



ENFORCEMENT PROGRAM ANNUAL REPORT

Calendar Year 2019

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U.S. Nuclear Regulatory Commission
Office of Enforcement
Washington, DC 20555

Executive Summary

The U.S. Nuclear Regulatory Commission (NRC) effectively carried out the agency's Enforcement Policy (policy) and Program in calendar year (CY) 2019. NRC regional and Headquarters offices continued to focus on appropriate and consistent enforcement of the agency's regulations.

In CY 2019, the NRC issued 57 escalated enforcement actions under traditional enforcement, the Reactor Oversight Process, and the Construction Reactor Oversight Process. Of these actions, 13 involved civil penalties (CPs) totaling \$732,250, 9 were enforcement orders without an imposed CP, and 35 were escalated notices of violation (NOVs) without a proposed CP.

The total number of escalated enforcement actions in CY 2019 across all regulatory oversight programs increased from the total number reported in CY 2018; however, the total number remains smaller than the 5-year average (2015–2019). Operating reactors and nuclear materials users continue to account for most escalated enforcement actions, with the number of materials user enforcement actions almost double that for the operating reactors. Section I of this annual report provides additional information on these trends.

Operating reactors and nuclear materials users also accounted for most of the nonescalated enforcement actions—that is, Severity Level (SL) IV NOVs and noncited violations (NCVs) under traditional enforcement, and NOVs and NCVs associated with Green significance determination process findings under the Reactor Oversight Process. The total number of nonescalated enforcement actions in CY 2019 for both operating reactors and nuclear materials users continued the declining trend seen in previous years.

Noteworthy Program Accomplishments

On May 28, 2019, the NRC revised the policy to limit the review and processing of cases involving individuals that violate drug and alcohol provisions of site fitness-for-duty programs, which are explicitly described in Title 10 of the *Code of Federal Regulations* (10 CFR) 26.75, "Sanctions."

In August and October 2019, the NRC Office of Enforcement issued Change 4 to Revisions 10 and 11, respectively, of the Enforcement Manual (manual). These changes were necessary to reflect current enforcement practices and provide clarifying guidance where identified. The manual contains procedures the NRC staff uses to develop and process enforcement actions; the staff typically revises the manual at least annually.

In December 2019, the Office of Enforcement issued an enforcement guidance memorandum (EGM) that clarifies the need for inspection staff to continue to follow the applicable inspection manual guidance for the identification, assessment, and disposition of findings and related noncompliances. EGM provide temporary inspection staff guidance on the disposition of noncompliance issues.

Significant Cases

In CY 2019, the agency processed several significant cases that required extensive coordination and cooperation with stakeholders. The following are four of the more significant cases:

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- (1) The agency issued an order imposing a CP of \$43,500 to Dead Ringer, LLC, for (1) the willful distribution of gun sights containing radioactive material without an NRC license, (2) distribution without a sealed-source and device evaluation, and (3) import of material into the United States without the required license for possession of the material.
- (2) The agency issued an SL III NOV and proposed imposition of a CP of \$43,500 to Solis Tek, Inc., for (1) the willful failure to obtain an NRC license authorizing distribution of licensed material to unlicensed persons, (2) nonwillful failure to obtain an NRC license authorizing exempt distribution of licensed material to unlicensed persons before beginning distribution, (3) nonwillful failure to receive authorization to import radioactive material into the United States by a general or specific license, and (4) nonwillful failure to submit a timely annual report for 2017 on or before January 31, 2018, containing complete and accurate information.
- (3) The agency issued an SL II NOV with a proposed CP of \$232,000 to Florida Power & Light Company at its St. Lucie Plant for discriminating against a contract employee for engaging in protected activities.
- (4) The agency issued an SL II and SL III NOV and proposed imposition of a CP of \$116,000 to Southern California Edison Company for the failure to ensure safety equipment was available to provide redundant drop protection for a spent fuel canister during downloading operations, and the failure to make a timely notification to the NRC Headquarters Operations Center of this event.

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I. Program Overview

A. Mission and Authority

The U.S. Nuclear Regulatory Commission (NRC) regulates the civilian uses of nuclear materials in the United States to protect public health and safety, the environment, and the common defense and security. The agency accomplishes its mission through licensing of nuclear facilities and the possession, use, and disposal of nuclear materials; the development and implementation of requirements governing licensed activities; and inspection and enforcement activities to ensure compliance with these requirements (Figure 1).

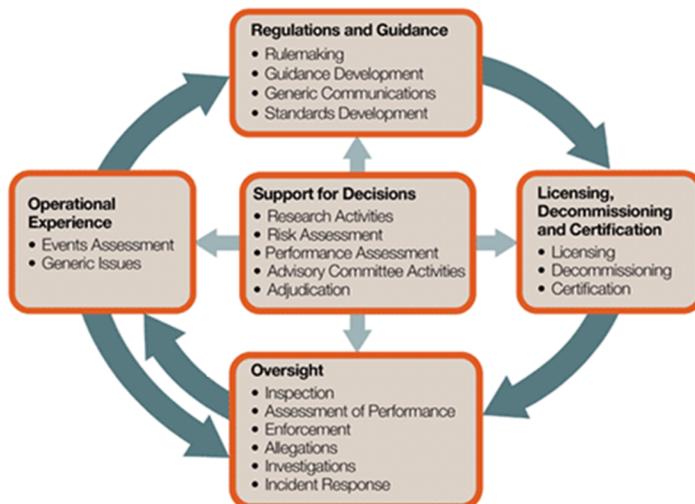


Figure 1 How the NRC regulates

The NRC conducts various types of inspections and investigations designed to ensure that the activities it licenses are conducted in strict compliance with the Commission’s regulations, the terms of the licenses, and other requirements.

The sources of the NRC’s enforcement authority are the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and the Energy Policy Act of 2005. These statutes give the NRC broad authority with respect to its Enforcement Program. The Energy Policy Act of 2005 also expanded the definition of byproduct material, placing additional byproduct material under the NRC’s jurisdiction, including both naturally occurring and accelerator-produced radioactive materials. The agency carries out its broad enforcement authority through Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, “Agency Rules of Practice and Procedure,” Subpart B, “Procedure for Imposing Requirements by Order, or for Modification, Suspension, or Revocation of a License, or for Imposing Civil Penalties.” Congress also provides the statutory framework for the Federal Government to use alternative dispute resolution (ADR) in conjunction with its enforcement authority through the Administrative Dispute Resolution Act of 1996.

The NRC Enforcement Policy (policy) establishes the general principles governing the agency’s Enforcement Program and specifies a process for implementing the agency’s enforcement authority in response to violations of NRC requirements. This statement of policy is based on the NRC’s view that compliance with its requirements plays a critical role in ensuring safety, maintaining security, and protecting the environment. The policy applies to all NRC licensees, to various categories of nonlicensees, and to individual employees of licensed and nonlicensed firms involved in NRC-regulated activities.

The NRC enforces compliance as necessary. Enforcement actions serve as a deterrent, emphasize the importance of compliance with regulatory requirements, and encourage the

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prompt identification and comprehensive correction of violations. In addition, because violations occur in a variety of activities and vary in significance, the policy contains graduated sanctions informed by risk and regulatory significance.

Enforcement authority includes using notices of violation (NOVs); civil penalties (CPs); demands for information; and orders to modify, suspend, or revoke a license. The NRC staff may exercise discretion in determining appropriate enforcement sanctions. Most violations are identified through inspections and investigations and are normally assigned a severity level (SL) ranging from SL IV for those of more than minor concern to SL I for the most significant violation.

The Reactor Oversight Process (ROP) supplements the enforcement process for operating nuclear reactors. The NRC has implemented a similar process to assess findings at new reactor construction sites. Under the ROP, violations are not normally assigned an SL but instead are assigned “significance” by assessing their associated inspection findings through the ROP. Under the ROP, the NRC determines the risk significance of inspection findings using the significance determination process (SDP), which in turn assigns the colors of Green, White, Yellow, or Red with increasing risk significance. Findings under the ROP may also include licensee failures to meet self-imposed standards. In such cases, ROP findings may or may not involve a violation of a regulatory requirement. Violations and findings assigned a greater-than-Green color are considered escalated enforcement actions.

Although the ROP applies to most violations at operating power reactors, some aspects of violations (e.g., willfulness and individual actions) cannot be addressed solely through the SDP; such violations require the NRC to follow the traditional enforcement process. The NRC uses traditional enforcement for violations that result in actual safety or security consequences, affect the ability of the NRC to perform its regulatory oversight function, or involve willfulness.

In addition, although ROP findings are not normally subject to CPs, the NRC does consider CPs for any violation that involves actual consequences. SL IV violations and violations associated with Green ROP findings are normally dispositioned as noncited violations (NCVs) if certain criteria are met. Inspection reports or records document NCVs and briefly describe the corrective action that the licensee has taken or plans to take if these actions are known at the time the NCV is documented. Additional information about the ROP is available at <https://www.nrc.gov/reactors/operating/oversight.html>.

The NRC Office of Enforcement (OE) develops policies and programs for the enforcement of NRC requirements. In addition, OE oversees NRC enforcement activities, giving programmatic and implementation guidance to regional and NRC Headquarters offices that conduct or are involved in enforcement activities, to ensure that regional and program offices are consistent in their implementation of the agency’s Enforcement Program.

The NRC’s Enforcement Web site, available at <http://www.nrc.gov/about-nrc/regulatory/enforcement.html>, presents a variety of information, such as the policy, the Enforcement Manual (manual), and current temporary enforcement guidance contained in enforcement guidance memoranda (EGM). This Web site also has information about escalated enforcement actions that the NRC has issued to reactor and materials licensees, nonlicensees (vendors, contractors, and certificate holders), and individuals. In keeping with NRC practices and policies, the NRC’s public Web site does not provide details associated with most security-related actions and activities.

B. Assessment of Escalated Enforcement Actions

Escalated enforcement actions include the following:

- NOVs, including SL I, II, or III violations
- SL IV violations to individuals
- NOVs associated with Red, Yellow, or White SDP findings (for operating reactor facilities)
- CP actions
- enforcement orders (including confirmatory orders (COs) that result from the ADR process and orders to suspend, revoke, or modify an NRC license)

During calendar year (CY) 2019, the NRC issued 57 escalated enforcement actions to licensees, nonlicensees, and individuals. Figure 2 shows the distribution of these actions by category of action.

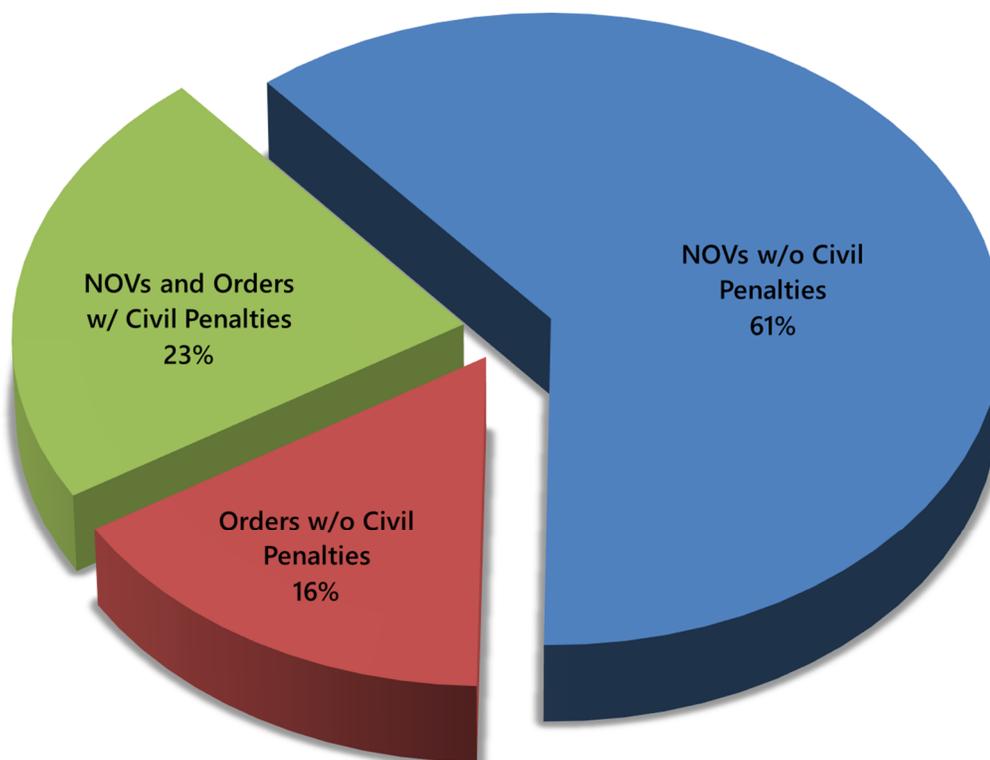


Figure 2 Escalated enforcement by type of action (CY 2019)

The most common type of escalated enforcement action was an NOV without a CP—35 of the 57 escalated actions (or 61 percent) issued in CY 2019. This percentage is lower than the average of NOVs without a CP issued from CY 2015 through CY 2019 (approximately 74 percent). In general, the NRC considers a large percentage of NOVs without CPs as a

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positive outcome because it demonstrates that most licensees identify and correct violations—a goal of the Enforcement Program.

NOVs and orders with CPs comprised 23 percent of the escalated enforcement actions. This type of action consisted of three orders imposing a CP, one order proposing a CP, and nine NOVs with an associated CP. The remaining type of action consisted of nine orders without CPs (16 percent).

Figure 3 shows the distribution of escalated enforcement actions issued in CY 2019 by business line, or type of licensee. This figure includes individual actions in the appropriate category of licensee instead of counting the actions separately.

