



NUREG-1830
Volume 16

Office of Investigations Annual Report FY 2019

AVAILABILITY OF REFERENCE MATERIALS IN NRC PUBLICATIONS

NRC Reference Material

As of November 1999, you may electronically access NUREG-series publications and other NRC records at the NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm.html>. Publicly released records include, to name a few, NUREG-series publications; *Federal Register* notices; applicant, licensee, and vendor documents and correspondence; NRC correspondence and internal memoranda; bulletins and information notices; inspection and investigative reports; licensee event reports; and Commission papers and their attachments.

NRC publications in the NUREG series, NRC regulations, and Title 10, "Energy," in the *Code of Federal Regulations* may also be purchased from one of these two sources.

1. The Superintendent of Documents

U.S. Government Publishing Office
Washington, DC 20402-0001
Internet: <http://bookstore.gpo.gov>
Telephone: 1-866-512-1800
Fax: (202) 512-2104

2. The National Technical Information Service

5301 Shawnee Road
Alexandria, VA 22161-0002
<http://www.ntis.gov>
1-800-553-6847 or, locally, (703) 605-6000

A single copy of each NRC draft report for comment is available free, to the extent of supply, upon written request as follows:

U.S. Nuclear Regulatory Commission

Office of Administration
Multimedia, Graphics and Storage & Distribution Branch
Washington, DC 20555-0001
E-mail: distribution.resource@nrc.gov
Facsimile: (301) 415-2289

Some publications in the NUREG series that are posted at the NRC's Web site address <http://www.nrc.gov/reading-rm/doc-collections/nuregs> are updated periodically and may differ from the last printed version. Although references to material found on a Web site bear the date the material was accessed, the material available on the date cited may subsequently be removed from the site.

Non-NRC Reference Material

Documents available from public and special technical libraries include all open literature items, such as books, journal articles, transactions, *Federal Register* notices, Federal and State legislation, and congressional reports. Such documents as theses, dissertations, foreign reports and translations, and non-NRC conference proceedings may be purchased from their sponsoring organization.

Copies of industry codes and standards used in a substantive manner in the NRC regulatory process are maintained at—

The NRC Technical Library

Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738

These standards are available in the library for reference use by the public. Codes and standards are usually copyrighted and may be purchased from the originating organization or, if they are American National Standards, from—

American National Standards Institute

11 West 42nd Street
New York, NY 10036-8002
<http://www.ansi.org>
(212) 642-4900

Legally binding regulatory requirements are stated only in laws; NRC regulations; licenses, including technical specifications; or orders, not in NUREG-series publications. The views expressed in contractor-prepared publications in this series are not necessarily those of the NRC.

The NUREG series comprises (1) technical and administrative reports and books prepared by the staff (NUREG-XXXX) or agency contractors (NUREG/CR-XXXX), (2) proceedings of conferences (NUREG/CP-XXXX), (3) reports resulting from international agreements (NUREG/IA-XXXX), (4) brochures (NUREG/BR-XXXX), and (5) compilations of legal decisions and orders of the Commission and Atomic and Safety Licensing Boards and of Directors' decisions under Section 2.206 of NRC's regulations (NUREG-0750).

DISCLAIMER: This report was prepared as an account of work sponsored by an agency of the U.S. Government. Neither the U.S. Government nor any agency thereof, nor any employee, makes any warranty, expressed or implied, or assumes any legal liability or responsibility for any third party's use, or the results of such use, of any information, apparatus, product, or process disclosed in this publication, or represents that its use by such third party would not infringe privately owned rights.

Office of Investigations Annual Report FY 2019

Manuscript Completed: December 2019
Date Published: February 2020

ABSTRACT

This report provides the U.S. Nuclear Regulatory Commission with an overview of the Office of Investigations' (OI's) activities, mission, and purpose, along with the framework of case inventory and highlights of significant cases that OI completed during fiscal year 2019 (see Staff Requirements Memorandum COMJC-89-8, dated June 30, 1989). This is the 31st OI annual report.

TABLE OF CONTENTS

ABSTRACT	iii
DIRECTOR'S MESSAGE	vii
FOCUSING ON OUR MISSION	ix
FISCAL YEAR 2019 HIGHLIGHTS	xi
1 INTRODUCTION AND OVERVIEW.....	1
2 THE OFFICE OF INVESTIGATIONS.....	3
3 QUALITY ASSURANCE REVIEWS	5
4 CASES.....	7
5 CASES OPENED	9
6 CASES CLOSED	11
7 SIGNIFICANT INVESTIGATIONS	13

DIRECTOR'S MESSAGE

Last year, 2019, marked 37 years since the U.S. Nuclear Regulatory Commission (NRC) established the Office of Investigations in 1982. With 2020 beginning a new decade, I asked my staff to help me look back at the last 20 years and project what the next 5, 10, or 20 years might hold in store for OI. We learned two things right away. First, our technology needs to be improved, as the statistics we wanted to review were not easily obtainable or did not reside in any one system. Second, OI gathers an enormous amount of information related to our regulated industry because we talk to so many people each year.



Since fiscal year (FY) 2000, OI agents have conducted more than 23,000 interviews related to more than 3,400 investigations and assists to NRC staff. That translates to roughly 1,100 interviews per year and accounts for approximately 60 percent of the OI agent workload. That's an amazing amount of information, covering everything from technical reviews and environmental health and safety to work culture throughout the industry. While the agency gathers most of that information to resolve specific allegations, a whole host of other information may be useful to the NRC to evaluate our own effectiveness as regulators and identify areas where we can improve our processes and policies.

