantiated) related to willful wrongdoing, OI closed 64 percent timely in 9 months or less.
- Of the 26 Assists to NRC Staff closed, 96 percent were closed within 90 days.
- During FY2013 OI processed 46 Freedom of Information Act (FOIA) requests in a timely manner.
- OI referred 100 percent of its substantiated wrongdoing investigations to the U.S. Department of Justice for prosecution consideration.
- In FY2013, OI launched its new Case Management Web-based System.
- OI presented in the 2002 Davis-Besse Reactor Pressure Vessel Head Degradation Event.
- OI special agents continued operational coordination with law enforcement liaison, Federal, State, and local law enforcement officials at various State Fusion centers throughout the United States to support the NRC Federal Security Coordinator Program, as required by the Energy Policy Act of 2005.

INTRODUCTION AND OVERVIEW

Mission and Authority

As stated in the U.S. Nuclear Regulatory Commission's (NRC's) Strategic Plan for fiscal years (FYs) 2008–2013, the agency's mission is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. The NRC's vision is excellence in regulating the safe and secure use and management of radioactive materials for the public good. The mission and vision provide the framework for the agency's strategies and goals, which guide the allocation of resources across the agency.

The Office of Investigations (OI) aligns with the agency's regulatory programs and strategic values and goals to provide for the safe use of radioactive materials and nuclear fuels for beneficial civilian purposes. OI's national investigations program consistently operates with the principles of good regulation independence, openness, efficiency, clarity and reliability, and by providing regulatory actions that are effective, realistic, and timely.

The Commission has delegated to the Director of OI the authority to take the necessary steps to accomplish the OI mission, as described in Title 10 of the Code of Federal Regulations (10 CFR) 1.36, "Office of Investigations." See Section 161(c) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201 (c)); and Section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846). OI investigative jurisdiction extends to the investigation of alleged wrongdoing by licensees, certificate holders, permittees, or applicants; by contractors, subcontractors, and vendors of such entities; and by management, supervisory, and other employed personnel of such entities who may have committed violations of the Atomic Energy Act, the Energy Reorganization Act; and rules, orders, and license conditions that the Commission issued.

Additionally, during the course of investigation, OI may uncover potentially safety-significant issues that may or may not be related to wrongdoing. In these instances, OI affords this information to the technical staff in a timely manner for appropriate action. OI also provides professional investigative expertise to the NRC staff when in the form of Assists to NRC Staff. Generally, these "Assists to Staff" are associated with matters of regulatory concern for which the staff has requested OI's investigative expertise, but that do not initially involve a specific indication of wrongdoing. OI also has the authority to self-initiate an investigation.

THE OFFICE OF INVESTIGATIONS

The Director of the Office of Investigations (OI) reports to the Deputy Executive Director for Materials, Waste, Research, State, Tribal, and Compliance Programs (DEDMRT) and provides investigative support to Operating Reactors, New Reactors, International Programs, and Nuclear Materials Users programs.

OI is an independent, national investigations program, which consists of four regionally co-located field offices lead by Special Agents In Charge (SAICs), who report directly to OI senior executives located at OI Headquarters. OI field and headquarters offices are staffed by Federal Criminal Investigators (Special Agents (GG-1811)) and professional support staff.

All NRC OI special agents have extensive backgrounds and experience in Federal criminal investigations. During FY 2013, the professional cadre of OI special agents possessed an average of 19 years of Federal law enforcement experience. OI Special Agents previously have served at various Federal agencies, including other Federal law enforcement agencies such as the Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Labor, U.S. Department of Energy, the Naval Criminal Investigative Service, the U.S. Air Force Office of Special Investigations, the Federal Bureau of Investigation, the U.S. Secret Service, U.S. Drug Enforcement Administration, and various Offices of Inspectors General.

OI independently plans and conducts allegations of wrongdoing to determine willful and deliberate actions in violations of NRC regulations and criminal statutes. OI conducts investigations in accordance with the Quality Standards for Investigations established by the Council of Inspectors General on Integrity and Efficiency (CIGIE) and the Department of Justice.