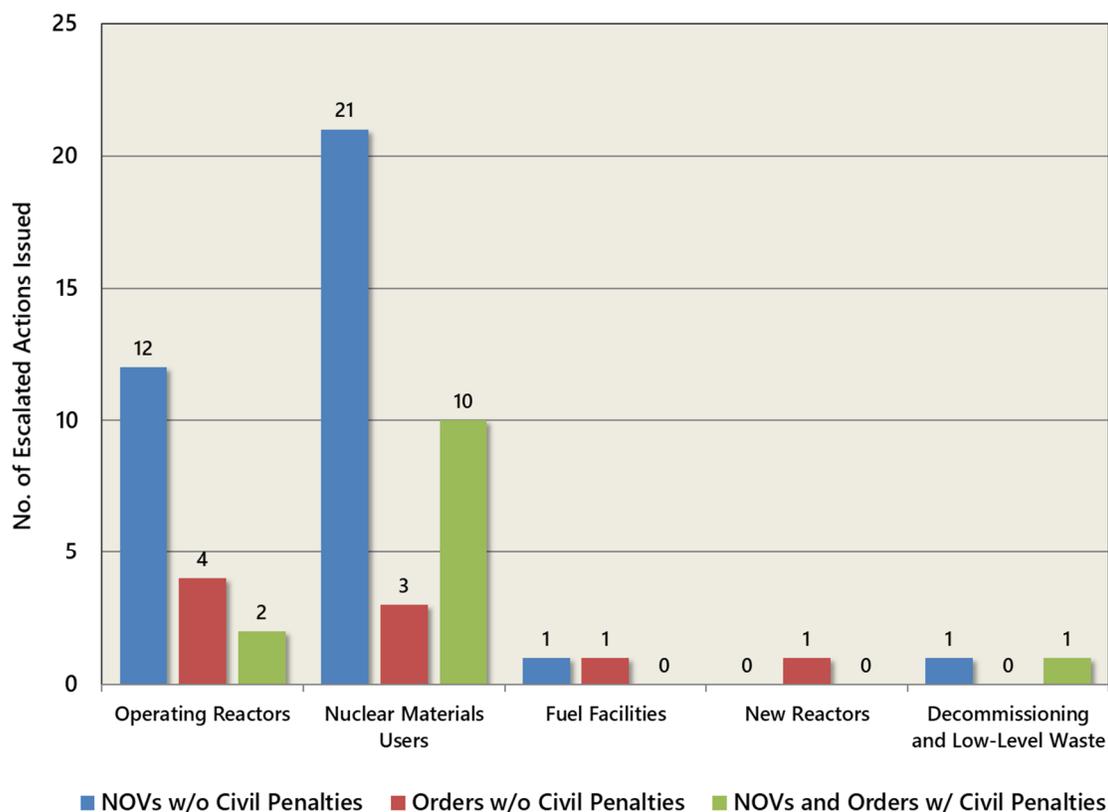


Figure 3 Escalated enforcement by business line (CY 2019)

As shown in Figure 3, nuclear materials users received the largest number of escalated enforcement actions in CY 2019 (a total of 34), accounting for 60 percent of all actions issued. This was followed by operating reactor licensees, which received 18 actions (or 32 percent of all actions). The NRC also issued two escalated actions to fuel facility one to a fuel facility and the other to an individual associated with that fuel facility. There was one action to a new reactor facility (Vogtle Electric Generating Plant, Units 3 and 4) and two to decommissioning and low-level waste (LLW) licensees. Nuclear materials users received approximately 53 percent of the non-CP actions and 77 percent of CP actions.

Table 1 breaks down the escalated enforcement actions issued in CY 2019 by region and program office. Since Region II does not process nuclear materials user cases, which account for 58 percent of the total escalated enforcement actions, its output reflects the fewest regional escalated actions. However, Region II is responsible for the oversight of

fuel facilities, which account for the two NOVs without CPs listed in Table 1. The program offices remain consistent with past escalated action output.

Table 1 Escalated Enforcement Actions by Region and Program Office (CY 2019)

	NOVs w/o Civil Penalties	Orders w/o Civil Penalties	NOVs and Orders w/ Civil Penalties	Total
REGION I	5	1	1	7
REGION II	2	3	1	6
REGION III	8	1	0	9
REGION IV	11	2	5	18
NMSS	4	0	5	9
NRO	0	0	0	0
NRR	0	0	0	0
NSIR	0	0	0	0
OE	2	2	1	5
OIP	3	0	0	3
Total	35	9	13	57

Key to Offices

- NMSS—Office of Nuclear Material Safety and Safeguards
- NRO—Office of New Reactors (NRO merged into NRR in 2019)
- NRR—Office of Nuclear Reactor Regulation
- NSIR—Office of Nuclear Security and Incident Response
- OE—Office of Enforcement
- OIP—Office of International Programs

1. Escalated Enforcement Trends

As previously noted, the NRC issued 57 escalated enforcement actions in CY 2019. The 57 actions represent an increase of approximately 27 percent from the number of actions issued in CY 2018. Table 2 breaks down the total number of escalated enforcement actions the NRC has issued over the past 5 years by type of enforcement action. As shown in Table 2, the number of escalated enforcement actions issued in CY 2019 is considerably lower than the 5-year average.

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Table 2 Escalated Enforcement Action Trends

	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019	Average
Escalated NOVs (w/o CPs)	63	63	63	31	35	51
NOVs and Orders w/ CPs	13	14	10	11	10	12
Orders Imposing CPs	2	2	1	1	3	2
Orders (w/o CPs)	4	12	10	2	9	7
Total	82	91	84	45	57	72

Note: The staff may have adjusted information reported for the previous CYs in this year's annual report to reflect more accurate data that were not available when the previous annual report was published.

Table 2 and Figure 4 show that the number of NOVs issued in 2019 that do not involve a CP increased slightly from 2018 but remain lower than in CYs 2015, 2016, and 2017. However, the number of NOVs and orders with CPs, and orders imposing CPs, is relatively consistent with the number in the previous 4 years.

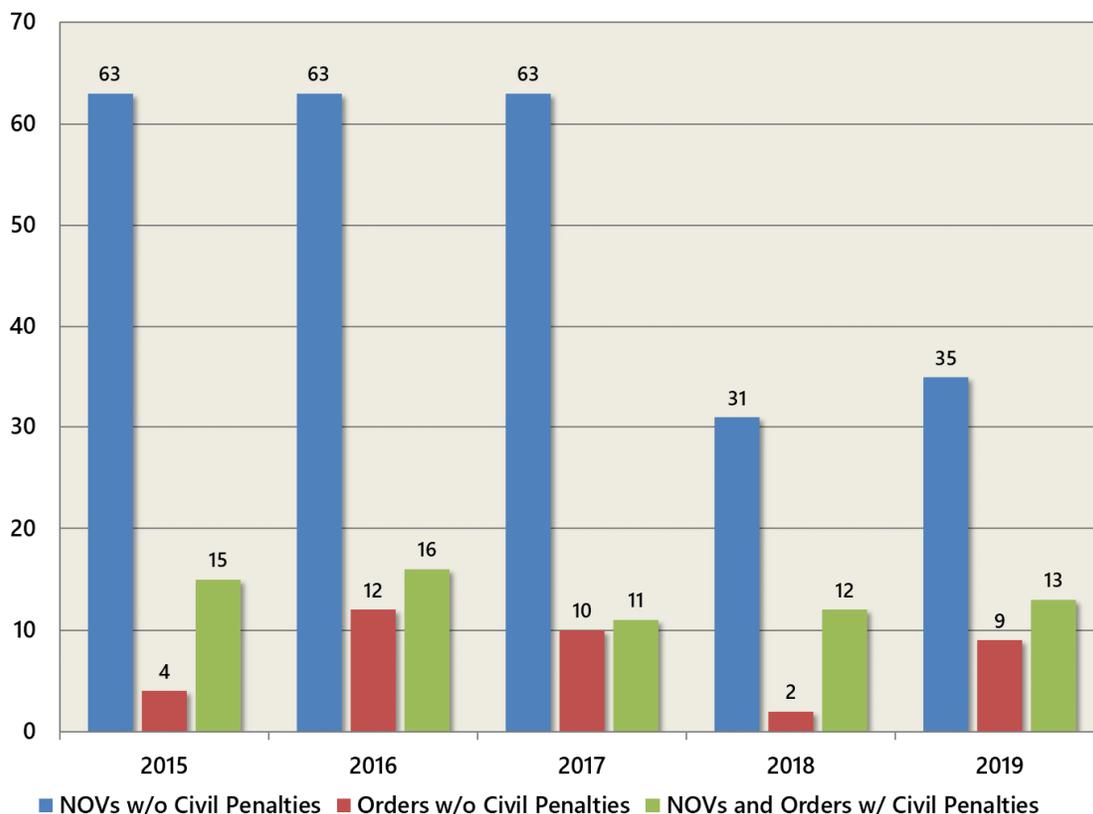


Figure 4 Escalated enforcement actions issued (CY 2015–CY 2019)

Figure 5 presents escalated enforcement trends from CY 2015 through CY 2019 by business line. As shown in Figure 5, enforcement actions for both operating reactors and nuclear materials users increased from CY 2018 but are still considerably lower than CYs 2016 and 2017. Further, the number of escalated enforcement actions for operating reactors from CY 2016 through CY 2019 was lower than the number from CY 2009 through CY 2015, which averaged approximately 38 actions per year (data taken from previous annual reports).

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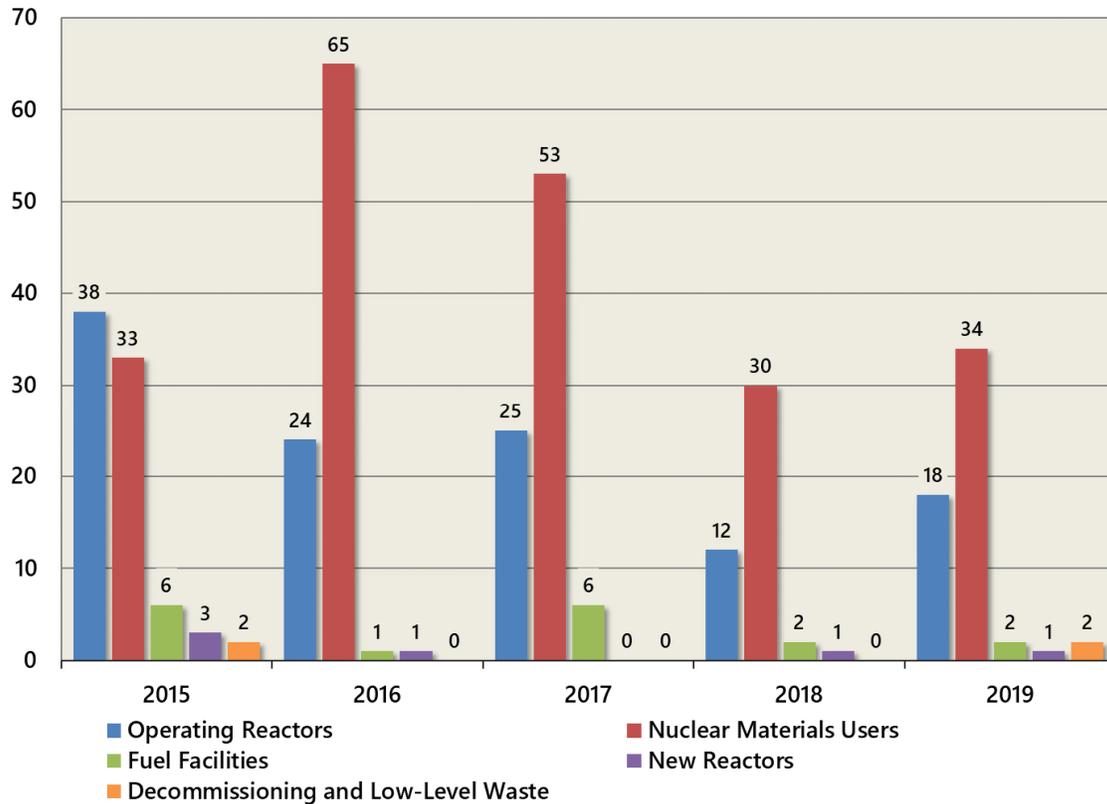


Figure 5 Escalated enforcement by business line (CY 2015–CY 2019)

Enforcement actions for nuclear materials users reflect a cyclical trend, with CY 2019 data coming off the low part of the trend for the CY 2009–CY 2019 timeframe (data before 2015 was taken from earlier annual reports and are not shown on Figure 5). Radiographers received most actions taken against nuclear materials users, with an increase from one enforcement action in 2018 to five in 2019 for materials/individuals (see Table 3).

Table 3 Escalated Enforcement Actions by Type of Licensee, Nonlicensee, or Individual (CY 2019)

	NOVs w/o Civil Penalties	Orders w/o Civil Penalties	NOVs and Orders w/ Civil Penalties	Total
Radiographer	7	1	3	11
Operating Reactor	4	2	2	8
Individual Actor–Reactors	5	2	0	7
Gauge	4	1	1	6
Materials Distributor	1	0	4	5
Individual Actor–Materials	4	1	0	5
Import/Export	3	0	0	3
Nonoperating Reactor	1	0	1	2
Licensed Operator	2	0	0	2
Fuel Facility	1	0	0	1
Individual Actor–Fuel Facility	0	1	0	1
Hospital	0	0	1	1
Academic	1	0	0	1
Mill	0	0	1	1
Vendor–Operating Reactors	1	0	0	1
New Construction–Reactor	0	1	0	1
Other	1	0	0	1
Grand Total	35	9	13	57

Table 4 shows a slight increase in escalated enforcement actions to licensees, nonlicensees, and individuals from CY 2018 to CY 2019, but the actions remain relatively lower than CYs 2015–2017. The table also shows a significant drop in both operating reactors and gauge user enforcement actions. The data are relatively consistent with the data from CY 2018, but lower than those for previous years. The escalated enforcement actions taken on individuals increased considerably for CY 2019, both in materials and reactors because of the number of discrimination cases processed in CY 2019.

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Table 4 Escalated Enforcement Actions by Type of Licensee, Nonlicensee or Individual (CY 2019)

	2015	2016	2017	2018	2019	Total
Operating Reactor	27	17	22	8	8	82
Gauge	10	18	20	7	6	61
Radiographer	4	10	7	7	11	39
Hospital	5	5	9	5	1	25
Materials Distributor	7	10	0	1	5	23
Individual Actor–Reactors	8	3	2	1	7	21
Individual Actor–Materials	1	8	5	1	5	20
Fuel Facility	5	1	5	2	1	14
Licensed Operator	2	4	1	2	2	11
Academic	1	1	1	3	1	7
Import/Export	1	2	0	1	3	7
Pharmacy	0	2	2	1	0	5
Physician (M)	1	1	2	0	0	4
Nonoperating Reactor	2	0	0	0	2	4
Irradiator	0	2	1	0	0	3
Well Logger	1	1	1	0	0	3
Individual Actor–Fuel Facility	1	0	1	0	1	3
Research Reactor	1	0	0	1	0	2
Vendor–New Reactors	1	1	0	0	0	2
New Construction–Reactor	1	0	0	0	1	2
Mill	0	0	1	0	1	2
Individual Actor–Vendor	1	0	0	1	0	2
Waste Disposal	0	0	1	0	0	1
Vendor–Operating Reactors	0	0	0	0	1	1
Other	2	5	3	4	1	15
Total	82	91	84	45	57	359

2. Civil Penalty Actions

In CY 2019, the agency processed 13 enforcement actions that involved CPs (10 proposed, 3 imposed) totaling \$634,250 proposed and \$101,500 imposed. Of these actions, 10 were associated with nuclear materials user licensees, 2 were associated with operating reactor licensees, and 1 was associated with a decommissioning and LLW licensee. The largest CP proposed was \$232,000 to Florida Power & Light Company (FPL) for an SL II violation for discriminating against a contract employee for engaging in protected activities.

Of the 13 CP cases, 6 involved “willfulness,” which is defined as either deliberate misconduct or careless disregard. The Commission is particularly concerned with the identification of willful violations. The NRC’s regulatory program relies on licensees and their contractors, employees, and agents acting with integrity and communicating with candor; therefore, the agency may consider a violation involving willfulness to be more egregious than the underlying violation taken alone, and the agency may increase the SL

accordingly.