Looking back over the last 20 years also helped build an understanding of industry and agency trends as they correlate to the investigative workload of OI. Overall, the decline in the number of investigations per year corresponds to two factors: (1) the number of operational reactors and (2) the operating experience of the reactor operators. Right now, the U.S. nuclear industry has a very experienced workforce, with several decades of operator experience. However, as the current workforce matures and prepares to retire, the industry faces the same challenges the NRC itself does—recruiting, training, and retaining the future workforce. I would opine that at some point in the not-to-distant future, the decreasing number of operating reactors will level off, but the number of allegations and investigations will increase moderately as the more experienced workforce retires and a new generation of operators takes over. Additionally, as new reactor technology is deployed over the next 10 to 15 years, the industry and the NRC will see a new round of allegations and investigations as the new technology generates operating experience.

I also sought to better understand what OI brings to the regulatory and enforcement processes. Examining both substantiated and unsubstantiated investigations over the past 20 years, only 30 percent of the investigations OI initiated resulted in a substantiated violation. While small in number, those substantiated investigations resulted in supporting the Office of Enforcement to levy approximately \$11 million in civil penalties, 131 confirmatory orders, 59 prohibition orders, 7 orders to suspend a license, and 3 orders to revoke or terminate a license. OI's involvement provides value by conducting a thorough investigation and determining whether the violation involved wrongdoing, such as deliberate misconduct or careless disregard. At the same time, the results of the unsubstantiated investigations provide value to the industry, allegers, and the NRC. The unsubstantiated cases often determine that an allegation is a technical violation and not intentional wrongdoing, clarify complex technical issues, and can identify and clear up concerns arising between allegers and their employers.

An even fewer number of investigations reach the level of criminal culpability. Of those that are referred to the U.S. Department of Justice and accepted for prosecution, typically the underlying offense is obstructing the regulatory process by providing false information. Although some

incidents involved immediate safety significance or potential environmental impact, primarily the act of lying to the NRC was what led to criminal prosecution. When we assess risk as a regulator, it is imperative that the information provided by our licensees is accurate and complete. Any deliberate attempt or scheme to provide false, inaccurate, or incomplete information means the NRC cannot make risk-informed decisions. Regardless of whether a violation potentially lacks safety significance, such actions call into question the past credibility of the violating licensee and will have a lasting negative impact on future risk informed assessments of their regulated activities.

Throughout FY 2019, OI has worked with our key stakeholders in the Office of Enforcement and the Office of the General Counsel to improve and refine our ability to share information. The initiative spearheaded by the Office of Enforcement to develop a consolidated enforcement data system, which will include the OI case management system, should further our ability to instantly share investigative information with our key stakeholders the moment it is ready, thus increasing the overall efficiency of the enforcement process. Looking a little further into the future, modernization of the case management system and the migration of our case data to the consolidated system should also offer opportunities to conduct high-level analyses that could provide new and additional insight into our role as regulators and areas for transformation and improvement throughout the NRC.



Andy Shuttleworth
Director

FOCUSING ON OUR MISSION

As the U.S. Nuclear Regulatory Commission's (NRC's) law enforcement arm, the Office of Investigations (OI) protects the American public by conducting criminal, civil, and administrative investigations of alleged violations by NRC licensees.

Since 1982, OI has investigated a broad range of violations, and this past Fiscal Year 2019 the office continues to focus on the following investigative priorities:

- criminal violations that undermine the safe and secure use of radioactive materials, the common defense and security of the United States, and the protection of the environment
- criminal violations that pose a particularly significant risk of harm to public health and safety and for which the criminal process appears to be the most effective remedy
- criminal conduct, including making material false statements to the NRC during the regulatory process, that prevents the NRC from being able to properly regulate
- criminal violations by individuals who discriminate against whistleblowers who raise and pursue certain protected activities regulated by the NRC
- criminal violations in situations where the normal regulatory process may be unable to remedy the problem
- criminal violations by individuals and organizations that attempt to introduce counterfeit, fraudulent, and suspect items into the nuclear supply chain
- proactive investigative partnerships with other Federal, State, international, and local law enforcement officials

FISCAL YEAR 2019 HIGHLIGHTS

During fiscal year (FY) 2019, the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) maintained a mission-driven, high-performing workforce and affirmed its commitment to investigative independence, excellence, and adherence to established quality standards. OI includes experienced Federal criminal investigators and professional support staff who continuously exceed the expectations of both internal and external stakeholders.

OI's significant achievements during FY 2019 included the following:

- OI closed 76 investigations. In 93 percent (71 investigations), OI developed sufficient information to reach a conclusion about substantiated or unsubstantiated allegations of willful wrongdoing, exceeding OI's performance measure of 90 percent.
- Of the 76 closed investigations, OI closed 93 percent in 12 months or less, exceeding OI's performance measures for both reactor and materials investigations.
- Of the 19 assists to staff closed, 100 percent were closed within 90 days, exceeding OI's performance measure of 90 percent.
- OI referred its most significant substantiated wrongdoing investigations to the U.S. Department of Justice (DOJ) to consider for prosecution.

With the goal of ongoing program improvement, OI implemented a number of strategies to enhance its investigative role within the NRC:

- Keeping in line with the agency's transformation initiative, OI has demonstrated its commitment towards recruiting and retaining a talented and diverse workforce by successfully hiring or promoting 11 OI positions throughout NRC Headquarters and the regional offices.
- OI has continued to lead the charge through its collaboration on export enforcement, deconfliction, and counterproliferation investigations with other Federal law enforcement agencies, such as the U.S. Department of Commerce, the Federal Bureau of Investigation, and the U.S. Department of Homeland Security at both the Counter Proliferation Strike Force in Atlanta, GA, and the Export Enforcement Coordination Center in Vienna, VA.
- OI has facilitated ongoing partnerships with law enforcement agencies by offering polygraph services to assist with critical investigations. In providing this valuable service, the OI Polygraph Program completed the necessary number of examinations to maintain accreditation, while assisting the law enforcement community with important investigations.
- OI partnered with the Federal Aviation Administration's Office of National Security Programs & Incident Response and the U.S. Department of Transportation's Office of the Inspector General to address the increased incidence of unmanned aircraft systems, more commonly known as "drones," operating in restricted airspace at NRC-licensed facilities. OI has continued to work with partner agencies to identify and develop appropriate strategies in response to this emerging trend.