OI develops and implements policies, procedures, and quality control standards for investigations of licensees, applicants, and their contractors or vendors. OI independently conducts and supervises investigations of allegations of wrongdoing by persons or entities within NRC jurisdiction and maintains proactive investigative partnership with other Federal, State, and local law enforcement officials.

DIRECTOR AND FIELD OFFICE REVIEW VISITS

The Office of Investigations' (OI) Director or Deputy Director annually visits each of the OI Field Offices which are colocated with the four NRC regional offices. During these visits, OI senior executive places particular emphasis on enhancing organization excellent. The Director's visits include individual meetings with each OI employee to discuss a variety of subjects and to effectively address any concerns or questions. Additionally, OI Headquarters' investigation and support staff may accompany the Office Director and or Deputy Director during visits to OI Field Offices, which provide opportunities for effective knowledge transfer and increased operational and programmatic awareness. These visits facilitate, encourage, and demonstrate open exchanges of ideas and expressions of differing views between OI senior management and its field office personnel, as well as between OI and regional senior management.

Field Office Review Visits (FORVs) are annual self-assessments conducted of each OI Field Office to support the goal of continuous improvement of OI's national investigations program. OI FORVs assess three major focus areas: operations, management, and administration.

FORV include meetings of Field Office among OI personnel to discuss current OI Headquarters initiatives and activities, policy and procedural focus, and special or regional items of interest. During the self-assessments, OI personnel also are interviewed to obtain timely feedback about operational or other concerns and any issues of particular concern to the employee. Additionally, the FORV team meets with internal stakeholders, the Regional/Deputy Regional Administrator, the Regional Counsel, the Enforcement Coordinator, the Office Allegation Coordinator, and any other regional staff, appropriate. These meetings are designed to solicit stakeholder input on the effectiveness of OI's program and ways to improve the quality, effectiveness, and efficiency of OI's performance.

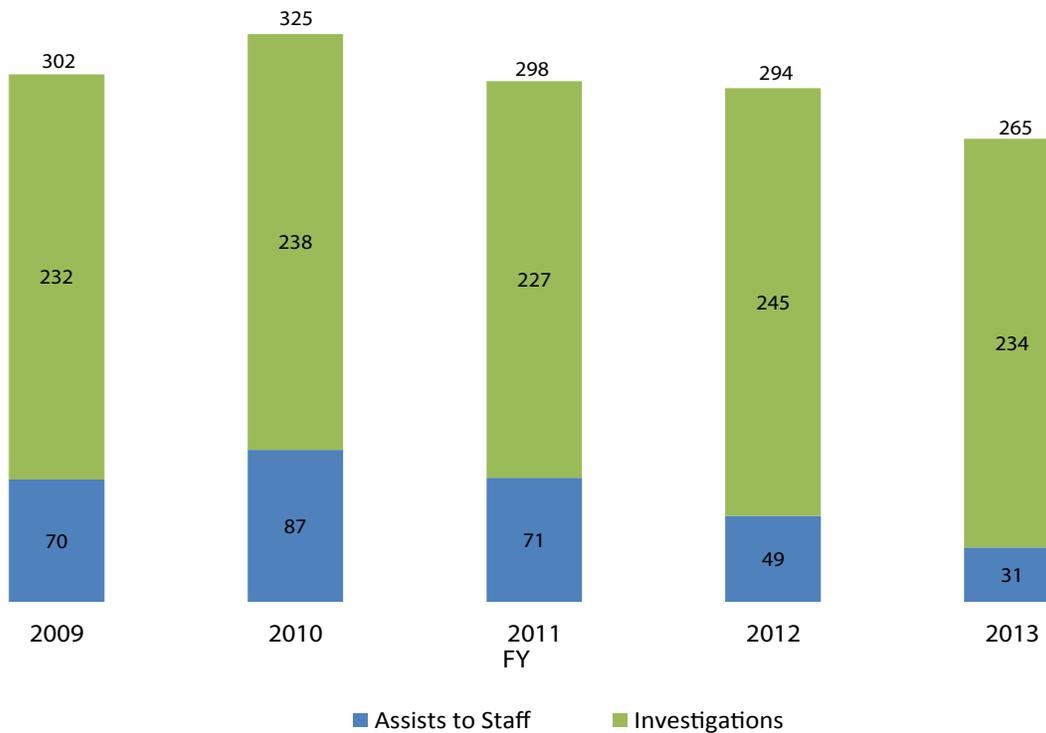
At the conclusion of the FORVs, exit briefings are conducted with the SAICs and OI personnel to discuss the findings and recommendations of the FORV team. A final OI senior management and OI Headquarters review of the FORV teams' findings is conducted to identify and implement best practices with a view toward continuous program improvement and investigative excellence.