Table 5 compares CP assessments proposed, imposed, and paid for the most recent five CYs and the 5-year averages. When reviewing the information in this table, note that an enforcement action may include more than one CP or more than one violation. In addition, a CP may be proposed one year and paid or imposed in another year. In some cases, the NRC has also approved a CP payment plan that permits a licensee to pay the CP in regular installments. Finally, the amount of a proposed CP may be reduced, or even eliminated, if the agency exercises enforcement discretion as part of a settlement agreement reached through ADR mediation.

Table 5 Civil Penalty Information

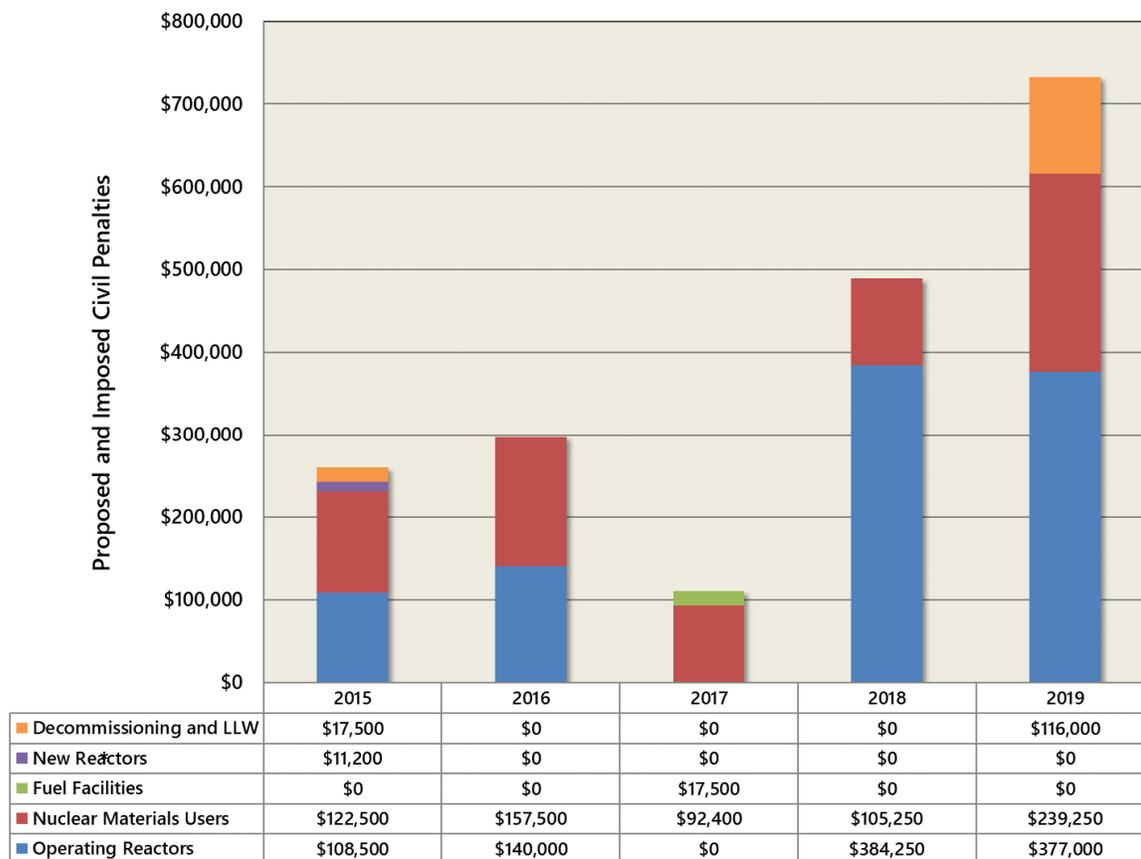
	2015	2016	2017	2018	2019	Average
No. of Proposed Civil Penalties	12	14	8	11	9	11
No. of Imposed Civil Penalties	3	2	1	1	3	2
No. of Paid Civil Penalties	12	12	9	16	8	11
Amount of Proposed Civil Penalties	\$214,200	\$262,500	\$88,900	\$467,100	\$630,750	\$332,690
Amount of Imposed Civil Penalties	\$45,500	\$35,000	\$7,000	\$22,400	\$101,500	\$42,280
Amount of Paid Civil Penalties	\$176,364	\$206,500	\$61,500	\$232,400	\$779,250	\$291,203

Note: Imposition cases and associated CP amounts reflect CPs issued through an order and include (1) orders imposing a CP after a licensee does not pay a proposed CP and (2) CPs agreed to during ADR mediation that are included in the case CO. In the first scenario, the case is a subset of the proposed CP case, as imposing the CP is the next step after a licensee does not pay a proposed CP. However, in the second scenario, an ADR settlement, potentially with a CP, typically occurs before any proposed CP.

The proposed CP amount issued in CY 2019 was higher than the proposed CP amount issued in CY 2018 and was significantly greater than the 5-year average. This was due, in part, to three proposed CPs that were greater than \$100,000 (\$232,000, \$145,000 and \$116,000). The NRC imposed three CPs—two for \$43,500 and one for \$14,500—on nuclear materials users. The total dollar amount of paid CPs (proposed and imposed) in CY 2019 was significantly higher than that in CY 2018. However, three enforcement actions involving CPs (\$232,000, \$29,000 and \$7,250) were issued late in CY 2018 and paid in CY 2019, making up approximately one-third of the total amount paid in CY 2019.

Figure 6 shows the total dollar amount of proposed and imposed CPs from CY 2015 through CY 2019 by business line.

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The New Reactors business line includes CPs proposed and imposed on vendors and suppliers.

Figure 6 Civil penalties by business line (CY 2015–CY 2019)

Figure 7 shows the share of the total CP amounts issued over the past 5 years among each of the business lines. Often, total CP amounts may peak in a particular year because of one or two substantial CP actions.

This is the case for CY 2018 and CY 2019. In CY 2018, two licensees received proposed CPs for \$145,000 and \$232,000, while in CY 2019, three licensees received proposed CPs for \$116,000, \$145,000, and \$232,000. These last three CP amounts make up more than half of the total CP amount for CY 2019 and were issued to operating reactor and decommissioning and LLW licensees. Nuclear materials users comprise the remaining CP amount for CY 2019. The total CP amount for nuclear materials users is somewhat misleading, however, because CPs of \$43,500, \$43,500, and \$14,500 were both proposed and then imposed on three licensees. In this report, this scenario is counted as six escalated enforcement actions, and the CP amount is counted twice for each licensee, a total of \$203,000; the CPs were proposed and also imposed.

Appendix A to this report briefly describes each of the enforcement actions for which a CP was assessed in CY 2019. Although the appendix does not address security-related issues involving NOVs with CPs, the data discussed in this report do include the number of NOVs associated with security-related issues.

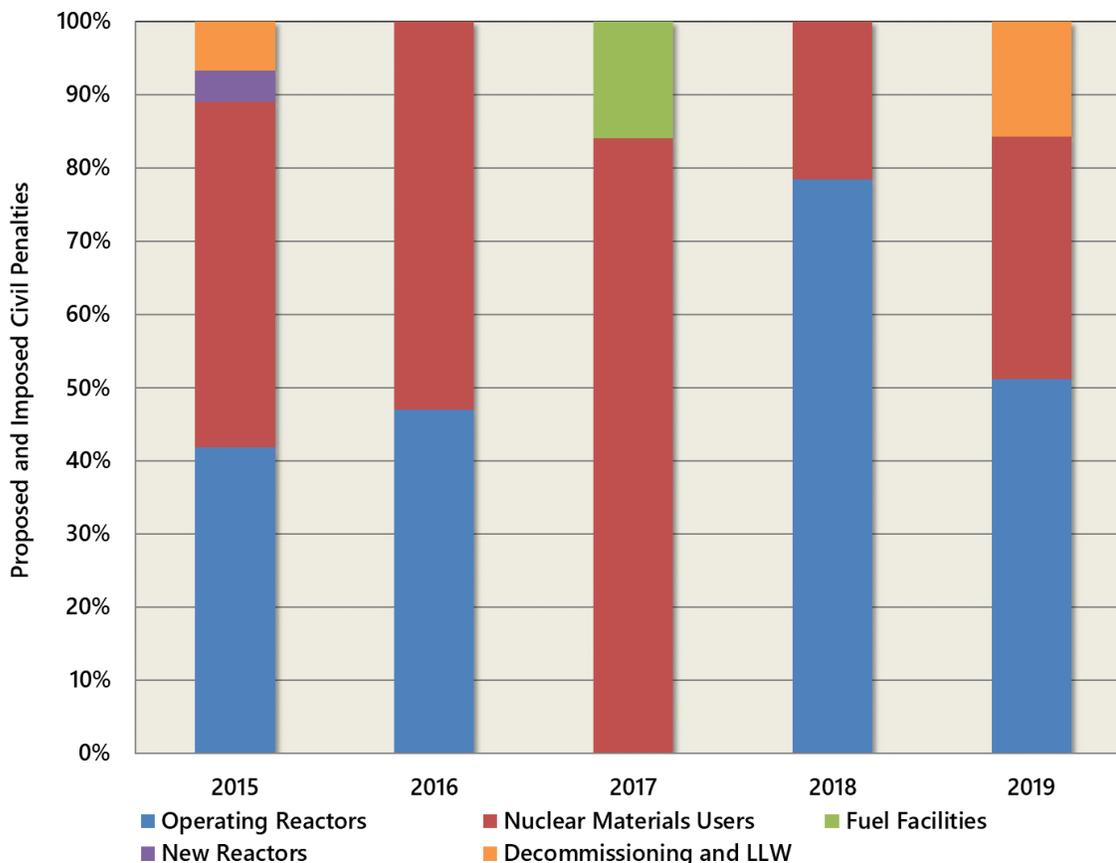


Figure 7 Percentage of civil penalties by business line

3. Notices of Violation without Civil Penalties

In accordance with Section 2.3.4 of the policy, a CP may not be warranted for escalated enforcement actions evaluated under traditional enforcement if certain criteria are met. For example, (1) the identified violation is the first nonwillful SL III violation identified during the past 2 years or during the last two inspections (whichever period is longer) at the licensee’s facility and the licensee took adequate corrective action to prevent its recurrence, or (2) the identified violation was not the first nonwillful SL III violation identified during the past 2 years or during the last two inspections, but the licensee self-identified the violation and took adequate corrective action to prevent its recurrence. Violations assessed under the ROP SDP are normally not considered for CPs unless they involve actual consequences. In addition, the agency may use enforcement discretion, when appropriate, to refrain from proposing a CP, regardless of the normal CP assessment process described above.

In CY 2019, the NRC issued a total of 35 escalated NOV without CPs to nuclear materials user licensees (21), operating reactor licensees (12), fuel facilities (1), and decommissioning and LLW entities (1). Of the 21 NOVs issued to nuclear materials user licensees, 11 were associated with either radiographers or gauge users. Of the 12 operating reactor licensee violations, 7 were associated with either a licensed operator or an individual, 2 were associated with White SDP findings under the ROP, and 3 were SL III violations. No

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violations were associated with Yellow SDP findings, and for the seventh consecutive year, the NRC issued no Red SDP findings with associated violations.

Figure 8 shows escalated NOV trends associated with SDP findings at operating reactors over the past 5 years. As Figure 8 indicates, the escalated actions associated with SDP findings issued in CY 2019 (two) is the lowest number of findings issued in the past 5 years. Appendix B to this report summarizes each of the NOV's issued without a CP, as well as the NOV's associated with SDP findings. Appendix B does not address security-related issues involving NOV's without CPs; however, the data discussed in this report do include the number of NOV's associated with security-related issues.

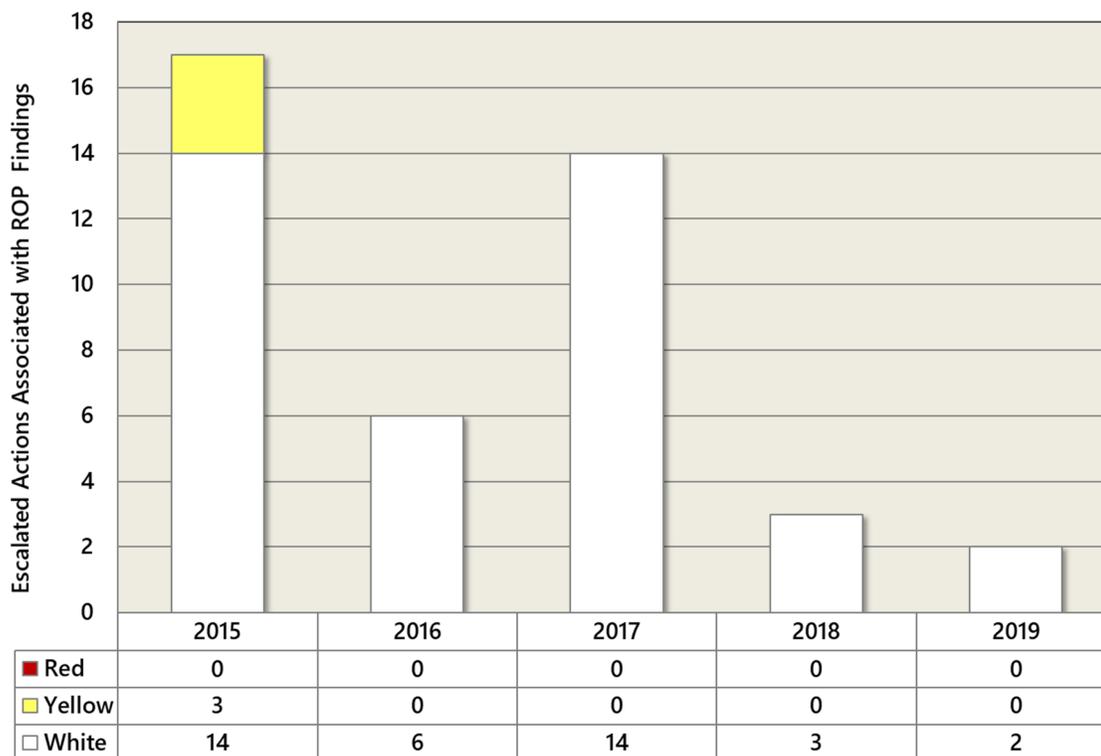


Figure 8 Escalated enforcement associated with ROP SDP findings at operating reactors

4. Enforcement Program Timeliness

The NRC issues escalated enforcement actions in cases involving violations assessed at SL I, II, or III (and SL IV for individuals) dispositioned under the traditional enforcement process; violations associated with White, Yellow, or Red findings issued to reactors participating in the ROP; and orders that impose sanctions. The timeliness associated with issuing escalated enforcement actions to reactor and materials licensees is an output measure (external goal) reported annually to Congress as part of the NRC's Performance Accountability Report. The external goals, modified in 2012 to stress the importance of timely escalated enforcement actions, are (1) 100 percent of cases not based on investigations by the Office of Investigations (OI) are to be completed within an NRC processing time of less than or equal to 160 days, and (2) 100 percent of OI-based cases are to be completed within an NRC processing time of less than or equal to 330 days.