- Along with law enforcement officials from the U.S. Department of Homeland Security and the Federal Bureau of Investigation, the NRC visited the Three Mile Island Nuclear Station. The visit included a tour of the station and presentations related to plant operations, security, and emergency preparedness.
- OI represented the NRC in Paris, France, as a member of the international delegation that attended the Nuclear Energy Agency Supply Chain Workshop. OI personnel provided information to workshop attendees about the OI mission and collaboration with other NRC offices, such as the former Office of New Reactors, and external U.S. and international law enforcement partners.
- OI partnered with the U.S. Department of Education's Office of the Inspector General, resulting in an exchange of information on research grant fraud at U.S. universities and the potential impact on reactors in the NRC Training, Research, Isotopes, General Atomics (TRIGA) program.
- Representatives from OI presented at the Electric Power Research Institute Joint Utility Test Group's 2019 Procurement Forum in Fort Worth, TX. OI addressed a group of approximately 200 licensees and suppliers on key points related to the need to understand cybersecurity supply chain risks and oversight, and on collaboration with Rolls-Royce and Curtis Wright on their requests to share information on counterfeit, fraud, and suspect items with the NRC.
- OI has continued its active partnership with the U.S. Department of Homeland Security, National Intellectual Property Rights Coordination Center (IPR Center), to collaborate on investigative efforts and share information related to counterfeit, fraudulent, and suspect items, including those in nuclear power plants and in devices using nuclear material. Specifically, OI works with 16 other agencies as part of Operation Chain Reaction within the IPR Center, in a focused effort to protect the Nation's critical infrastructure from the introduction of counterfeit, fraudulent, and suspect items entering the supply chains of the U.S. Department of Defense, other U.S. Government agencies, and the nuclear industry.

1 INTRODUCTION AND OVERVIEW

HISTORY

In 1982, with the support of the DOJ and the U.S. Congress, the NRC established OI as part of an agency effort to improve the quality of its investigative work and to support the NRC's overall mission. The Commission announced the formation of OI on April 20, 1982, to improve the NRC's capability "to perform credible, thorough, timely and objective investigations." OI received the responsibility to conduct independent investigations either at the request of specific NRC officials or on its own initiative. OI subsequently hired experienced Federal criminal investigators, a practice it continues today, who probe alleged wrongdoing in accordance with DOJ guidelines and the Quality Standards for Investigations established by the Council of Inspectors General on Integrity and Efficiency.

AUTHORITY

The Commission 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 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, supervisors, and other employed personnel of such entities who may have violated the Atomic Energy Act, the Energy Reorganization Act, and rules, orders, and license conditions issued by the Commission.

Additionally, during investigations, OI may uncover issues that are potentially significant to safety that may, or may not, be related to wrongdoing. OI promptly gives such information to the NRC technical staff for appropriate action. OI also provides professional investigative expertise to the NRC staff in the form of assists to staff. Generally, these assists to staff are associated with matters of regulatory concern for which the NRC staff has requested OI's investigative expertise but that do not initially involve a specific indication of wrongdoing.

MISSION

As stated in the NRC's Strategic Plan for FYs 2018–2022, the agency's mission is to license and regulate the Nation's civilian use of radioactive materials to protect public health and safety, promote the common defense and security, and protect the environment. The NRC's vision is to carry out its mission in a manner that ensures it remains a trusted, independent, transparent, and effective nuclear regulator. The NRC's Strategic Plan defines the strategic goals and objectives that will allow the agency to carry out its mission and identifies activities that will contribute to achieving these goals.

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

2 THE OFFICE OF INVESTIGATIONS

The Director of OI reports to the Deputy Executive Director for Materials, Waste, Research, State, Tribal, and Compliance Programs and supports the reactor and materials programs.

OI is an independent, national investigations program, which consists of four regionally co-located field offices led by special agents in charge, who report directly to OI senior executives located at OI headquarters. Federal criminal investigators (special agents (GG-1811)) and professional support personnel staff OI field and headquarters offices.

All NRC OI special agents have extensive backgrounds and experience in Federal criminal investigations. During FY 2019 the professional cadre of OI special agents had an average of 18 years of Federal law enforcement experience. OI special agents have previously served in law enforcement at other Federal agencies, including the Secret Service, U.S. Department of Energy, Naval Criminal Investigative Service, U.S. Department of Labor, Air Force Office of Special Investigations, Federal Bureau of Investigation, Drug Enforcement Administration, and various offices of Inspectors General.

OI plans and conducts investigations of allegations of wrongdoing to determine whether there are willful and deliberate actions in violation of NRC regulations and criminal statutes. OI also develops and implements policies, procedures, and quality control standards for investigations. OI conducts investigations in accordance with the Quality Standards for Investigations established by DOJ guidelines and the Quality Standards for Investigations established by the Council of Inspectors General on Integrity and Efficiency. Additionally, OI maintains proactive investigative partnerships with other Federal, State, and local law enforcement officials.