CASES

Case Inventory*

Figure 1 shows the OI case inventory, which includes all Investigations and Assists to Staff conducted during the fiscal years indicated. The total case inventory in FY 2013 was 265. The total includes 234 investigations, 112 of which were carried over from FY 2012. Also included are 31 Assists to Staff, 4 of which were carried over from FY 2012.

Figure 1 Case Inventory



* Cases carried over from previous year, plus cases opened in current year

The total number of cases in the OI inventory during FY 2013 was 265, which was a 10 percent decrease from 294 in FY 2012.

CASES OPENED

Table 1 shows the number of cases opened by category during FY 2009 through FY 2013. In FY 2013, there was a 15 percent decrease in total cases opened from FY 2012. There was an increase by 11 percent in the number of suspected Material False Statements investigations and a 29 percent decrease in violations of other NRC Regulatory Requirements. In FY 2013, the number of Discrimination investigations increased by 4 percent, and the number of Assists to Staff cases decreased by 27 percent. OI opened 149 cases in FY 2013 in the categories listed below:

Table 1 Cases Opened by Category

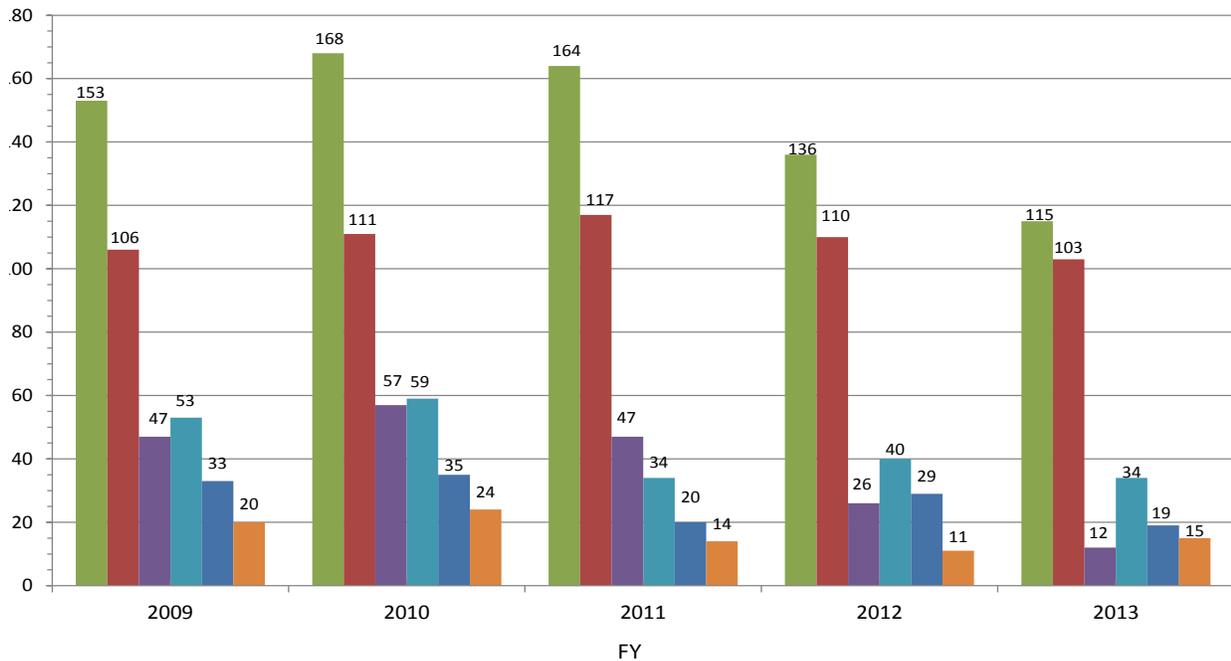
Category	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Total	206	228	199	176	149
Material False Statements	23	21	15	18	20
Violations of Other NRC Regulatory Requirements	86	79	69	73	52
Discrimination	30	46	53	48	50
Assists to Staff	67	82	62	37	27