The NRC processing time starts on the latest of (1) the inspection exit for non-OI cases, (2) the date of the memorandum forwarding the OI report to the staff for OI-related cases, (3) the date that the U.S. Department of Justice indicates that the NRC may proceed for cases either prosecuted or reviewed for an extended period of time by the Department, or (4) the date of the U.S. Department of Labor decision that is the basis for the action. For timeliness reporting purposes, the NRC may group multiple escalated enforcement actions and treat them as a single case if the enforcement actions are related to each other. For example, the NRC may disposition a violation and take escalated enforcement action against a licensee and one or more individuals. Although it may take multiple enforcement actions, the NRC will treat these actions as one case for timeliness purposes so that timeliness data are not biased in either a positive or negative direction.

In CY 2019, the NRC staff issued all 19 non-OI-related actions within 160 processing days, and all 20 OI-related actions within 330 processing days, thus meeting the external goals. A streamlined process implemented in CY 2016 is likely to have contributed significantly to the staff's ability to meet these goals. This process, the modified enforcement panel process, used for both traditional and ROP cases, helped to escalate and resolve potentially differing views earlier in the enforcement process. OE will continue to work closely with regional and program office staff in the early identification of enforcement cases that are likely to involve complex technical or legal issues or other case-specific challenges.

Figure 9 shows that, on average, the agency took 129 processing days to issue non-OI-related escalated enforcement actions. This timeframe is less than the congressional goal of 160 processing days; however, the number of cases processed in CY 2019 is lower than previous years and took longer to process.

Figure 10 shows the case processing timeliness trends for OI-related escalated enforcement actions for the past 5 CYs. On average, the agency required 210 days to issue an OI-related enforcement action in CY 2019. This is less than the congressional goal of 330 processing days and is slightly higher than the overall average for the past 5 years. Unlike the non-OI-related cases, the number of OI-related cases processed in CY 2019 was higher than the previous 4 years.

The numbers of non-OI-related (19) and OI-related (20) escalated enforcement actions do not add up to the total number of escalated enforcement actions (57) because there were multiple enforcement actions taken for licensees and individuals with no OI involvement.

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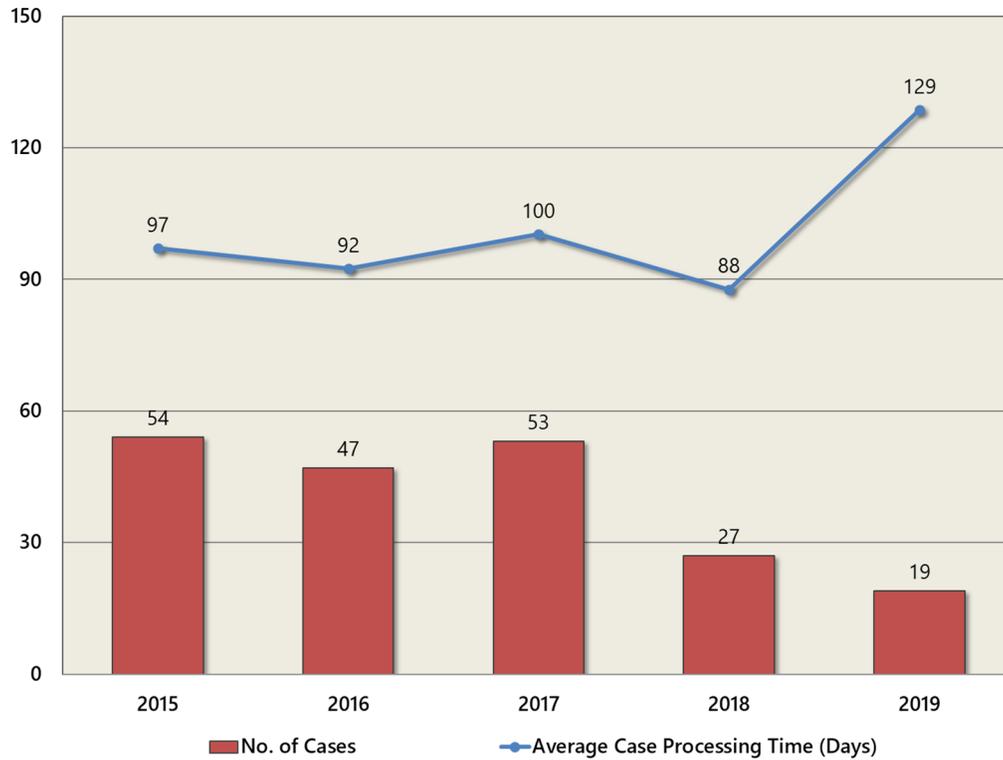


Figure 9 Non-OI-related case timeliness (CY 2015–CY 2019)

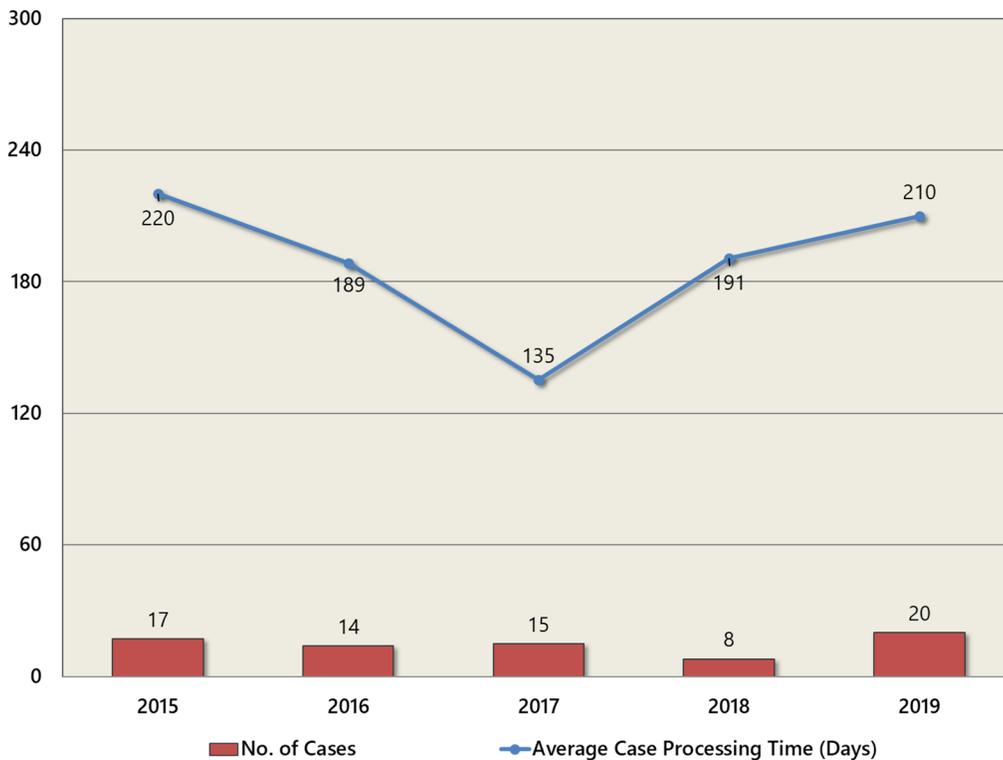


Figure 10 OI-related case timeliness (CY 2015–CY 2019)

5. Alternative Dispute Resolution

ADR refers to a variety of voluntary processes, such as mediation and facilitated dialogue, to assist parties in resolving disputes and potential conflicts outside of courts by using a neutral third party. The NRC employs mediation for its enforcement ADR program using a neutral third party, with no decisionmaking authority, to help the parties reach an agreement. Participation in the process is voluntary, and the content of the final, mutual agreement is normally formalized in a CO published in the *Federal Register*.

The term “enforcement ADR” refers to the use of mediation (1) after OI has completed its investigation and an enforcement panel has concluded that pursuit of an enforcement action appears to be warranted, and (2) associated with escalated nonwillful, traditional enforcement cases with the potential for CPs.

Under OE’s enforcement ADR process, the NRC may offer mediation at three points in the enforcement process: (1) before a predecisional enforcement conference, (2) after the initial enforcement action (typically the issuance of an NOV or proposed imposition of a CP), or (3) with the imposition of a CP and before a hearing request. The NRC believes that, for certain escalated enforcement actions, mediation gives the licensee (or individual) an opportunity to institute broader or more comprehensive corrective actions to better ensure public health, safety, and security than outcomes typically achieved through the traditional enforcement process.

As Figure 11 shows, the NRC opens an average of approximately seven new cases each year under the enforcement ADR program. In CY 2019, the NRC participated in eight ADR mediations: four resulted in orders confirming the terms of the parties’ agreement, and

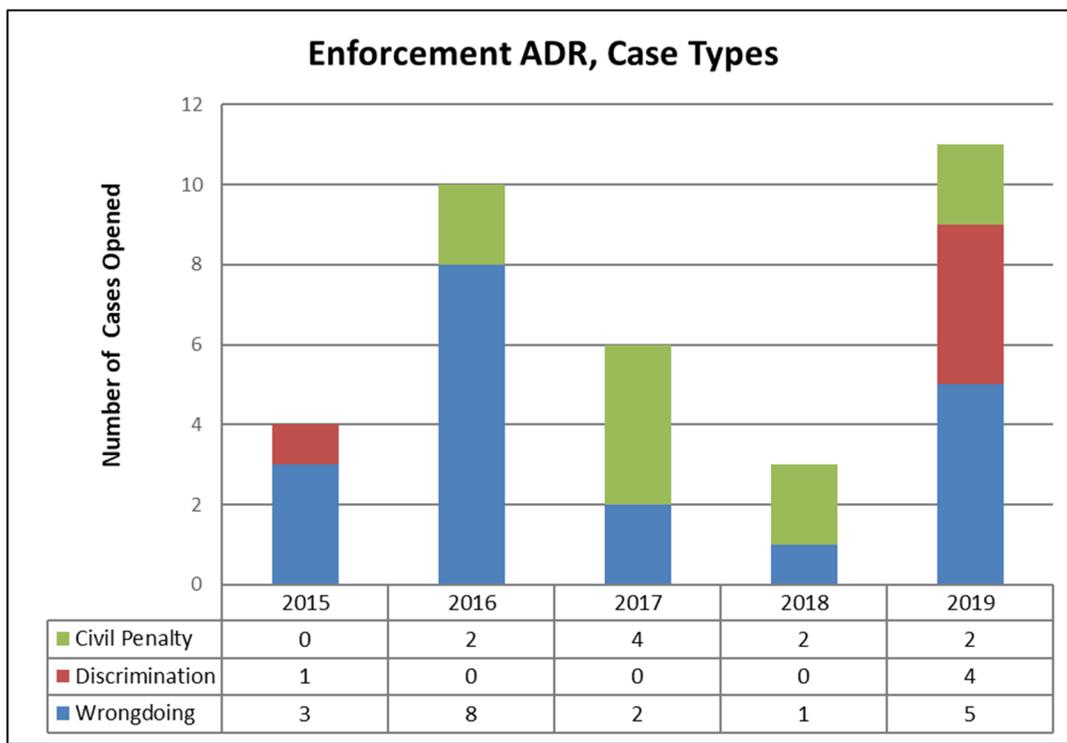


Figure 11 ADR cases opened (CY 2015–CY 2019)

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two cases are in process as of the date of this report. From CY 2015 through CY 2018, all the enforcement cases that used ADR have resulted in a settlement agreement. During CY 2019, however, two mediated cases did not result in a settlement agreement. The absence of an agreement is not indicative of a failed process, but rather it is a testament that both parties are committed to ensuring that their interests are addressed. This point is of particular importance, as the NRC is a party in these ADR mediation sessions and is dedicated to ensuring that agreed-upon settlement conditions are closely aligned with the NRC's interests of obtaining broad, long-term, comprehensive corrective actions. The two unsettled cases were further processed using the NRC traditional enforcement process.

In CY 2019, the staff continued to focus on enhancing the timeliness, transparency, and overall effectiveness of the enforcement ADR program. Although program enhancements initiated over the past several years have had a positive effect on the ADR process, OE continues to develop and implement additional process improvements to increase the overall efficiency and, thus, the timeliness of the program. Some process improvements include the enhancement of guidance and other tools related to mediation session preparation and internal coordination and communication to support successful mediation sessions and order issuance.

As Figure 12 indicates, the average time to process an ADR case, from the date of the mediation offer to the issuance of a CO, slightly decreased in CY 2019. This decline is directly attributed to a decrease in the length of time between the mediation session and the issuance of the CO. It is notable that this decline also occurred during a period when the