3 QUALITY ASSURANCE REVIEWS

OI quality assurance reviews (QARs) are annual self-assessments of OI's national investigations program. QARs are conducted for OI headquarters and each OI field office to support the goal of continuous improvement and to assess three major focus areas: operations, management, and administration.

QARs include meetings with OI personnel to discuss current OI headquarters' initiatives and activities, policy and procedural focus, and special or regional items of interest. During these self-assessments, the QAR team interviews OI personnel to obtain timely feedback about operational matters and to discuss any issues of particular interest to the employee. Additionally, the QAR team meets with internal stakeholders, including the Regional/Deputy Regional Administrator, Regional Counsel, Enforcement Coordinator, Allegation Coordinator, and other regional staff, as appropriate.

At the conclusion of the reviews, the QAR team conducts an exit briefing with the OI field office special agent in charge to discuss the team's findings and recommendations. OI headquarters conducts a final review of the QAR findings to identify and implement best practices with a view toward continuous program improvement and investigative excellence.

In addition to the QARs, the OI Director or Deputy Director conducts annual visits to each of the OI field offices, which are co-located in the four NRC regional offices. During these visits, OI senior executives emphasize effective communication among OI staff and internal stakeholders to promote organizational excellence. The Director's visit may include individual meetings with each OI employee to discuss a variety of subjects and to address any concerns or questions. Additionally, investigative and support staff at OI headquarters may accompany the Director 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 an open exchange of ideas and expressions of differing views between OI senior management and field office personnel, as well as between OI and regional senior management.

4 CASES

Figure 1 shows the OI case inventory, which includes all investigations and assists to staff conducted during FY 2015 through FY 2019. The total case inventory in FY 2019 was 160, down 18 percent from 195 in FY 2018. This includes 136 investigations, 79 of which were carried over from FY 2018. Also included are 24 assists to staff, 1 of which was carried over from FY 2018.

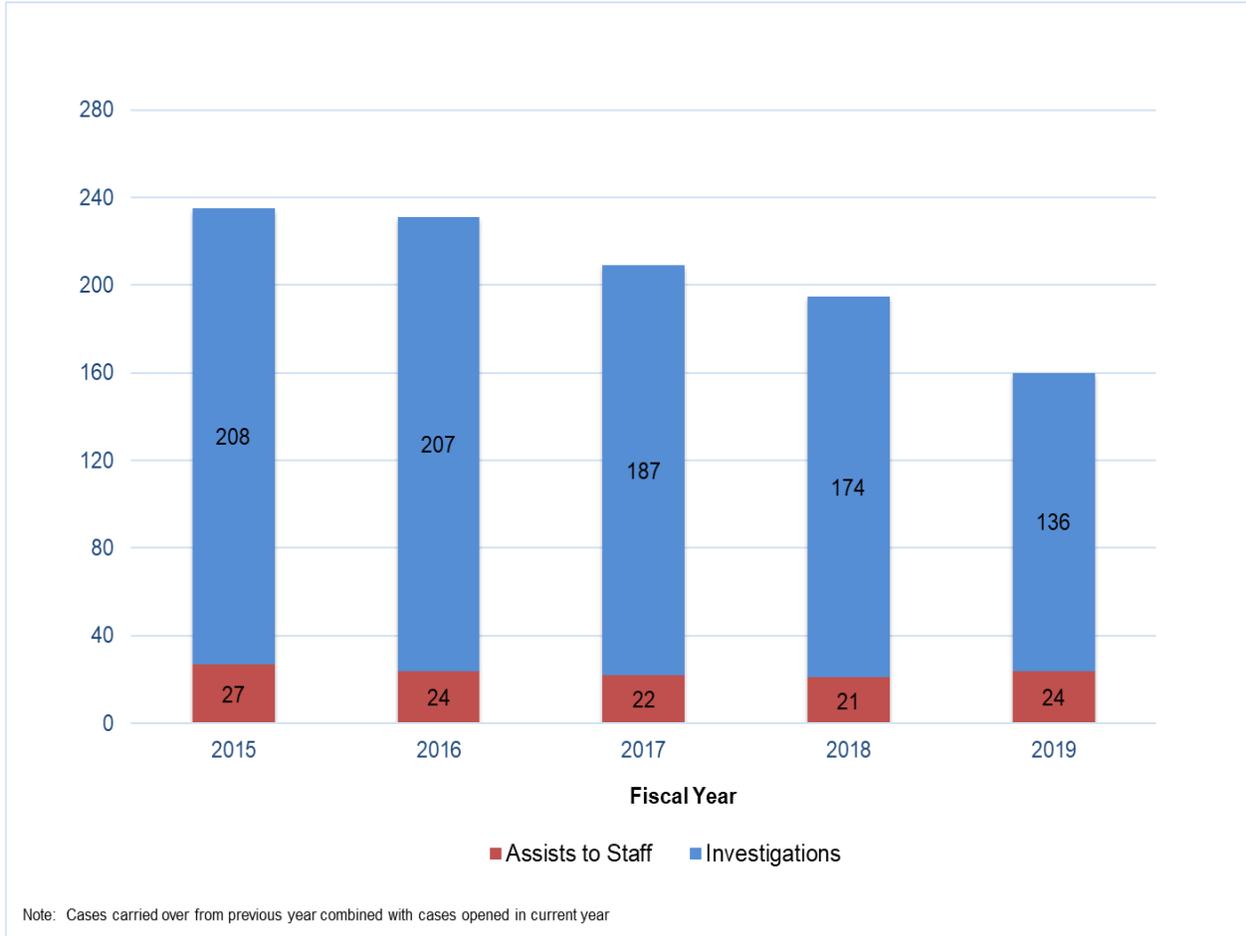


Figure 1 Case Inventory

The total number of cases in the OI inventory during FY 2019 was 160, which was an 18-percent decrease from 195 in FY 2018.