Note: Out of the 149 cases opened in FY 2013, 13 percent were comprised of Material False Statements investigations, 35 percent were Violations of Other NRC Regulatory Requirements, 34 percent were Discrimination, and 18 percent were Assists to Staff.

The graph in Figure 2 shows the distribution of cases opened during FY 2009 through FY 2013 for the Reactor and Materials programs. From FY 2012 to FY 2013, the overall number of Reactor cases decreased 15 percent. Of the Reactor cases there was a 6 percent decrease in Reactor investigations and a 54 percent decrease in Reactor-related Assists to Staff.

The overall number of Materials cases decreased by 15 percent. Of the Material cases there was a 34 percent decrease in Materials investigations and a 36 percent decrease in Materials-related Assists to Staff.

Cases Opened by Reactor / Materials



Reactor Cases ■ Reactor Investigations ■ Reactor Assist to Staff ■ Materials Cases ■ Materials Investigations ■ Material Assist to Staff

*Cases (consist of Investigations combined with Assists to Staff)

Reactor Cases-115

Reactor Investigations-103

Reactor Assists to Staff-12

Materials Cases-34

Materials Investigations-19

Materials Assists to Staff-15

CASES CLOSED

Table 2 shows the number of cases closed by category during FY 2009 through 2013. The total cases closed during FY 2013 represent a 16 percent decrease from the number closed in FY 2012. There was a 71 percent increase in Material False Statements investigations and a 14 percent decrease of investigations involving Violations of Other NRC Regulatory Requirements. Discrimination investigations decreased by 20 percent, and Assists to Staff cases decreased by 42 percent. OI closed 149 cases in FY 2013 in the categories listed below:

Table 2 Cases Closed by Category

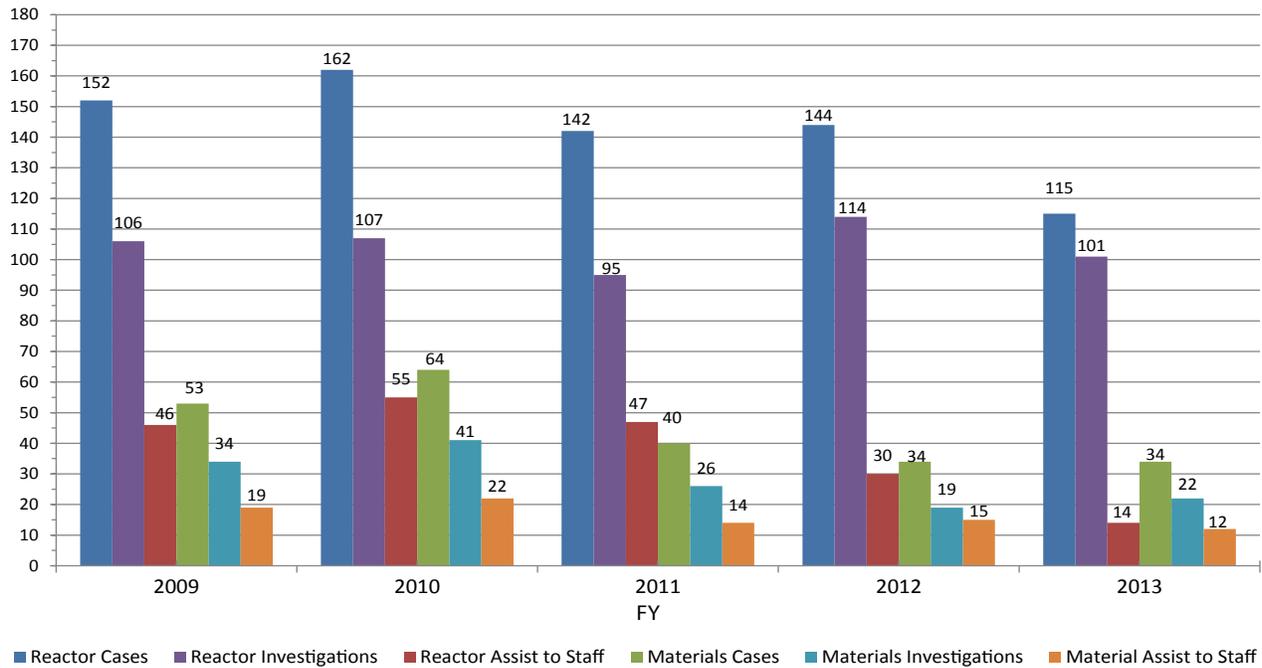
Category	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Total	205	226	180	178	149
Material False Statements	23	21	12	14	24
Violations of Other NRC Regulatory Requirements	90	85	76	63	54
Discrimination	27	42	33	56	45
Assists to Staff	65	78	59	45	26