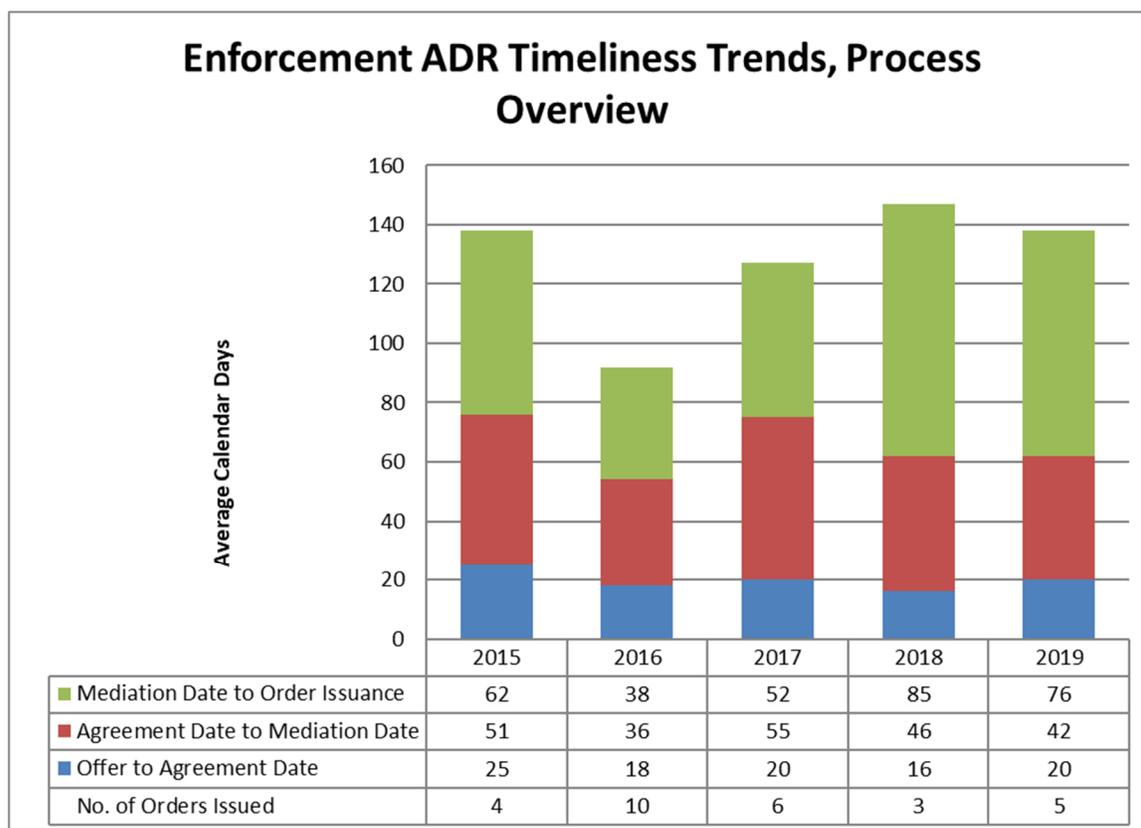


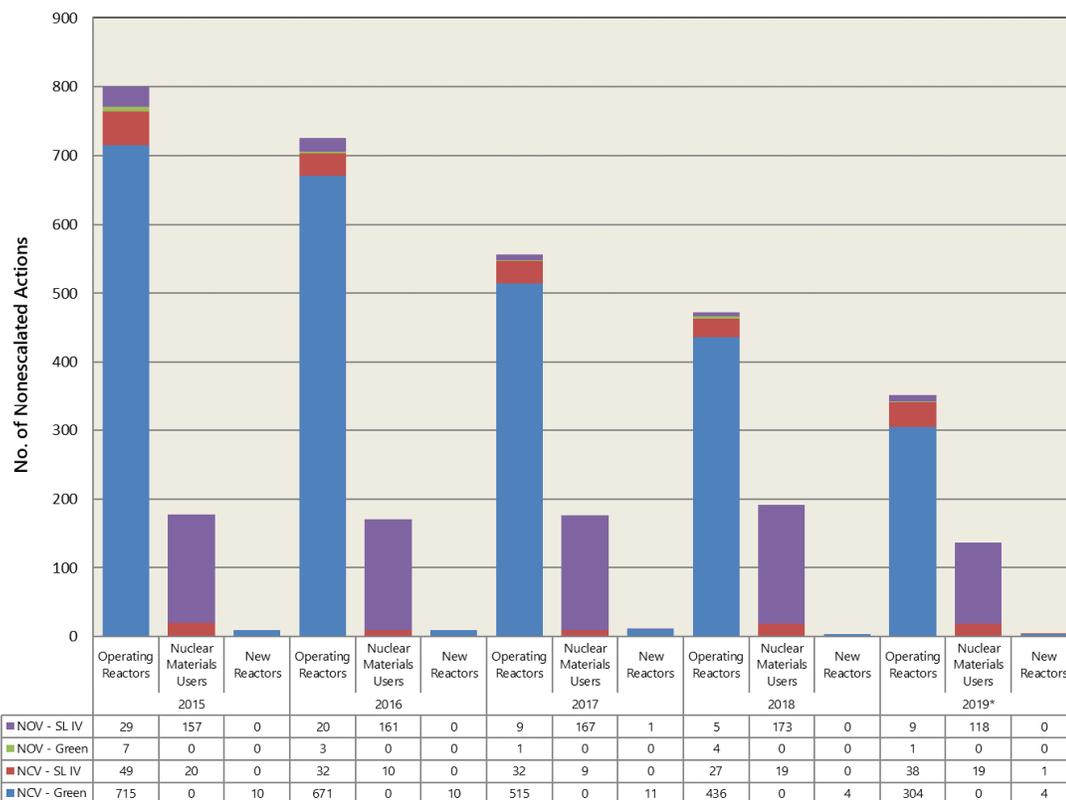
Figure 12 Calendar days from ADR offer to issuance of CO

NRC conducted a larger number of ADR sessions as compared to CY 2018. The decrease is accredited to efficiencies in mediation session preparation and improved internal coordination to support CO issuance.

C. Nonescalated Enforcement

The first edition of the Enforcement Program Annual Report focused solely on escalated enforcement actions and provided limited information on nonescalated enforcement. Nonescalated enforcement actions include SL IV NOVs and NCVs under traditional enforcement and NOV and NCVs associated with Green SDP findings under the ROP. In recent years and recognizing that most enforcement actions fall into the nonescalated category, OE began to collect more information on nonescalated enforcement trends. Information on operating reactors is recorded in the Replacement Reactor Program System (RRPS), which replaced the Reactor Program System database. The staff can now more easily obtain RRPS data through the NRC’s internal Web site. Nuclear materials users’ nonescalated actions are stored in the Web-Based Licensing (WBL) system, and new reactor construction data are maintained in the Construction Inspection Program Information Management System (CIPIMS).

Figure 13 provides information obtained from the RRPS, the WBL system, and the CIPIMS. There has been a notable overall downward trend in operating reactor SL IV NOVs and NCVs issued under traditional enforcement and NOV and NCVs associated with Green SDP findings



*The information for CY 2019 reflects RRPS, the WBL system, and CIPIMS data recorded as of February 24, 2020.

Figure 13 Nonescalated enforcement (CY 2015 through CY 2019)

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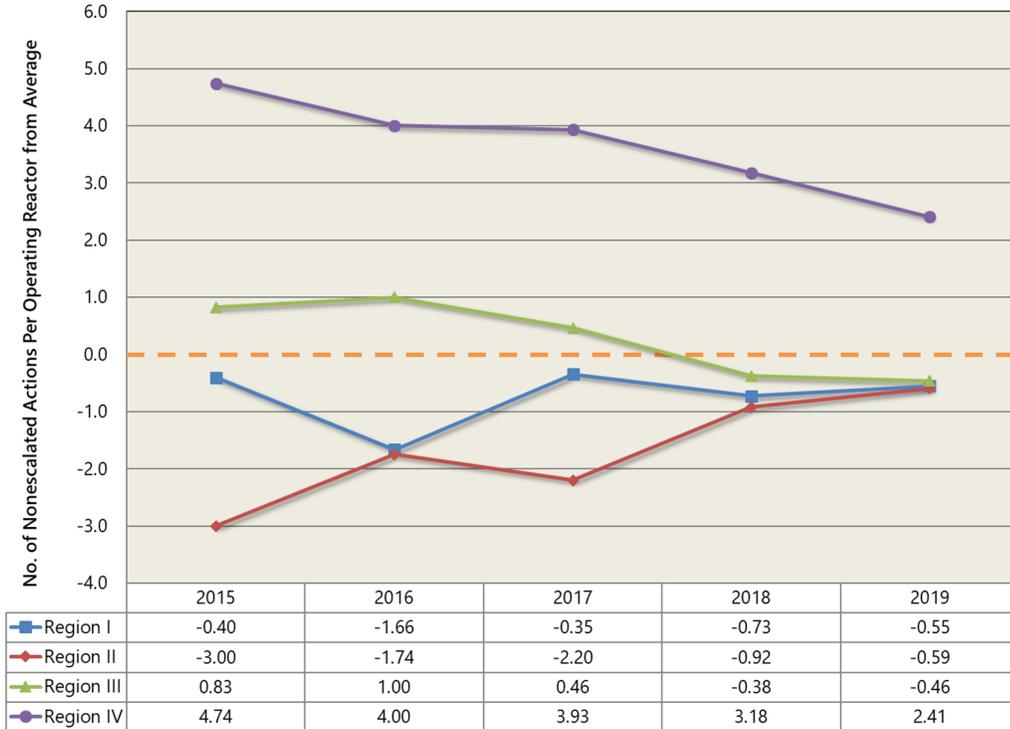
issued under the ROP. This is consistent with an overall downward trend in the number of inspection findings, event notifications, licensee event reports, and reactor scrams observed over the last several years.

Figure 14 shows the trend in nonescalated enforcement actions the regional offices have issued for the past 5 years. The information, obtained from the new RRPS, was “normalized” to show the average number of nonescalated actions per operating reactor in each of the regions. Figure 14 indicates that consistency has steadily improved among the regional offices in the number of nonescalated enforcement actions issued since CY 2015; in particular, Regions I, II, and III are averaging around three nonescalated enforcement actions per operating reactor. Although Region IV had six nonescalated enforcement actions per operating reactor in CY 2019, the trend has moved progressively downward over the past several years. This trend coincides with similar escalated enforcement action trends observed across all regulatory oversight programs (i.e., licensee business lines).



Figure 14 Nonescalated enforcement per operating reactor by region (CY 2015–CY 2019)

Figure 15 provides information similar to that in Figure 14, highlighting the differences from the average number of nonescalated actions per operating reactor (i.e., the average number of actions per operating reactor is set to zero). Region IV continues a downward trajectory converging with the other regions.



Note: These trends reflect information available from the RRPS as of February 2020.

Figure 15 Nonescalated enforcement per operating reactor difference from average by region (CY 2015–CY 2019)

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II. Enforcement Case Work

A. Significant Enforcement Actions

In CY 2019, the agency participated in several noteworthy enforcement actions, as described below.

Florida Power & Light Company

On September 12, 2019, the NRC issued an SL II NOV with proposed imposition of a CP of \$232,000 to FPL for violating 10 CFR 50.7, "Employee protection." The violation involves a company executive deliberately discriminating against a contract employee for engaging in a protected activity in spring 2017. Specifically, FPL management cancelled a contract employee's scheduled work assignment to the Turkey Point Nuclear Generating Station shortly after the employee submitted a condition report about safety concerns during a St. Lucie Plant refueling outage. The NRC determined that the actions of FPL management were, in part, based on the contractor's engagement in a protected activity.

Southern California Edison Company

On March 25, 2019, the NRC issued an SL II and III NOV and proposed imposition of a CP of \$116,000 to Southern California Edison Company for two violations at the San Onofre Nuclear Generating Station (SONGS). The first violation, a technical specification violation, involved the failure to ensure safety equipment was available to provide redundant drop protection for a spent fuel canister during downloading operations. Specifically, SONGS staff inadvertently disabled the redundant safety downloading slings while lowering a canister into the storage vault. The second violation involved the failure to timely notify the NRC Headquarters Operations Center of this event.

B. Hearing Activities

No hearing activities resulted from enforcement actions in CY 2019.

C. Enforcement Orders

In CY 2019, the NRC issued 13 orders to licensees, nonlicensees, and individuals. The 13 orders included 5 COs that were issued to confirm commitments associated with ADR settlement agreements, 3 prohibition orders, 3 orders to impose a CP, 1 order proposing a CP, and 1 order to cease and desist. Appendix C to this document briefly describes the enforcement orders the NRC issued in CY 2019.

D. Enforcement Actions Supported by the Office of Investigations

In CY 2019, OI investigations supported 56 percent of the escalated enforcement actions (32 of the 57) the agency issued. This figure is approximately 36 percent higher than the

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percentage of cases that OI investigated in CY 2018 (20 percent). The escalated actions that OI investigated include the following:¹

- 9 of the 13 escalated NOV and orders with CPs (69 percent)
- 15 of the 33 escalated NOV without CPs (45 percent)
- 8 of the 9 enforcement orders without CPs (89 percent)

The number of enforcement actions OI investigated in CY 2019 (20) is higher than the average number of enforcement actions OI investigated over the previous 4 years (the average number of actions from CY 2015 through CY 2018 was 13.5). In CY 2019, OI investigated 18 substantiated cases (enforcement actions may not have been taken on some of these cases in CY 2019) and 41 unsubstantiated cases.

E. Actions Involving Individuals and Nonlicensee Organizations

In CY 2019, the agency issued 16 escalated enforcement actions to individuals and nonlicensees. These actions consisted of 11 NOV of SL III, 1 NOV of SL IV, 3 prohibition orders, and 1 CO resulting from an ADR mediation session. The total number of escalated enforcement actions (NOVs and orders) that the agency issued in CY 2019 included this number. The number of escalated actions issued to individuals in CY 2019 is more than the average number of actions issued between CY 2015 and CY 2019. The NRC issued 1 of these 16 actions to a nonlicensee individual. Appendix C to this document summarizes the orders that the agency issued to individuals, and Appendix D summarizes the NOV the agency issued to individuals in CY 2019.

F. Enforcement Action Involving Discrimination

In CY 2019, the NRC processed three cases involving allegations of discrimination (two of these cases were combined into one case), resulting in two prohibition orders, a CO, an NOV with CP, and two NOV. These allegations arose from the removal of an employee for engaging in a protected activity. From CY 2014 to CY 2018, the agency averaged just one discrimination case per year.

G. Use of Judgment and Discretion in Determining Appropriate Enforcement Sanctions

Within its statutory authority, the NRC may choose to exercise discretion and either escalate or mitigate enforcement sanctions or otherwise refrain from taking enforcement action. This exercise of discretion allows the NRC to determine actions that are appropriate for a particular case, consistent with the policy. After considering the general tenets of the policy and the safety and security significance of a violation and its surrounding circumstances, the NRC may exercise judgment and discretion in determining the severity levels of violations and the appropriate enforcement sanctions.

In CY 2019, the NRC exercised discretion in 19 enforcement cases to address violations of NRC requirements. This number is less than in the number of cases in which the agency

¹ The number of escalated actions reported in this section differs from the number of cases shown in Figure 10 because a single case may encompass multiple actions.

used discretion in CY 2018 (39 cases). A discussion of the more significant cases dispositioned using enforcement discretion in CY 2019 follows.

1. Discretion Involving Temporary or Interim Enforcement Guidance

The NRC used enforcement discretion in accordance with either an interim policy or an EGM 11 times in CY 2019, compared to 15 times in CY 2018:

- On August 1, 2018, the staff issued EGM-18-002, “Interim Guidance for Dispositioning Violations for Failure to Control and Maintain Constant Surveillance for Portable Gauges” (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18170A167). This EGM allowed the use of a graded approach to evaluate the likelihood for an opportunity for loss or theft of a portable gauge, or exposure to workers or the public. This approach would allow for citation as an SL IV for violations of 10 CFR 20.1802, “Control of material not in storage,” that are less serious, but that are of more than minor concern, that resulted in no or relatively inappreciable potential safety or security consequences. The NRC used this discretion for only one action.
- On June 10, 2015, the staff issued the initial revision to EGM-15-002, “Enforcement Discretion for Tornado-Generated Missile Protection Noncompliance” (ADAMS No. ML16355A286). On February 7, 2017, the agency revised EGM-15-002 to incorporate the lessons learned from the implementation of the original guidance. The NRC issued this EGM because, over the past several years, operating reactor licensees and the agency have identified facilities that have not conformed to their licensing basis for tornado-generated missile protection and are, therefore, not in compliance with applicable regulations. Because the overall risk resulting from these nonconformances is typically low, this EGM provided guidance on exercising enforcement discretion for tornado-generated missile noncompliances in certain circumstances. In CY 2019, the agency dispositioned three cases that met the criteria under this guidance.
- On May 13, 2009, the staff issued EGM-09-004, “Dispositioning Violations of Naturally Occurring and Accelerator-Produced Radioactive Materials (NARM) Requirements” (ADAMS No. ML091340060). As described in the EGM, the NRC may exercise enforcement discretion for violations of the NARM requirements if certain criteria are met. In CY 2019, the agency dispositioned three cases that met the criteria in this EGM.
- On May 11, 2018, the staff issued EGM-18-001, “Interim Guidance for Dispositioning Apparent Violations of 10 CFR Parts 34, 36, and 39 Requirements Resulting from the Use of Direct Ion Storage Dosimetry During Licensed Activities” (ADAMS No. ML18068A623). The NRC will not pursue enforcement action for some potential violations for licensees that use direct ion storage dosimetry for personnel monitoring during NRC-licensed activities under 10 CFR Part 34, “Licenses for industrial radiography and radiation safety requirements for industrial radiographic operations,” 10 CFR Part 36, “Licenses and radiation safety requirements for irradiators,” and 10 CFR Part 39, “Licenses

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and radiation safety requirements for well logging,” if specific actions are taken. In CY 2019, the agency dispositioned four cases that met the criteria in this EGM.