5 CASES OPENED

Table 1 shows the number of cases opened by category from FY 2015 through FY 2019. OI opened 80 cases in FY 2019 in the categories listed below, which represents a 21-percent decrease in total cases opened from FY 2018. The number of investigations of suspected material false statements decreased by 6 percent, and violations of other NRC regulatory requirements decreased by 26 percent. In FY 2019, the number of discrimination investigations decreased by 45 percent, and the number of assists to staff increased by 28 percent.

Table 1 Cases Opened by Category

Category	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Total	138	119	115	101	80
Material False Statements	33	24	23	16	15
Violations of Other NRC Regulatory Requirements	43	29	30	27	20
Discrimination	36	46	41	40	22
Assists to Staff	26	20	21	18	23

Note: Of the 80 cases opened in FY 2019, 20 percent were for material false statements, 24 percent were for violations of other NRC regulatory requirements, 27 percent were for discrimination, and 29 percent were assists to staff.

Figure 2 shows the distribution of cases opened during FY 2015 through FY 2019 for the reactor and materials programs. From FY 2018 to FY 2019, the overall number of reactor cases decreased by 12 percent. Reactor investigations decreased by 23 percent, and reactor-related assists to staff increased by 42 percent.

The number of materials cases decreased by 44 percent, with a decrease of 57 percent in the number of materials investigations and no change in materials-related assists to staff.

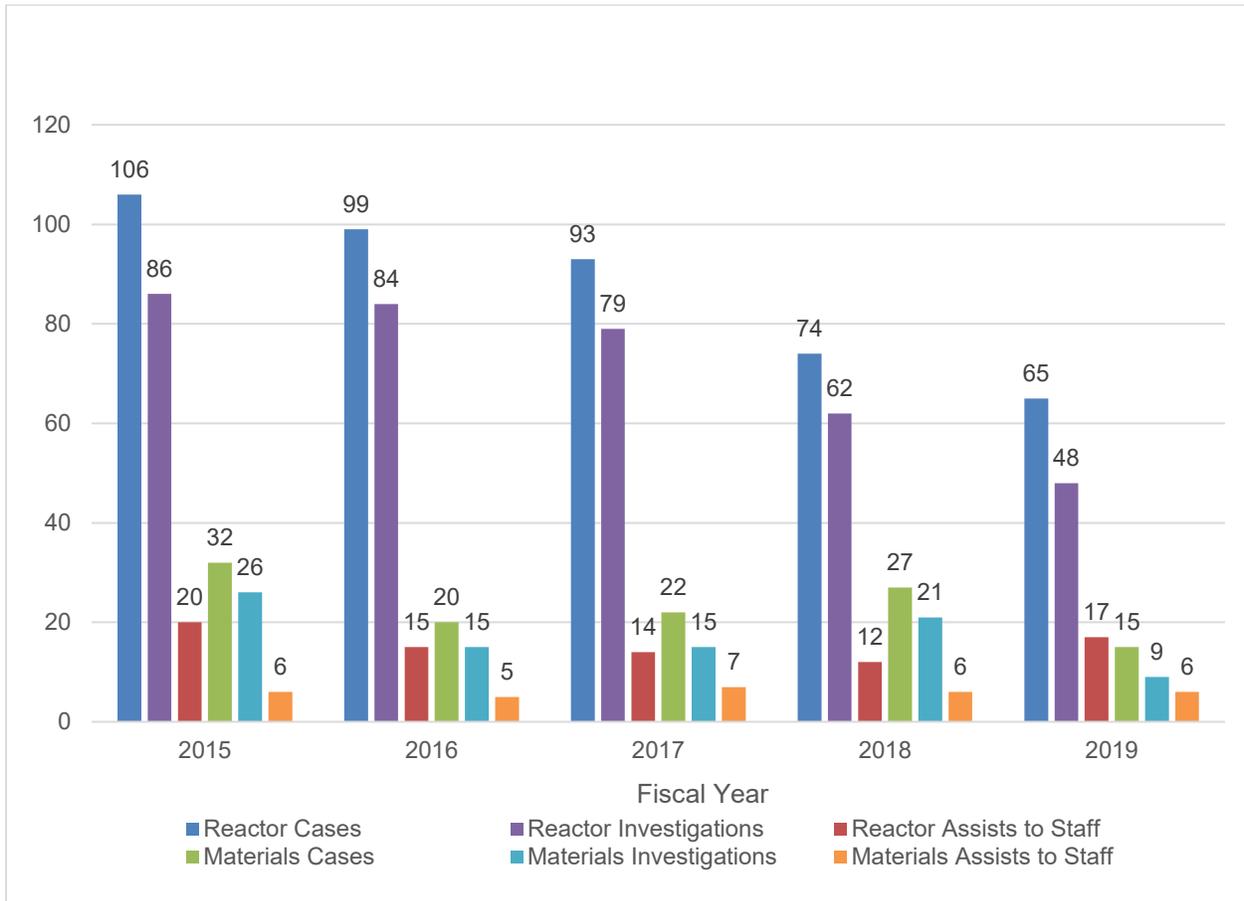


Figure 2 Reactors and Materials Cases Opened

Reactor cases: 65
Reactor investigations: 48
Reactor assists to staff: 17

Materials cases: 15
Materials investigations: 9
Materials assists to staff: 6

6 CASES CLOSED

Table 2 shows the number of cases closed by category during FY 2015 through FY 2019. OI closed 95 cases in FY 2019 in the categories listed below, which represented a 17 percent decrease from the number closed in FY 2018. Investigations of material false statements decreased by 27 percent, while investigations involving violations of other NRC regulatory requirements decreased by 13 percent. Discrimination investigations decreased by 27 percent, and assists to staff decreased by 5 percent.