Note: Out of the 149 cases closed in FY 2013, 16 percent were comprised of Material False Statements investigations, 36 percent were Violations of other NRC Regulatory Requirements, 30 percent were Discrimination, and 18 percent were Assists to Staff.

The graph in Figure 3 shows the cases closed from FY 2009 through FY 2013 for the Reactor and Materials programs. From FY 2012 to FY 2013, the overall number of Reactor cases decreased by 20 percent. Of the Reactor cases there was a 11 percent decrease in Reactor Investigations and a 53 percent decrease in Reactor-related Assists to Staff.

The overall number of Materials cases remained constant, with a 16 percent increase in Materials investigations and a 20 percent decrease in Materials-related Assists to Staff.

Cases Closed by Reactor / Materials



*Cases (consist of Investigations combined with Assists to Staff)

Reactor Cases-115

Materials Cases-34

Reactor Investigations-101

Materials Investigations-22

Reactor Assists to Staff-14

Materials Assists to Staff-12

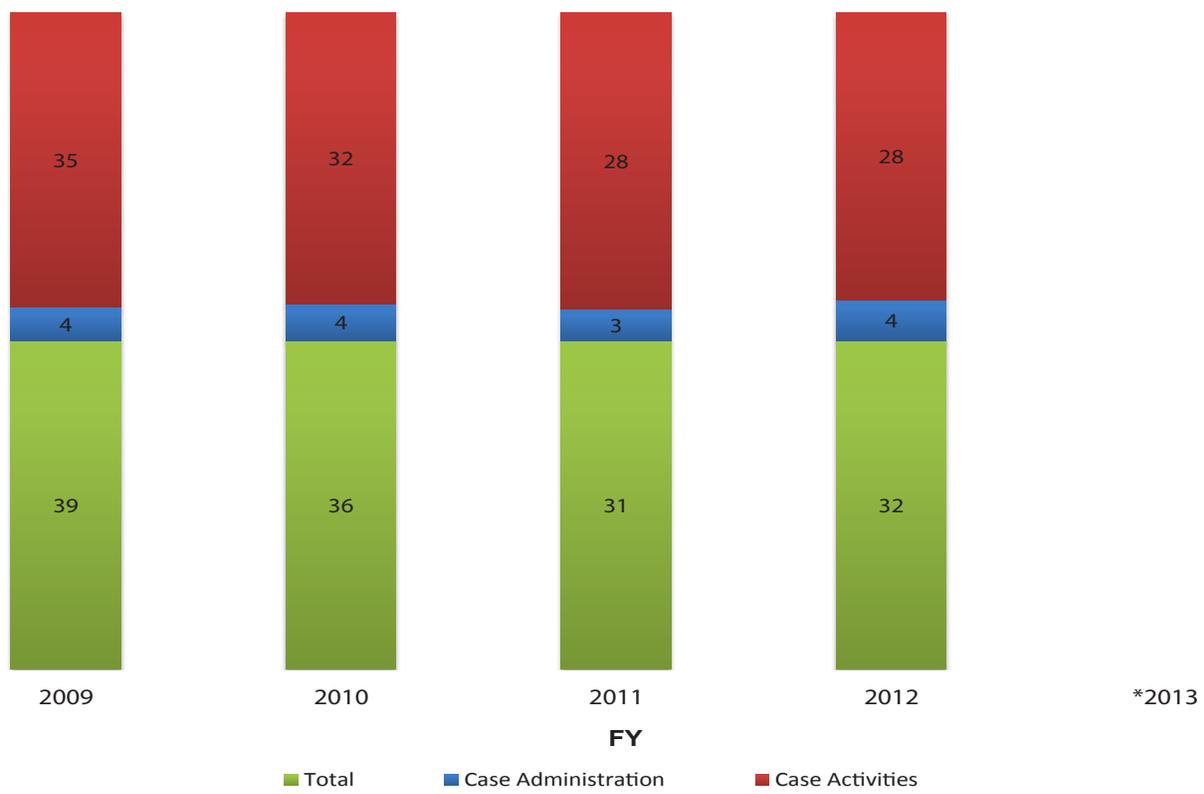
Of the 149 cases closed in FY 2013:

- 37 investigations were closed after OI substantiated willfulness on one or more of the allegations of wrongdoing
- 80 investigations were closed after OI investigations did not substantiate willful wrongdoing
- 6 investigations were closed administratively
- 26 of the total number of cases closed were Assists to the NRC Staff

MANAGEMENT OF CASES

With the FY2013 launch of the Office of Investigations Case Management System, OI was unable to extract total case specific staff hours (civil/criminal investigations), case activities (planning, field work, and analyzing evidence) and case administration (Freedom of Information Act (FOIA) and other miscellaneous activities) as previously reported.

Figure 4 Case Specific Staff Hours



SIGNIFICANT INVESTIGATIONS

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

An OI investigation substantiated that a Massachusetts Institute of Technology (MIT) Director of Operations working in MIT's Nuclear Reactor Laboratory willfully in authorized the use of unapproved replacement parts on the container housing a shipment of radioactive material shipped to the Savannah River Site. The MIT Director's conduct resulted in violations of NRC regulations governing packaging and transportation of radioactive material.

The investigation was referred to the U.S. Department of Justice for prosecution consideration and to the NRC for regulatory review.

INDIAN POINT

An OI investigation substantiated that a former Indian Point Energy Center (IPEC), Chemistry Manager deliberately falsified diesel generator fuel oil sample test results. The former Chemistry Manager subsequently falsified a Condition Report to conceal the lack of supporting documentation for his fabricated test results. OI obtained an admission from the former Chemistry Manager that he had falsified the sample test results and the Condition Report. In July 2013, OI and DOJ Special Agents arrested the former Chemistry Manager who was subsequently charged in U.S. Federal District Court, Southern District of New York for willfully violating NRC regulations Title 10 of the Code of Federal Regulations (10 CFR) 50.5(a)(1) and (2), Deliberate misconduct, a felony violation of Title 42, United States Code (USC), Section 2273; and 10 CFR 50.9 Completeness and accuracy of information, a felony violation of Title 18, USC, Section 1001.

The investigation was referred to the U.S. Department of Justice for prosecution consideration and to the NRC for regulatory review.

PENTAS CONTROLS

An OI investigation substantiated that a former Pentas Lead Electronic and Engineering Technician (LEET) was discriminated against by a Pentas Quality Assurance manager, who was also the Pentas Controls President/Chief Executive Officer. As a result of raising safety/compliance concerns, the LEET was subsequently terminated.

The result of the investigation into the discrimination of the LEET was referred to the U.S. Department of Justice for prosecution consideration and to the NRC for regulatory review.

During the course of the investigation OI initiated a second investigation to determine whether the Pentas Controls President/Chief Executive Officer deliberately made false statements to OI regarding his directing the actions of other Pentas employees in the switching of a steam leak detector with a display unit.

The OI investigation substantiated that Pentas' President/CEO made material false statements to the NRC in violation of Title 18 USC 1001 False Statements.