2. Discretion Involving Violations Identified Because of Previous Enforcement Actions

The staff may exercise enforcement discretion, in accordance with Section 3.3, “Violations Identified Because of Previous Enforcement Action,” of the policy, if the licensee identified the violation as part of the corrective action for a previous enforcement action, and the violation has the same or a similar root cause as the violation causing the previous enforcement action. The NRC did not exercise this discretion in CY 2019.

3. Discretion Involving Special Circumstances

Section 3.5, “Special Circumstances,” of the policy states that the NRC may reduce or refrain from issuing a CP or an NOV for an SL II, III, or IV violation based on the merits of the case after considering the guidance in the policy and such factors as the age of the violation, the significance of the violation, the clarity of the requirement and associated guidance, the appropriateness of the requirement, the overall sustained performance of the licensee, and other relevant circumstances, including any that may have changed since the violation occurred. This discretion is expected to be exercised only if application of the normal guidance in the policy is unwarranted.

The NRC cited Section 3.5 of the policy nine times in CY 2019 to disposition violations of its requirements:

- Gerdau–Monroe Mill (Gerdau)—Following its license renewal, Gerdau’s personnel believed they were authorized for the routine installation and removal of gauges as they had been previously. However, Gerdau’s renewed license did not authorize its staff to perform these activities. The license history and appearance of conflicting requirements created a degree of uncertainty and led Gerdau’s personnel to continue to believe that they were authorized to remove and reinstall gauges. Because of these extenuating circumstances, the NRC determined that it was appropriate not to issue a violation.
- Entergy Nuclear Operations, Inc. (Entergy)—The NRC was notified that a control room annunciator alarm sounded because of lowering voltage on a direct-current bus from an inadvertent configuration control error. Entergy determined that this lowering voltage should have been identified during an operator tour. An investigation determined that the operator deliberately did not check the bus voltage during the operator tour and simply copied a previous voltage reading. Although this violation would normally be ascribed to Entergy, the NRC exercised enforcement discretion. The NRC issued Entergy confirming commitments made as part of an ADR settlement agreement, which similarly involved operators failing to perform rounds.
- First State Diagnostic Center (FSDC)—The NRC conducted an inspection at FSDC for the apparent failure to respond to an order revoking FSDC’s NRC license for nonpayment of fees. The NRC identified that a violation occurred related to

FSDC's failure to respond to the order and complete the actions required by that order. However, the NRC exercised enforcement discretion because FSDC (1) has primarily been performing work outside of the United States and did not receive the order, (2) took prompt action to comply with the order requirements and paid the delinquent fees after learning of the order, and (3) submitted a request to terminate its NRC license.

- Manufacturing Sciences Corporation (MSC)—MSC exported depleted uranium (DU) and did not report the shipment until a later date, in part because of an e-mail exchange with a Nuclear Material Management and Safeguards System (NMMSS) staff member. MSC inquired whether the NRC required privately owned DU to be reported to the NMMSS and provided a specific example of a domestic shipment involving privately owned DU. The NMMSS staff member replied that privately owned DU was not reportable to the NMMSS and that only Government-owned material was reportable. During subsequent conversations between MSC and NRC staff, MSC stated it believed the DU was not reportable because the source material was privately owned and was being shipped to a privately owned ultimate consignee. MSC applied this reporting practice for both its domestic shipments and exports of privately owned DU. Failure to report such exchanges is a violation of an NRC regulation. However, after considering the e-mail communication and lack of clarity of the requirement and guidance, the NRC determined it was appropriate to exercise enforcement discretion.
- Southern Nuclear Operating Co. Inc.—During an NRC inspection at the Edwin I. Hatch Nuclear Plant, the NRC concluded that during refueling outages conducted from 2005 through 2018, senior reactor operators (SROs) failed to perform license reactivation in accordance with 10 CFR 55.53, "Conditions of licenses," on 70 occasions. NRC inspectors identified that 20 SROs failed to perform the required minimum number of under-instruction reactivation hours before assuming duties requiring an SRO license. The NRC concluded that previous NRC communication from 2005, as well as a lack of clarity in existing guidance, contributed subsequent noncompliance to the facility licensee's use of the "training-only" option in its limited-duty SRO reactivation program and determined it was appropriate to exercise enforcement discretion.
- U.S. Department of the Air Force (USAF)—A USAF inspection report included one violation and four noncited violations of NRC requirements for a permit issued to the 60th Medical Group Commander (permittee) at Travis Air Force Base (AFB). The permittee did not control a shipment of radioactive material when received and left the material unattended on the loading dock, where it was subject to potential loss or theft by individuals with open access to the loading dock. The NRC issued enforcement discretion because the USAF, in accordance with its enforcement program, appropriately identified the violation and issued the violation to the permittee for the failure to maintain control and constant surveillance of radioactive material that was not in storage. The permittee subsequently implemented corrective actions that included changes to the processes and procedures associated with the receipt of radioactive materials at Travis AFB.

4. Discretion in Determining the Amount of a Civil Penalty

Section 3.6, “Use of Discretion in Determining the Amount of a Civil Penalty,” of the policy states that, notwithstanding the outcome of the normal CP assessment process addressed in Section 2.3.4 of the policy, the NRC may exercise discretion by (1) proposing a CP where application of the CP assessment factors would otherwise result in zero penalty, (2) escalating the amount of the resulting CP to ensure that the proposed penalty appropriately reflects the significance of the issue, or (3) mitigating the amount based on the merits of the case and the ability of the various classes of licensees to pay. In CY 2019, the NRC cited Section 3.6 of the policy in one case to mitigate the entire amount of a potential CP based on the facts of the case.

5. Discretion Involving No Significance Determination Process Performance Deficiency

Section 3.10, “Reactor Violations with No Performance Deficiencies,” of the policy states that violations of NRC requirements normally falling within the ROP SDP process for operating power reactors for which there are no associated SDP performance deficiencies (e.g., a violation of technical specifications, which is not a performance deficiency) may be dispositioned using enforcement discretion, similar to the approach described in Section 3.2, “Violations Involving Old Design Issues,” of the policy. The NRC did not exercise this discretion in CY 2019.

6. Notices of Enforcement Discretion

Occasionally, a power reactor licensee’s compliance with a technical specification or other license condition requires a plant transient or performance testing, inspection, or other system realignment that is of greater risk than the current specific plant conditions. In these circumstances, the NRC staff may choose not to enforce the applicable requirements. The staff exercises this enforcement discretion, designated as a notice of enforcement discretion (NOED), in accordance with Section 3.8, “Notices of Enforcement Discretion for Operating Power Reactors and Gaseous Diffusion Plants,” of the policy, only if the staff is clearly satisfied that the action is consistent with protecting public health and safety. The staff may also issue NOEDs in cases involving severe weather or other natural phenomena when it determines that exercising this discretion will not compromise safety. Licensees or certificate holders must provide justification for NOEDs that documents the safety basis for the request and provides other information the staff deems necessary to issue an NOED. The NRC did not issue an NOED in CY 2019.

H. Withdrawn Actions

Licensees can challenge enforcement actions for several reasons; for example, a licensee might dispute the requirements, the facts of the case, the agency’s application of the policy, or the significance of the violation. Licensees may also provide clarifying information that was not available at the time of the inspection. For any of these reasons, the NRC may have to revisit an enforcement action and, in some instances, recategorize an action.

OE has established a metric for the quality of enforcement actions based on the number of disputed and withdrawn enforcement actions in a fiscal year (FY); however, this report covers CY 2019 rather than an FY. The metric is less than or equal to four per FY of

withdrawn disputed enforcement actions (maximum of four per FY for the agency, not to exceed two per office or region). This metric does not include violations that are withdrawn because of supplemental information that was not available to an inspector before the assessment of an enforcement action.

In CY 2019, the NRC issued approximately 494 nonescalated enforcement actions to operating reactor, nuclear materials user, fuel cycle facility, and new reactor licensees. Of these actions, four were disputed. This number is slightly lower than the average number of actions disputed in the past 5 years, likely because the total number of nonescalated enforcement actions were lower in CY 2019 than in previous years. Three of the four disputed actions were upheld, and one has yet to be dispositioned as of CY 2019.

III. Ongoing Activities

A. Enforcement Policy and Guidance

1. Enforcement Policy Revisions

Periodically, the NRC revises its policy to reflect congressional mandates, regulatory changes, operating experience, and stakeholder input. On May 28, 2019, the NRC revised the policy to limit the review and processing of cases involving individuals that violate drug and alcohol provisions of site fitness-for-duty (FFD) programs, which are explicitly described in 10 CFR 26.75, “Sanctions.”

2. Enforcement Manual Guidance

The staff periodically revises the manual to reflect changes to the policy, operating experience, and stakeholder input, such as the following:

- On August 16, 2019, OE issued Change 4 to Revision 10 of the manual. This change updated Part II—Section 2.4, “Enforcement Actions Involving Fitness for Duty (FFD),” to reflect changes made to the policy on enforcement discretion and violations of FFD requirements for low-level personnel.
- On October 1, 2019, OE issued Revision 11 of the manual. The primary purpose of this revision was to update several sections in Parts I and II to reflect current enforcement practices and provide clarifying guidance where needed. In addition, the staff moved the procedures for issuing NOEDs from Inspection Manual Chapter 0410 to a new appendix, Appendix F, “Notices of Enforcement Discretion.”

Enforcement Guidance Memoranda

OE issues EGM to provide temporary guidance on the interpretation of specific provisions of the policy. The full text of all publicly available EGM (Appendix A to the Enforcement Manual) are on the NRC’s public Web site, <https://www.nrc.gov/reading-rm/basic-ref/enf-man/app-a.html>. OE issued one EGM in CY 2019.

On December 4, 2019, the staff issued EGM 19-001, “Clarification of Inspection Documentation Requirements in Section 2.2.3 of the Enforcement Policy.” This EGM clarified that Section 2.2.3 “Assessment of Violations Identified Under the ROP or cROP” of the policy acknowledges that the identification, assessment, disposition, and subsequent NRC action related to the ROP and construction ROP findings, including associated noncompliances, are governed by the applicable inspection manual chapters. Since the inspection program uses a sampling approach to assess licensees’ compliance with safety and licensing requirements, it cannot, nor was it ever intended to, document all noncompliances that may occur at a licensee’s facility, and it allows for the use of risk insights in deciding which noncompliances to document. Specifically, issues of very low or no safety significance but that are unclear on whether they are actual violations may not warrant additional inspection resources and documentation.

B. Enforcement Program Initiatives

In CY 2019, OE engaged in several activities designed to enhance and continuously improve the agency's Enforcement Program. Some of the ongoing program activities include developing internal office procedures, maintaining adequate staff knowledge and supporting training, mentoring new staff members by more experienced staff, and conducting counterpart meetings.

1. Program Enhancements

Throughout the year, OE staff worked on several initiatives to help maintain an effective and efficient enforcement program, including the following:

- The staff improved internal procedures used to execute various aspects of the Enforcement Program. In CY 2019, OE staff developed and updated several internal instructions to further enhance knowledge management goals and improve the enforcement staff's effectiveness and efficiency.
- OE, in collaboration with the Office of the General Counsel and OI, continued development of a process to monitor and manage the statute of limitations expirations for traditional enforcement cases. The process was memorialized in a draft instruction and is currently under management review.

2. Continuous Improvement and Organizational Effectiveness

The following activities and accomplishments are examples of continuous improvement and organizational effectiveness efforts that took place in CY 2019:

- In August 2019, three enforcement staff from NRC Headquarters, with the assistance of multiple enforcement staff from Region I and Region IV, completed an assessment of Region III. The primary goal of this assessment was to verify the consistent application of the policy and processes, acknowledge good work practices to share with other regions and program offices, provide assessment team participants with knowledge transfer opportunities, and identify needed improvements in OE guidance. The assessment activities included observations of scheduled meetings, interviews with regional staff, and reviews of enforcement documents issued by Region III.
- In August 2019, the OE Deputy Director and a senior enforcement specialist completed an assessment in the Office of Nuclear Security and Incident Response (NSIR). Both individuals are former NSIR staff and are intimately familiar with the NSIR inspection program. The primary goal of this assessment was to verify consistent application of the policy and processes, acknowledge good work practices to share with other regions and program offices, provide assessment team participants with knowledge transfer opportunities, and identify needed improvements in OE guidance, as appropriate. The assessment activities included interviews with NSIR force-on-force staff and reviews of enforcement documents issued by NSIR.

3. Knowledge Management

Activities associated with training and knowledge transfer such as the following took place in CY 2019:

- To preserve knowledge and facilitate successful future employee training associated with the steps involved in case processing, OE updated its case processing operating instruction, "Case Processing for Enforcement Specialist." OE rewrote this office instruction to support management's initiative to document the case processing steps in order to promote office effectiveness and continuity among the staff. This procedure is used in conjunction with the manual.
- OE sponsored several rotational assignment opportunities for NRC Headquarters and regional staff and supported rotations to other offices for personal growth and development.

C. Regional Accomplishments

In CY 2019, the regional offices conducted periodic self-assessments of the Enforcement Program to ensure effective performance and to identify opportunities for continuous improvement. The self-assessments encompassed both the reactor and materials arenas, considered performance associated with the development and issuance of both nonescalated and escalated enforcement actions, and included activities that required a high degree of coordination with other NRC stakeholders. Overall, the self-assessments showed that the regions were effectively implementing the Enforcement Program. For any weaknesses identified, the assessments recommended improvements.

D. Calendar Year 2020 Focus Areas

During CY 2020, OE plans to address the following focus areas:

- Continue to develop and fine tune the process for tracking and reporting potential enforcement actions that could challenge the statute of limitations.
- Orchestrate a revision to the policy that will encompass several topics.
- In cooperation with the Office of the General Counsel, OI, and the Office of the Chief Information Officer, continue the efforts to streamline electronic distribution of investigative reports and exhibits.
- Continue knowledge management activities and further develop internal office procedures to enhance the reliability of Enforcement Program implementation and decisionmaking.

Appendix A—Summary of Cases Involving Civil Penalties*

Civil Penalties Issued to Operating Reactor Licensees

Florida Power & Light Company
St. Lucie Plant

EA-18-066

On September 12, 2019, the U.S. Nuclear Regulatory Commission (NRC) issued a Severity Level (SL) II notice of violation (NOV) with proposed imposition of civil penalty (CP) of \$232,000 to Florida Power & Light Company (FPL) for a violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.7, “Employee protection.” The violation involves a company executive deliberately discriminating against a contract employee for engaging in a protected activity in spring 2017. Specifically, FPL management cancelled a contract employee’s scheduled work assignment to the Turkey Point Nuclear Generating Station shortly after the employee submitted a condition report about safety concerns during a St. Lucie Plant refueling outage. The NRC determined that FPL management’s actions were, in part, based on the contractor’s engagement in a protected activity.