Table 2 Cases Closed by Category

Category	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Total	123	137	115	115	95
Material False Statements	33	34	23	22	18
Violations of Other NRC Regulatory Requirements	38	42	26	32	28
Discrimination	29	37	47	41	30
Assists to Staff	23	23	19	20	19

Note: Of the 95 cases closed in FY 2019, 19 percent were for material false statements, 29 percent were for violations of other NRC regulatory requirements, 32 percent were for discrimination, and 20 percent were assists to staff.

Figure 3 shows the cases closed from FY 2015 through FY 2019 for the reactor and materials programs. From FY 2018 to FY 2019, the overall number of reactor cases decreased by 20 percent. Reactor investigations decreased by 25 percent, and reactor-related assists to staff increased by 16 percent.

The overall number of materials cases decreased by 9 percent for the same period. Materials investigations increased by 7 percent, and materials-related assists to staff decreased by 38 percent.

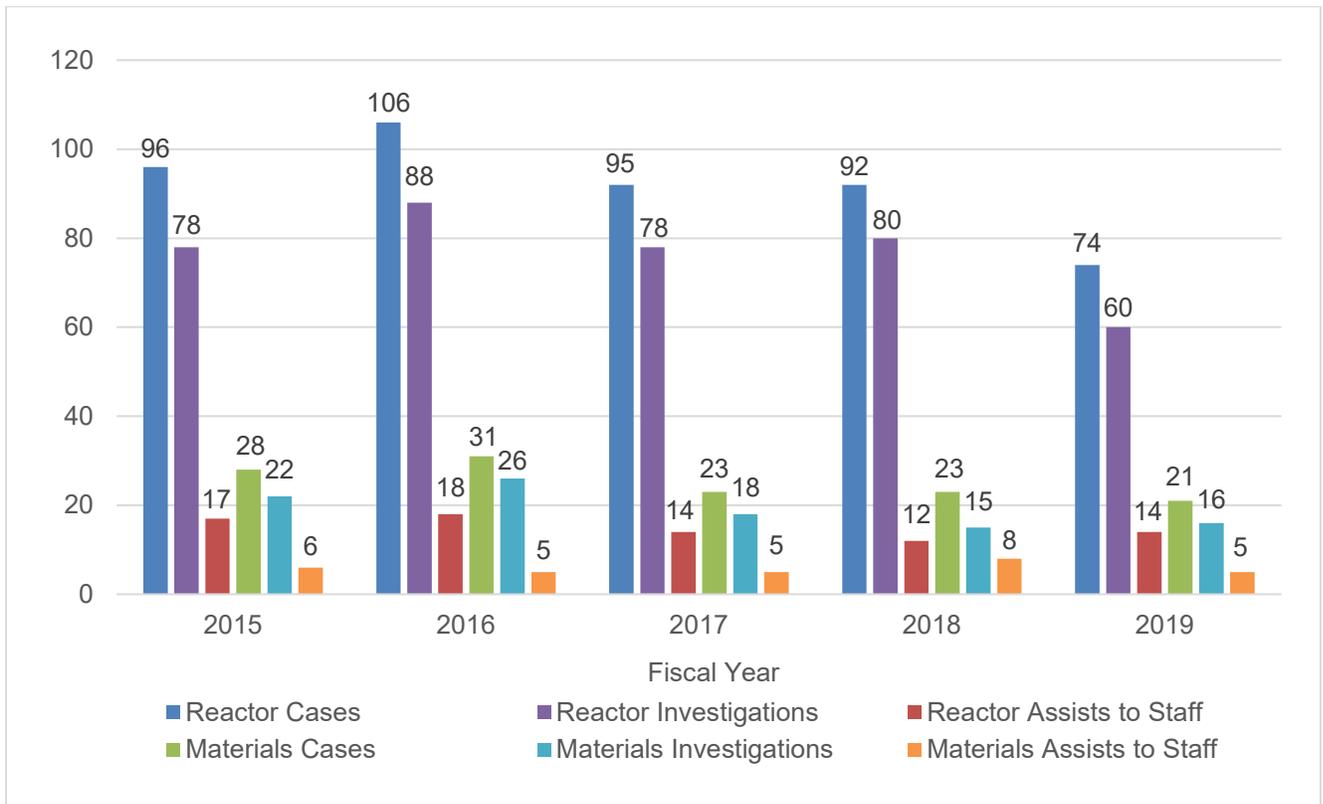


Figure 3 Reactor and Material Cases Closed

Reactor cases: 74

Reactor investigations: 60

Reactor assists to staff: 14

Materials cases: 21

Materials investigations: 16

Materials assists to staff: 5

Of the 95 cases closed in FY 2019—

- 24 investigations were closed after OI substantiated willfulness in one or more of the allegations of wrongdoing.
- 47 investigations were closed after OI investigations did not substantiate willful wrongdoing.
- 5 investigations were administratively closed.
- 19 of the cases closed were assists to staff.

7 SIGNIFICANT INVESTIGATIONS

This section highlights investigative conclusions by OI. Final enforcement action by the NRC or the DOJ is pending unless otherwise stated.