On November 30, 2012, the Pentas President/Chief Executive Officer pleaded guilty to felony material false statements, in federal district court in Phoenix, AZ and was sentenced to 5 years' probation.

V.C. SUMMER

An OI investigation substantiated that a former contract Safety Advisor, Environmental Health & Safety Specialist 2 (Safety Advisor), deliberately provided false information on a Personnel History Questionnaire, and created a false/fictitious court record to deliberately conceal potentially disqualifying criminal history.

On October 2, 2012, the former Safety Advisor was indicted by a Federal Grand Jury in the District of South Carolina for violation of Title 18 USC 1001 (a) (2) False Statement. On July 8, 2013, the Shaw, Stone, and Webster (Shaw) contractor pleaded guilty in U.S. Federal District Court in the District of South Carolina, to a felony and was sentenced to two years' probation, 40 hours community service, a mental health evaluation, consumer counseling, and a fine.

JACKSON CARDIOLOGY ASSOCIATES

This OI investigation substantiated that a Nuclear Medicine Technologist (NMT) for Jackson Cardiology Associates in Jackson, Michigan, deliberately provided incomplete and inaccurate information concerning dosimetry to an NRC inspector during an NRC inspection. The investigation revealed that the NMT did not wear required dosimetry from July 2, 2012 to November 2, 2012, and treated 305 patients during that time. In August 2012, the NMT admitted to OI, that false information and statements were provided to the NRC inspector concerning the whereabouts of the dosimeters. This information was material to the NRC inspection results.

This investigation was referred to the Department of Justice for prosecution consideration and to the NRC for regulatory review.

KEWAUNEE

An OI investigation substantiated that a Fire Protection Coordinator (FPC) at the Kewaunee Nuclear Plant willfully failed to conduct required fire drills in accordance with Kewaunee procedures and subsequently falsified the NRC required fire drill evaluation and critique forms. The violations occurred between 2006 and 2011, when the drills that were conducted did not meet the criteria established in the plant's fire drill procedures. OI established that the FPC knew the fire drill requirements, and the fire drill evaluations were subsequently falsified.

This investigation was referred to the Department of Justice for prosecution consideration and to the NRC for regulatory review.

WOLF CREEK GENERATING STATION

This OI investigation substantiated that in 2008, a former Engineering Supervisor (ES) at Wolf Creek Generating Station (Wolf Creek) willfully falsified documents related to Wolf Creek's foreign material exclusion (FME) procedure and observation detail (walk down) reports of a spent fuel pool area. The OI investigation established there were no records of the former ES accessing the

spent fuel pool area to perform walk downs, which was inconsistent with the observation detail reports completed on October 30, 2008, November 25, 2008 and December 4, 2008. The former ES admitted to falsifying procedural documents and that the required observations were not performed per Wolf Creek procedures.

This investigation was referred to the Department of Justice for prosecution consideration and to the NRC for regulatory review.

ARKANSAS NUCLEAR ONE

An OI investigation substantiated that a former Senior Emergency Planner (SEP) at Arkansas Nuclear One (ANO) deliberately falsified documents related to Post-Accident Sampling (PAS) drills, Environmental Monitoring drills, and Emergency Response Facility Walkthrough surveillances during 2010 and 2011. The former SEP admitted knowledge of the requirements to perform the drills and surveillances, but the SEP did not perform them and subsequently falsified the required documentation.

This investigation was referred to the Department of Justice for prosecution consideration and to the NRC for regulatory review.

SIGNIFICANT ASSIST TO STAFF

ACUREN INSPECTION INC.

This OI Assist to NRC Staff was initiated to obtain clarifying information after a former Radiographer raised several allegations regarding his termination from Acuren Inspection Inc. (Acuren). An interview of the former Radiographer uncovered a potential wrongdoing issue related to possible radiation exposure. Additionally, the interview disclosed an allegation that Acuren failed to follow applicable source retrieval procedures and to properly process a dosimeter to determine estimated radiation exposure of the Radiographer in accordance with NRC regulations. As a result of the information obtained in the interview, an OI investigation was subsequently initiated.

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11. ABSTRACT (200 words or less)

This report describes Office of Investigations case activities during FY 2013.

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