Southern California Edison Company
San Onofre Nuclear Generating Station

EA-18-155

On March 25, 2019, the NRC issued an SL II and SL III NOV and proposed imposition of a CP of \$116,000 to Southern California Edison Company for two violations at the San Onofre Nuclear Generating Station (SONGS). The first violation, a technical specification violation, was the failure to ensure that safety equipment was available to provide redundant drop protection for a spent fuel canister during downloading operations. Specifically, SONGS inadvertently disabled the redundant safety downloading slings while lowering a canister into the storage vault. The second violation was the failure to make a timely notification to the NRC Headquarters Operations Center of this event.

Tennessee Valley Authority
Watts Bar Nuclear Plant

EA-19-042

On November 19, 2019, the NRC issued an SL III NOV and proposed imposition of a CP of \$145,000 to the Tennessee Valley Authority (TVA) for a violation of 10 CFR 50.9, “Completeness and accuracy of information.” TVA submitted inaccurate information needed for NRC licensing decisions on multiple occasions as part of the licensing of Watts Bar Nuclear Plant, Unit 2, from 2010 through 2013, and as part of a license amendment for Watts Bar Nuclear Plant, Unit 1, in 2015. Specifically, in multiple correspondences, TVA stated that it had performed appropriate analyses and demonstrated that the station’s offsite electrical power system was fully capable of meeting its design and licensing bases; however, this was inaccurate because the analyses had not modeled a key design feature.

Civil Penalties Issued to Materials Licensees

Western Nuclear, Inc.
Golden, CO

EA-18-034

* Cases involving security-related issues are not included.

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On December 19, 2019 the NRC issued an SL III NOV and proposed imposition of a CP of \$14,500 to Western Nuclear, Inc. (WNI), for a violation of 10 CFR 40.9(a). The violation involved the failure of WNI's submittal of information in a report to the NRC that was not complete and accurate in all material respects. Specifically, information contained in the report represented model data evaluated and generated from a working version of WNI's 2003 ground water model. However, the information in the report was not accurate because neither WNI nor its contractor that drafted the report had a working version of the original 2003 model files when the report was submitted.

Providence Alaska Medical Center
Anchorage, AK

EA-18-133

On February 21, 2019, the NRC issued an SL III NOV and proposed imposition of a CP of \$14,500 to Providence Alaska Medical Center (PAMC) for a problem with two related occupational radiation monitoring and dose assessment violations. The violation involved PAMC's failure to (1) monitor occupational exposure of workers from licensed and unlicensed sources of radiation and account for external employment for purposes of occupation dose and (2) implement a radiation protection program commensurate with the scope and extent of licensed activities in accordance with regulations. Specifically, before August 2018, PAMC failed to properly monitor personnel exposures, resulting in three contract occupational workers potentially exceeding the 10 CFR 20.1201(a) annual limit. PAMC also failed to review and evaluate abnormal radiation exposure reports, investigate exposure reports with results over licensee-set administrative limits, develop recommendations to management for corrective action, and implement effective corrective actions to restore compliance.

Stillwater Mining Company
Nye, MT

EA-19-085

On December 19, 2019, the NRC issued an SL III NOV and proposed imposition of a CP of \$7,250, to Stillwater Mining Company (Stillwater) for a violation of its license condition. This violation involved Stillwater's failure to have a named individual on its license to perform the duties and responsibilities of the radiation safety officer (RSO). Specifically, the RSO listed on Stillwater's license had resigned on September 9, 2015, and Stillwater did not submit a license amendment to name a new RSO until June 13, 2019. The license was amended on August 30, 2019, with an authorized named individual.

Civil Penalties Issued to Fuel Cycle Facility Licensees

None.

Civil Penalties Issued to New Reactor Licensees

None.

Civil Penalties Issued to Decommissioning and Low-Level Waste Licensees

None.

Appendix B—Summary of Escalated Notices of Violation without Civil Penalties*

Notices of Violation Issued to Operating Reactor Licensees

Exelon Generation Company
Clinton Power Station

EA-18-104

On April 1, 2019, the U.S. Nuclear Regulatory Commission (NRC) issued a notice of violation (NOV) to Exelon Generation Company (Exelon) for a violation of Title 10 of the *Code of Federal Regulations* (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,” at Clinton Power Station, associated with a White significance determination process finding. Exelon failed to properly restore an emergency diesel generator (EDG) back to operation during a shutdown and subsequently began maintenance on the other EDG. This resulted in the plant being in a condition with no EDG available to provide onsite backup electrical power for more than 3 days. Additionally, the unavailability of the EDG resulted in a violation of Technical Specification 3.8.2, “AC Sources—Shutdown,” which requires that at least one EDG be operable in Mode 5 and at least one EDG shall be restored immediately when it is determined that none is operable.

Entergy Operations, Inc.
Waterford Steam Electric Station, Unit 3

EA-18-138

On April 5, 2019, the NRC issued a Severity Level (SL) III NOV to Entergy Operations, Inc. (Entergy), for a problem associated with two related violations at the Waterford Steam Electric Station, Unit 3. The NRC Office of Investigations (OI) identified violations to 10 CFR Part 50, Appendix B, Criterion V, and 10 CFR 50.9, “Completeness and accuracy of information,” through an investigation conducted by OI. Contrary to the requirements, on numerous occasions, Entergy watchstanders failed to tour all required areas of its watchstations, resulting in Entergy’s failure to maintain information in accordance with NRC regulations that was complete and accurate in all material respects. The NRC gave credit to Entergy for its identification and corrective action and did not issue a civil penalty.

Entergy Operations, Inc.
River Bend Station

EA-18-174

On April 19, 2019, the NRC issued an SL III NOV to Entergy for a problem associated with two related violations at River Bend Station. The agency identified violations to 10 CFR Part 50, Appendix B, Criterion V, and 10 CFR 50.9 through an investigation conducted by OI. Contrary to the requirements, on numerous occasions, Entergy watchstanders failed to tour all required areas of its watchstations, resulting in Entergy’s failure to maintain information in accordance with NRC regulations that was complete and accurate in all material respects. The NRC gave credit to Entergy for its identification and corrective action and did not issue a civil penalty.

* Cases involving security-related issues are not included.

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Tennessee Valley Authority
Watts Bar Nuclear Plant

EA-18-182

On April 15, 2019, the NRC issued an NOV to the Tennessee Valley Authority (TVA) for a violation of 10 CFR Part 50, 10 CFR Part 47, and 10 CFR Part 54 at Watts Bar Nuclear Plant associated with a White significance determination process finding. Watts Bar Nuclear Plant staff failed to adequately maintain emergency-action-level thresholds affecting emergency preparedness. Specifically, for its initial plant startup, TVA failed to adequately maintain radiation monitor effluent parameter calculations, which resulted in nonconservative emergency action level thresholds.

Notices of Violation Issued to Materials Licensees

Howard University
Washington, DC

EA-18-076

On January 31, 2019, the NRC issued an SL III NOV to Howard University. The violation involved the university's possession of byproduct material that was not authorized under its license. Specifically, while cleaning out a laboratory, Howard University staff located a container of powdered actinium-227, which the facility had apparently received in 1942. The actinium-227 was not exempt from licensing requirements and was not authorized by the university's NRC license.

Mistras Group, Inc.
LaPorte, TX

EA-18-113

On February 13, 2019, the NRC issued an SL III NOV to Mistras Group, Inc. (Mistras). The violation was the failure to confine the use of byproduct material to the purposes authorized in Mistras's license, in accordance with 10 CFR 30.34(c). Specifically, on September 9, 2017, a Mistras employee used a radiographic exposure device at a temporary job site to radiograph the employee's own hand. The Mistras license does not authorize this usage of the device.

Fleis & VandenBrink Engineering, Inc.
Grand Rapids, MI

EA-18-132

On January 17, 2019, the NRC issued two SL III NOV's to Fleis & VandenBrink Engineering, Inc. (licensee), for (1) detaching a sealed source from a source rod, without specific authorization, and (2) handling the unshielded cesium-137 source. Both issues are violations of the company's license. Specifically, on July 16, 2018, the licensee's office technician detached a sealed source containing 8 millicuries of cesium-137 from the source rod of a Troxler 3400 series portable gauge that had been damaged at a temporary job site. Once the source was detached, the licensee's gauge user touched the unshielded source rod with bare hands.

Holtec International
Camden, NJ

EA-18-151

On April 24, 2019, the NRC issued an SL III NOV to Holtec International (Holtec). The violation involved Holtec's inadequate modification of certain multipurpose canisters used for the storage of spent fuel, a violation of 10 CFR 72.146(a). Specifically, Holtec failed to

establish adequate design control measures for installing alternative 4-inch stainless steel standoff pins that are essential to the function of the multipurpose canister.

Source Production & Equipment Company
St. Rose, LA

EA-18-170

On June 3, 2019, the NRC issued an SL III NOV to Source Production & Equipment Company (SPEC). The violation was for SPEC's failure to obtain a specific license authorizing the import of material not covered by the NRC general licenses described in 10 CFR Part 110, "Export and import of nuclear equipment and material," and 10 CFR Parts 21 through 27. Specifically, between 2012 and 2017, SPEC imported 155 non-U.S.-origin, disused sealed sources containing iridium-192, selenium-75, and ytterbium-169 into the United States without a specific license, in accordance with NRC regulation.

Mirion Technologies Corporation
Horseheads, NY

EA-19-024

On May 16, 2019, the NRC issued an SL III NOV to Mirion Technologies Corporation (Mirion) for a violation of 10 CFR 110.5, "Licensing requirements." for not holding a specific export license for a fission chamber. Specifically, Mirion reported the export on NRC Form 741, "Nuclear Materials Transaction Report," and cited a general license authorizing the export of 2 grams of high-enriched uranium contained in a fission chamber. A general license does not authorize the export of components for research reactors capable of continuous operation above 5 megawatts thermal (MWt). The research reactor Mirion exported has a capacity of 45 MWt continuous operation.

Manufacturing Sciences Corporation
Oak Ridge, TN

EA-19-040

On October 10, 2019, the NRC issued an SL III NOV to Manufacturing Sciences Corporation (MSC). The violation involved the export of nuclear material without first obtaining a specific license authorizing the export, in accordance with 10 CFR 110.22(b). Specifically, in October 2018, the National Nuclear Security Administration (NNSA) received an inquiry from the European Atomic Energy Community (EURATOM) about an export of depleted uranium (DU) from the United States to Germany. Before the receipt of DU by the intended recipient, EURATOM had not received notification of the export to Germany through official channels. On November 21, 2018, the NNSA requested that the NRC Nuclear Material Management and Safeguards System staff initiate communications with MSC about its apparent failure to report the DU export. The communications also revealed that MSC failed to obtain a specific export license for the export.

Froehling & Robertson, Inc.
Richmond, VA

EA-19-003

On May 20, 2019, the NRC issued an SL III NOV to Froehling & Robertson, Inc. (F&R), for a problem associated with two related violations of 10 CFR 20.1802, "Control of material not in storage," and 10 CFR 30.34(i), and an SL III NOV related to 10 CFR 20.2201(a)(i). Specifically, on February 27, 2017, F&R failed to control and maintain constant surveillance of a portable gauge containing licensed material on the bed of a pickup truck (an unrestricted area and not in storage) while in transport to another site. The gauge did not

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have the required minimum two independent physical controls that form tangible barriers to secure the gauge from unauthorized removal. The gauge fell off the truck and was unattended until recovered approximately 20 minutes later. F&R also failed to report the incident as lost, stolen, or missing licensed material immediately after its occurrence.

Notices of Violation Issued to Fuel Cycle Facility Licensees

URENCO USA
Eunice, NM

EA-18-161

On September 5, 2019, the NRC issued an SL III NOV to Louisiana Energy Services, LLC (LES). The violation involves LES's failure to comply with 10 CFR Part 95, "Facility security clearance and safeguarding of national security information and restricted data," when LES improperly stored confidential matter, which was subsequently removed from the site. Specifically, a contractor to LES willfully removed a component classified as Confidential-Restricted Data from its authorized storage location and placed the classified component in another employee's lunchbox without his knowledge. This employee then exited the facility with his lunchbox and did not discover that the component was in his lunchbox until the next morning. This created a condition in which the classified component did not remain under the direct control of an authorized individual and was accessible to persons not authorized for access to this component.

Notices of Violation Issued to New Reactor Licensees

None.

Civil Penalties Issued to Decommissioning and Low-Level Waste Licensees

None.

Notices of Violation Issued to Individuals

Appendix D discusses NOVs issued to individuals.

Appendix C—Summary of Orders*

Orders Issued to Operating Reactor Licensees

Southern Nuclear Operating Company, Inc.
Joseph M. Farley Nuclear Plant

EA-18-032

On January 29, 2019, the U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order (CO) to Southern Nuclear Operating Company, Inc. (SNC), memorializing commitments reached during an alternative dispute resolution (ADR) mediation session held on September 21, 2018. The session was associated with an apparent violation involving SNC's failure to store safeguards information (SGI) in accordance with regulatory requirements. The violation involved a former nuclear security officer (NSO) employed at Joseph M. Farley Nuclear Plant, who deliberately failed to store SGI in a locked security storage container while unattended, failed to maintain an inventory of SGI located inside a security storage container, and failed to document the retrieval of SGI when in use. Additionally, SNC failed to maintain an inventory and document the retrieval of SGI from the security storage container when the NSO reproduced an SGI document, placed the SGI in a binder, and removed it for use from the security storage container. SNC committed to complete additional corrective actions and enhancements, as fully discussed in the CO. In consideration of the commitments, the NRC agreed not to pursue any further enforcement action (including issuance of a civil penalty) for the apparent violation.

Southern Nuclear Operating Company, Inc.
Vogtle Electric Generating Plant, Units 3 and 4

EA-18-130

On May 15, 2019, the NRC issued a CO to SNC memorializing commitments reached during an ADR mediation session held on August 5, 2019. The ADR session was associated with a willful apparent violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 52.5, "Employee protection," involving SNC's termination of a contract employee for engaging in protected activity. After considering the corrective actions already taken by SNC and the additional actions SNC committed to take as documented in the CO, the NRC did not issue an NOV or associated civil penalty (CP) for the apparent violations.

Wolf Creek Nuclear Operating Corporation

EA-18-165

On July 18, 2019, the NRC issued a CO to Wolf Creek Nuclear Operating Corporation (WCNOC) memorializing commitments reached during an ADR mediation session held on May 30, 2019. The ADR session was for an apparent violation involving a maintenance worker and a supervisor who willfully documented inaccurate information in a work order. Because NRC licensees are responsible for the actions of their employees and contractors, the NRC concluded that the employee's actions placed WCNOC in violation of NRC requirements and licensee procedures. At the ADR session, WCNOC agreed to complete additional corrective actions and enhancements, as fully discussed in the CO. In consideration of the corrective actions and commitments outlined in the CO, the NRC agreed not to pursue any further enforcement action.

* Cases involving security-related issues are not included.