DEAD RINGER

OI substantiated that employees of Dead Ringer LLC, a firearm optics and gunsight distributor, on multiple occasions continued to import, possess, and distribute tritium gunsights after the company notified the NRC that it would no longer sell such products. Dead Ringer had previously been the subject of an investigation substantiated by OI that identified that the company was importing and distributing products containing tritium without an NRC license. During the predecisional enforcement conference with the NRC, Dead Ringer's senior manager stated that the company had stopped selling the tritium products and issued a recall for the products it sold. In 2018, OI initiated another investigation of Dead Ringer after allegations came to light that the company continued to import and distribute the NRC-regulated material without a license.

Based on the evidence developed during the 2018 investigation, OI substantiated that two senior Dead Ringer managers deliberately engaged in activities that violated three NRC requirements. On October 22, 2019, due to the economic gain accrued as a result of the violations, and to emphasize the significance of deliberate violations and the importance of compliance with regulatory requirements, the NRC issued an order imposing a civil penalty in the amount of \$43,500 against Dead Ringer. Additionally, the NRC issued notices of violation to both the President/Chief Executive Officer and the Vice President of Dead Ringer for Severity Level III violations involving deliberate misconduct.

ST. LUCIE

OI substantiated an allegation of discrimination by the former Corporate Support Vice President at St. Lucie Plant against a contract employee for raising nuclear safety concerns during a refueling outage. In preparation for the subsequent pre-decisional enforcement conference, Florida Power & Light, the licensed operator for St. Lucie, called into question the authenticity of an outage journal that contained information regarding the discrimination allegation. The journal was provided to the licensee by the former Corporate Support Vice President and subsequently presented to the NRC. Florida Power & Light communicated its concern to the NRC that the former Corporate Support Vice President may have manufactured and submitted the journal to influence the NRC's enforcement proceedings and withdrew the journal for consideration in NRC's enforcement process. Consequently, OI initiated a second investigation into the submission of the journal to the NRC. The evidence obtained by OI established that the former Corporate Support Vice President deliberately submitted a journal containing false information to Florida Power & Light to influence the NRC's enforcement proceedings related to the substantiated discrimination case and to avoid potential NRC enforcement. Based on the evidence developed in the subsequent investigation, OI substantiated that the former Corporate Support Vice President deliberately provided the NRC with incomplete and inaccurate information that, if not detected, would have adversely impacted NRC enforcement proceedings and caused the licensee to be in violation.

These investigations highlight not only the severity of discrimination by a corporate executive, but the deliberate attempt to obstruct the regulatory process. As a result, on September 12, 2019, the NRC issued Florida Power & Light, the licensed operator of St. Lucie, a notice of violation and proposed civil penalty of \$232,000 for a Severity Level II violation of NRC requirements involving employee protection. Additionally, the agency issued an order prohibiting involvement in NRC-licensed activities to the former Corporate Support Vice President for Florida Power & Light, prohibiting any involvement in NRC-licensed activities for 5 years.

REGION II FACILITY

A joint investigation by OI and the U.S. Department of Homeland Security, Homeland Security Investigations, substantiated an allegation that an access manager at a Region II facility deliberately violated NRC regulations and licensee procedures by granting a foreign national unescorted access to the Region II nuclear facilities and deliberately created incomplete and inaccurate access records that are material to the NRC.

The evidence also showed that another foreign national deliberately submitted inaccurate information on the personal history questionnaire, causing the licensee to submit incomplete and inaccurate unescorted access authorization records that are material to the NRC.

The results of this investigation remain under regulatory review by the NRC staff.

REGION II FACILITY

A joint investigation by OI and the U.S. Department of Homeland Security, Homeland Security Investigations, substantiated an allegation that a foreign national was not authorized to work in the United States. The testimonial and documentary evidence obtained by OI during this investigation determined that the foreign national deliberately failed to provide complete and accurate information to a Region II NRC-licensed facility in order to gain unescorted access to that facility. The information withheld by the foreign national on his/her site access application was deemed necessary, per 10 C.F.R. 73.56, for the licensee's reviewing official to make a determination about trustworthiness and reliability. This information is material to the NRC as it is necessary to meet the regulatory requirements for access authorization.

The results of this investigation remain under regulatory review by the NRC staff.

VOGTLE 3

OI substantiated an allegation that contract ironworker personnel working at a Vogtle 3 willfully violated a licensee procedure on compliance with fitness-for-duty requirements.

The investigation determined that management from the contract company was complicit in aiding its employees attempt to subvert required drug testing process at the facility. Subsequently, the contract company terminated a manager and two employees.

Although the NRC staff did not pursue enforcement in this case, the agency issued a closeout letter to the licensee after consideration of its corrective action, whereby all three individuals were placed in the Personnel Access Data System with a lifetime ban.

VOGTLE

OI substantiated retaliation against a contract employee by management at Vogtle Electric Generating Plant for engaging in a protected activity. In 2014 and 2015, the individual held a position as a contract employee at Vogtle and, during that time, raised concerns about material degradation and welding. Upon being rehired at Vogtle approximately 2.5 years later, the individual was directed by a manager to be escorted off site and terminated after only 2 days on the job, in part because of his earlier protected activity.

This investigation established the nexus between the employee's protected activity and subsequent termination, highlighting the fact that discrimination can occur several years after an employee engages in a protected activity. As a result of the investigative findings, the manager sought alternative dispute resolution.

On October 21, 2019, the NRC issued a confirmatory order to the manager employed by Southern Nuclear Operating Company, which holds the license to operate Vogtle Unit 3. The manager committed to the elements of the confirmatory order, agreeing to acknowledge that a violation of employee protection occurred, to present as an individual or as part of an industry panel "lessons learned" on the importance of employee protection (including contractors), and to submit the presentation materials to the NRC for comment and approval. Additionally, the manager will present employee protection training at Southern Nuclear's new employee orientation training and at leadership meetings. The manager will also make presentations at five industry forums within 1 year of the issuance of the confirmatory order.