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Orders Issued to Materials Licensees

Dead Ringer, LLC
Rochester, NY

EA-17-175

On October 22, 2019, the NRC issued a CO imposing a CP of \$43,500 to Dead Ringer, LLC (Dead Ringer). The order was necessary because Dead Ringer did not respond to an August 8, 2019, Severity Level (SL) III NOV and proposed imposition of a CP of \$43,500 for a problem associated with three violations. The violations involve Dead Ringer's (1) willful distribution of gun sights containing radioactive material without an NRC license, as required by 10 CFR 30.3(a), (2) distribution without a sealed-source and device evaluation in accordance with 10 CFR 32.210, "Registration of product information," and (3) import of material into the United States without having the required license for possession of the material, as required by 10 CFR 110.5, "Licensing requirements." Specifically, from January 2015 to January 2018, Dead Ringer distributed approximately 10,350 gun sights containing tritium without the required NRC license and sealed-source and device evaluations authorizing such distributions. Additionally, from January 2015 to May 2017, Dead Ringer imported approximately 10,350 gun sights without the required NRC specific or general license.

Solis Tek, Inc.
Carson, CA

EA-18-123

On May 15, 2019, the NRC issued an SL III NOV and proposed imposition of a CP of \$43,500 to Solis Tek, Inc. (Solis Tek), for a problem associated with four related violations. The violations involve Solis Tek's (1) willful failure to obtain an NRC license authorizing distribution of licensed material to unlicensed persons before beginning exempt distribution under 10 CFR 30.15, "Certain items containing byproduct material," and 10 CFR 32.14, "Certain items containing byproduct material; requirements for license to apply or initially transfer," (2) failure to obtain an NRC license authorizing exempt distribution of licensed material to unlicensed persons before beginning distribution under 10 CFR 30.15 and 10 CFR 32.14, (3) failure to receive authorization to import radioactive material into the United States by a general or specific license under the regulations in 10 CFR Part 110, "Export and import of nuclear equipment and material," before importing such material, and (4) failure to submit a timely annual report for 2017 on or before January 31, 2018.

Team Industrial Services, Inc.
Alvin, TX

EA-18-124

On September 20, 2019, the NRC issued a CO imposing a CP of \$14,500 to Team Industrial Services, Inc. (TEAM). The NRC imposed the CP after TEAM responded to a March 8, 2019, NOV and proposed imposition of a CP of \$14,500 and an SL III deliberate violation of its license condition. TEAM moved a radiographic exposure device for subsequent exposures to another physical location and failed to ensure that the device was placed in the fully locked position. However, in response to the March 2019 violation, TEAM disputed the characterization of the violation as willful, contended that the violation was not significant, and requested withdrawal of the entire CP amount. After further consideration of the licensee's letter, the NRC determined that the SL III determination remained appropriate, as well as imposition of the full CP amount. In response to the order, TEAM filed for a hearing.

Prime NDT Services, Inc.
Strasburg, OH

EA-18-131

On April 1, 2019, the NRC issued a CO to Prime NDT Services, Inc. (Prime NDT), memorializing commitments reached during an ADR mediation session held on January 10, 2019. The ADR mediation session was associated with apparent violation(s) of NRC requirements for one or more security-related violations associated with theft of a vehicle transporting licensed material. Prime NDT agreed to pay the CP of \$3,500 for the apparent violation(s) and take several actions that will be incorporated into its license and address items to prevent recurrence of the violation(s) as well as actions to enhance management oversight, initial and continued training, and external communications. In consideration of these commitments, the NRC agreed to describe the violations as being neither escalated or nonescalated in the CO.

Idaho State University
Pocatello, ID

EA-18-153

On May 2, 2019, the NRC issued a CO to Idaho State University (ISU), memorializing commitments reached during an ADR mediation session held on March 27, 2019. The session was associated with an apparent violation involving ISU's failure to secure two portable gauges containing radioactive sources to prevent unauthorized access or removal. ISU agreed to take a number of actions in addition to steps already taken, including, but not limited to, (1) completing a 100-percent source inventory, (2) conducting an audit, using an independent third-party consultant(s), of NRC-licensed activities for all four NRC licenses (broad scope, production, research and test reactor, and special nuclear material), (3) completing a causal evaluation of the audit findings by the independent third-party consultant(s), and (4) submitting a corrective action plan based on the causal evaluation of the third-party consultant(s) and recommended corrective actions. In consideration of these commitments, the NRC issued the CO with no CP and will not pursue any further enforcement action.

APINDE Inc.
Huntington, WV

EA-19-090

On August 22, 2019, the NRC issued a CO suspending the license issued to APINDE Inc. (APINDE). The NRC determined that APINDE submitted inaccurate information on the qualifications of an individual proposed to be the radiation safety officer (RSO), which resulted in the issuance of a license to APINDE that was based on inaccurate information. Additionally, in a subsequent license amendment request to name a new RSO, APINDE submitted inaccurate information pertaining to that individual. The NRC also has additional information indicating that APINDE used its NRC license to procure a sealed radiography source and may have allowed unauthorized access to the source. Consequently, the NRC lacks the requisite reasonable assurance that APINDE can conduct the activities authorized under its license in compliance with the Commission's regulations and that the health and safety of the public, including APINDE's employees, will be protected. Therefore, APINDE's license will be suspended until the NRC has reasonable assurance that APINDE can provide complete and accurate information and can safely conduct licensed activities.

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Orders Issued to Fuel Cycle Facility Licensees

None.

Orders Issued to New Reactor Licensees

None.

Orders Issued to Decommissioning and Low-Level Waste Licensees

None.

Orders Issued to Individuals

Mr. Randy Bethea

IA-18-043

On February 13, 2019, the NRC issued a CO prohibiting Mr. Randy Bethea from involvement in NRC-licensed activities. Mr. Bethea deliberately caused his former employer, Mistras Group, Inc., to be in violation of 10 CFR 30.34(c) when he radiographed his own hand. Specifically, Mr. Bethea is prohibited from any involvement in NRC-licensed activities for a period of 1 year. In addition, for 1 year following the prohibition, he must notify the NRC within 20 days following acceptance of his first employment offer involving NRC-licensed activities. Finally, for a 3-year period from the date of this CO, Mr. Bethea will be prohibited from leading, supervising, or directing radiographic operations involving NRC-licensed activities.

Mr. Thomas Summers

IA-18-040

On September 12, 2019, the NRC issued a CO prohibiting Mr. Thomas Summers from involvement in NRC-licensed activities. Mr. Summers deliberately caused his former employer, Florida Power & Light Company (FPL), to be in violation of 10 CFR 50.7, "Employee protection," and 10 CFR 50.9, "Completeness and accuracy of information," when he willfully discriminated against a contract employee and submitted incomplete and inaccurate information to FPL to influence an NRC proceeding. Specifically, Mr. Summers is prohibited from any involvement in NRC-licensed activities for 5 years; thereafter, he must notify the NRC within 20 days following acceptance of his first employment offer involving NRC-licensed activities.

Mr. Thomas B. Saunders

IA-19-027

On October 21, 2019, the NRC issued a CO to Mr. Thomas B. Saunders, a former SNC contracts and procurement director, for a violation of 10 CFR 52.5 when he had an SNC official remove a mechanical planner from the site. Specifically, at the time he had the mechanical planner removed, Mr. Saunders was aware that the mechanical planner had engaged in protected activity by raising numerous safety-related welding and module fit-up concerns. The mechanical planner was later terminated from employment. During an ADR mediation session held on August 15, 2019, between Mr. Saunders and the NRC, Mr. Saunders agreed to multiple actions, as listed in the CO. In return, the NRC agreed not to pursue any further enforcement action.

Mr. Justin Roberts

IA-19-007

On September 5, 2019, the NRC issued a CO prohibiting Mr. Justin Roberts from involvement in NRC-licensed activities. Mr. Roberts, a former assembler employed by Enrichment Technology United States at the Louisiana Energy Services (LES) uranium enrichment facility in Eunice, NM, engaged in deliberate misconduct when he failed to properly control a component jointly classified by the NRC and the U.S. Department of Energy as Confidential—Restricted Data. This caused LES to be in violation of multiple requirements of 10 CFR Part 95, “Facility security clearance and safeguarding of national security information and restricted data.” Specifically, Mr. Roberts is prohibited from engaging in NRC-licensed activities that are conducted pursuant to an NRC-issued specific or general license for 1 year. Additionally, for 1 year following the prohibition period, if Mr. Roberts becomes involved with NRC-licensed activities, he must provide that employment information to the NRC. In the notification, Mr. Roberts shall include a statement of his commitment to comply with regulatory requirements and the basis for why he will now comply with these requirements.

Appendix D—Summary of Escalated Enforcement Actions against Individuals*

Orders

Appendix C to this report discusses orders issued to individuals.

Notices of Violation

Mr. Jesse Erdle

IA-17-043

On August 8, 2019, the U.S. Nuclear Regulatory Commission (NRC) issued a Severity Level (SL) III notice of violation (NOV) to Mr. Jesse Erdle, Chief Executive Officer and President of Dead Ringer, LLC, for a violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.5, “Deliberate misconduct.” Mr. Erdle deliberately failed to obtain the required NRC licenses and sealed-source and device evaluation to import and distribute products containing radioactive material. Specifically, between May 2017 and January 2018, Mr. Erdle acquired and imported gun sights containing tritium and distributed those gun sights through Web site sales without obtaining the required NRC licenses and sealed-source and device evaluations.

Mr. John Emore

IA-18-044

On January 3, 2019, the NRC issued an SL III NOV to Mr. John Emore for violations of 10 CFR 50.5(a)(1) and 10 CFR 55.53(j). Mr. Emore, a holder of an NRC-issued senior reactor operator (SRO) license, engaged in deliberate misconduct by performing activities authorized under his SRO license at Exelon Generation Company’s Peach Bottom Atomic Power Station while under the influence of an illegal substance.

Mr. David Monzon

IA-18-050

On March 8, 2019, the NRC issued an SL III NOV to Mr. David Monzon for a violation of 10 CFR 30.10, “Deliberate misconduct.” Mr. Monzon engaged in deliberate misconduct that caused Team Industrial Services, Inc. (TEAM), to be in violation of a term, condition, or limitation of an NRC-issued license. Specifically, Mr. Monzon, a lead radiographer for TEAM, deliberately unlocked a gamma exposure device on TEAM’s transport vehicle and observed a second radiographer carry the unlocked device away to relocate it to the location of use.

Mr. Timothy Murdock

IA-18-049

On March 8, 2019, the NRC issued an SL III NOV to Mr. Timothy Murdock for a violation of 10 CFR 30.10. Mr. Murdock engaged in deliberate misconduct that caused TEAM to be in violation of a term, condition, or limitation of an NRC-issued license. Specifically, Mr. Murdock, a radiographer for TEAM, deliberately relocated a gamma exposure device in an unlocked configuration from the licensee’s transportation vehicle to the location of use.

* Cases involving security-related issues are not included.

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Mr. Mark Rauckhorst

IA-18-045

On November 20, 2019, the NRC issued an SL III NO to Mr. Mark Rauckhorst for a violation of 10 CFR 52.4, "Deliberate misconduct," and 10 CFR 52.5, "Employee protection." Mr. Rauckhorst engaged in deliberate misconduct that caused Southern Nuclear Operating Company (SNC) to be in violation of 10 CFR 52.5. Specifically, Mr. Rauckhorst sent a letter to Westinghouse listing and directing the removal of 14 individuals from the site, including a contract employee to SNC. This contract employee was included on Mr. Rauckhorst's list and subsequently was terminated from employment, in part because he engaged in protected activity by raising concerns about design and code compliance issues in 2013 and 2014.

Mr. Chad Chaffain

IA-19-005

On July 18, 2019, the NRC issued an SL III NOV to Mr. Chad Chaffain for a violation of 10 CFR 50.5. Mr. Chaffain submitted information to Wolf Creek Generating Station that he knew to be incomplete and inaccurate. Specifically, Mr. Chaffain completed documentation in a control rod drive work order when he did not know the material condition of several control rod drive mechanisms.

Mr. Kristian Meyer

IA-19-002

On August 8, 2019, the NRC issued an SL III NOV to Mr. Kristian Meyer, Vice President of Dead Ringer, LLC, for a violation of 10 CFR 30.10. Mr. Meyer deliberately distributed products containing radioactive material without the required NRC licenses and sealed-source and device evaluation. Specifically, between May 2017 and January 2018, Mr. Meyer distributed approximately 850 gun sights containing tritium through Web site sales without obtaining the required NRC licenses and sealed-source and device evaluations.

Mr. Alex Block

IA-19-028

On August 12, 2019, the NRC issued an SL III NOV to Mr. Alex Block for a violation of 10 CFR 55.53(j). Mr. Block, a holder of an NRC-issued reactor operator license, was unfit for duty while on shift at the Cooper Nuclear Station. Specifically, after 2 hours on his shift, Mr. Block was randomly selected for a fitness-for-duty test and, based on breathalyzer test results, exceeded the maximum allowable levels for alcohol established by the facility licensee.

Mr. Patrick Ryan

IA-19-031

On September 12, 2019, the NRC issued an SL III NOV to Mr. Patrick Ryan for a violation of 10 CFR 55.53(j). Mr. Ryan, a holder of an NRC-issued SRO license, was unfit for duty while on shift at Nine Mile Point Nuclear Station. Specifically, Mr. Ryan reported for duty and was randomly selected for a fitness-for-duty test and, based on breathalyzer test results, exceeded the maximum allowable levels for alcohol established by his licensee.

Mr. Wesley McGill

IA-19-032

On November 22, 2019, the NRC issued an SL III NOV to Mr. Wesley McGill for a violation of 10 CFR 55.53, "Conditions of licenses." Mr. McGill, a holder of an NRC-issued reactor

operator license, willfully failed to follow a condition of his license while working at Arkansas Nuclear One Unit 2. Specifically, Mr. McGill did not comply with a condition of his license concerning prescribed medication.

Mr. Daniel J. Comisky

IA-19-036

On November 25, 2019, the NRC issued an SL IV NOV to Mr. Daniel J. Comisky for a violation of 10 CFR 55.53. Mr. Comisky, a holder of an NRC-issued SRO license, failed to meet a condition of his license and failed to maintain the license in active status while performing licensed duties at Braidwood Station. Specifically, Mr. Comisky did not perform the functions of an operator on a sufficient number of shifts to maintain his license in an active status. Subsequently, he performed the functions of an operator on 12 occasions in 2019, before completing the requirements to restore the active status of the license, and thereby failed to comply with a condition of his license.

**Appendix E—Summary of Escalated Enforcement Actions against
Nonlicensees
(Vendors, Contractors, and Certificate Holders)***

Notices of Violation Issued to Nonlicensees

Framatome Inc.
Lynchburg, VA

EA-18-119

On September 12, 2019, the U.S. Nuclear Regulatory Commission (NRC) issued a Severity Level III notice of violation to Framatome (a Florida Power & Light Company contractor) for a violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.7, “Employee protection.” Framatome willfully discriminated against a Framatome contract employee for engaging in a protected activity in spring 2017. Specifically, a Framatome contract employee who raised safety concerns during the St. Lucie Plant refueling outage had a scheduled work assignment to Turkey Point Nuclear Generating Station cancelled by Framatome managers shortly after submitting a condition report at the St. Lucie Plant. The NRC determined that the actions of Framatome management were, in part, based on the contractor’s engagement in a protected activity.

* Cases involving security-related issues are not included.