Additionally, on November 20, 2019, the NRC issued a confirmatory order to Southern Nuclear, as the employer of the manager who terminated the contract employee for raising safety concerns, requiring the licensee to address violations identified through this investigation.

SAWTOOTH FUSION, LLC

OI conducted a joint investigation with the Federal Bureau of Investigation, U.S. Environmental Protection Agency, U.S. Department of Transportation, and U.S. Postal Inspection Service involving Sawtooth Fusion, LLC. The investigation substantiated that the owner of Sawtooth Fusion willfully possessed and transferred licensed radioactive material without a valid NRC license. In addition, the investigation determined that the subject was selling small amounts of nuclear material via the Internet throughout the United States and Europe.

During an attempt to interview the subject at his apartment in Boise, ID, OI investigators and an NRC inspector identified numerous amounts of nuclear material. The investigation determined that the subject recklessly handled nuclear material and discharged nuclear materials into the public sewer system and pretreatment facility. Also, the subject solicited the unwitting cooperation of a local fabrication shop to cut depleted uranium into smaller pieces by telling the workers that the material was "tungsten." Consequently, the workers at the fabrication shop

wore no protective gear to safeguard themselves from exposure to the depleted uranium or the dust created from cutting the material.

On July 25, 2017, the subject pled guilty to one violation of 33 U.S.C. 1317, related to toxic and pretreatment effluent standards. On November 20, 2017, the subject was convicted and sentenced to 1 year of probation and prohibited from using, owning, or possessing any materials that required a general or specific license from the NRC. Because of the criminal prosecution, the NRC took no administrative enforcement actions.

ACADEMIC RESEARCH TEST REACTOR

OI determined that the facility director at an academic research test reactor deliberately violated operating procedures and NRC regulations by withholding critical information related to the medical qualifications of student operator applicants on at least two occasions and submitted inaccurate and incomplete operator applications to the NRC.

During the investigation, OI obtained evidence that showed the facility director submitted a reactor operator application for an applicant even though a physician made a medical determination that the applicant was medically unqualified to receive a reactor operator's license.

In a separate investigation involving the same facility, OI determined that the same facility director admitted knowledge of medically disqualifying information provided by a student operator applicant. The facility director deliberately withheld information from an NRC examiner related to the applicant's medically disqualifying information and submitted an inaccurate and incomplete reactor operator's application. Additionally, the facility director admitted to providing the student operator with a master key that allowed the student operator unescorted access to all areas of the facility, even though the student operator's unescorted access had been deactivated.

In both cases, the evidence showed that the facility director knew the student applicants were medically unqualified to receive reactor operator's licenses. By filing the incomplete and inaccurate applications, the facility director prevented the NRC from properly performing its safety and oversight responsibility with respect to licensing the student operator applicants.

This matter remains under NRC regulatory review.

RIVER BEND

OI substantiated willful misconduct when its investigation determined that five nonlicensed operators deliberately failed to perform required operator rounds and deliberately provided inaccurate information on the completion of those rounds at River Bend Station.

OI reviewed and analyzed records from the Electronic Shift Operations Management System (e-SOMS), the Badge Access Transaction Report, and Entergy Operations, Inc.'s internal documents. Investigators determined that five nonlicensed operators had failed to enter specific areas to visually inspect fire panels or log points as part of operator rounds during their assigned shifts. Additionally, OI obtained documentary evidence that illustrated that the nonlicensed operators deliberately entered inaccurate readings into e-SOMS about the

completion of their required operator rounds, indicating that they had physically toured all assigned areas and observed the necessary equipment readings, facility condition, and machinery status when they had not in fact done so. During their interviews with OI, the nonlicensed operators admitted to their willful misconduct and to providing inaccurate information.

On April 19, 2019, the NRC issued a notice of violation (Severity Level III) to Entergy for violations of 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," Criterion V, "Instructions, Procedures, and Drawings," and 10 CFR 50.9, "Completeness and Accuracy of Information," at River Bend and issued closeout letters to the five nonlicensed operators.

BIBLIOGRAPHIC DATA SHEET

(See instructions on the reverse)

NUREG-1830

2. TITLE AND SUBTITLE

Office of Investigations Annual Report FY 2019

3. DATE REPORT PUBLISHED

MONTH	YEAR
February	2020

4. FIN OR GRANT NUMBER

5. AUTHOR(S)

6. TYPE OF REPORT

Annual

7. PERIOD COVERED (Inclusive Dates)

10/01/2018 to 09/30/2019

8. PERFORMING ORGANIZATION - NAME AND ADDRESS (If NRC, provide Division, Office or Region, U. S. Nuclear Regulatory Commission, and mailing address; if contractor, provide name and mailing address.)

Office of Investigations
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

9. SPONSORING ORGANIZATION - NAME AND ADDRESS (If NRC, type "Same as above", if contractor, provide NRC Division, Office or Region, U. S. Nuclear Regulatory Commission, and mailing address.)

Office of Investigations
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

10. SUPPLEMENTARY NOTES

11. ABSTRACT (200 words or less)

This report describes Office of Investigations case activities during fiscal year 2019.

12. KEY WORDS/DESCRIPTORS (List words or phrases that will assist researchers in locating the report.)

Office of Investigations
FY 2019
Annual

13. AVAILABILITY STATEMENT

unlimited

14. SECURITY CLASSIFICATION

(This Page)

unclassified

(This Report)

unclassified

15. NUMBER OF PAGES

16. PRICE



Federal Recycling Program



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555-0001

OFFICIAL BUSINESS



NUREG-1830, Volume 16

Office of Investigations Annual Report FY 2019

February 2020