



ENFORCEMENT PROGRAM ANNUAL REPORT

Calendar Year 2022

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

Executive Summary

The U.S. Nuclear Regulatory Commission (NRC) continued to effectively carry out the agency's Enforcement Policy and Program in calendar year (CY) 2022. NRC regional and headquarters offices maintained their focus on appropriate and consistent enforcement of the agency's regulations.

In CY 2022, the NRC issued 73 escalated enforcement actions under traditional enforcement, the Reactor Oversight Process, and the Construction Reactor Oversight Process. Of these actions, 16 involved notices of violation (NOVs) with civil penalties (CPs), 2 confirmatory orders (COs) with a CP, and 1 order imposing a CP (18 proposed, totaling \$283,100, and 1 imposed for \$25,600), 46 were escalated NOVs without a proposed CP, and 8 orders without CPs.

The total number of escalated enforcement actions in CY 2022 across all regulatory oversight programs increased from the total number (60) reported in CY 2021, and the total number remains higher than the 5-year average (CY 2018–CY 2022). Operating reactors and nuclear materials users continue to account for most escalated enforcement actions.

Operating and construction reactors, fuel cycle facilities and nuclear materials users also accounted for all nonescalated enforcement actions—that is, NOVs and noncited violations associated with green significance determination process findings under the Reactor Oversight Process, and Severity Level (SL) IV NOVs and noncited violations under traditional enforcement, respectively. The total number of nonescalated enforcement actions in CY 2022 for all categories of licensees listed above increased from the previous year.

Noteworthy Program Accomplishments

The NRC Office of Enforcement issued two changes—one substantial change (Change Notice 10) and one minor change (Change Notice 11) to Revision 11 of the Enforcement Manual (the manual). Revisions to the manual include guidance on assigning tracking numbers for notice of enforcement discretion actions, updates to the disputed violation process for nonescalated enforcement actions, revision of the guidance for processing a CP invoice, and guidance on backfitting concerns and appeals. Additionally, EGM-22-001, “Enforcement Discretion for Noncompliance of Tornado Hazards Protection Requirements at Independent Spent Fuel Storage Installations,” dated April 15, 2022, was added in appendix A to the manual. These revisions were necessary to reflect current enforcement practices and clarify guidance based on stakeholder feedback. The NRC staff typically revises the manual annually.

To increase the overall knowledge of program personnel, the Office of Enforcement continued developing and posting a series of short videos in Microsoft Teams to provide detailed initial training and refresher training for enforcement specialists. These videos are intended for internal staff use to increase the overall knowledge level and proficiency of program personnel. The series are structured to serve as either overall training, if the videos are used in sequence, or just-in-time training, if individual videos are selected.

Significant Cases

In CY 2022, the NRC processed three significant cases. A complete write-up can be found in the enclosed appendices:

- (1) On September 22, 2022, the NRC issued an NOV and proposed imposition of a CP in the amount of \$96,000 to the Air Force Medical Readiness Agency, for three SL III problems associated with 10 related violations.
- (2) On August 1, 2022, the NRC issued a CO to the National Institute of Standards and Technology, Center for Neutron Research, confirming commitments reached as part of an alternative dispute resolution (ADR) mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of a special inspection in which the NRC identified one apparent violation of 10 CFR 50.59, "Changes, tests and experiments," and six apparent violations of the licensee's technical specification requirements. The apparent violations involved the exceedance of reactor fuel cladding temperature, which resulted in a damaged fuel element.
- (3) On May 19, 2022, the NRC issued a CO to Avera McKennan, confirming commitments reached as part of an ADR mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Avera McKennan in which the NRC identified two apparent violations.

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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 NRC 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).

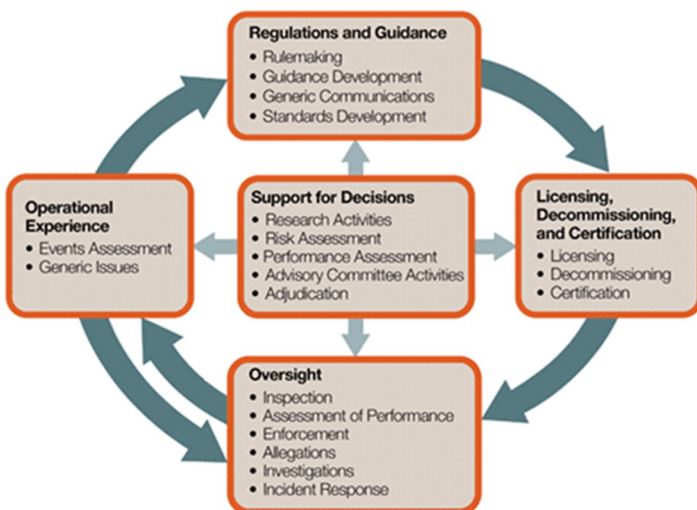


Figure 1 How the NRC regulates

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 NRC 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 enforcement authority through the Administrative Dispute Resolution Act of 1996.

The NRC Office of Enforcement (OE) develops policies and programs for the enforcement of NRC requirements. In addition, OE oversees the agency’s enforcement activities, giving programmatic and implementation guidance to NRC regional and headquarters offices that

conduct or participate in enforcement activities, to ensure that regional and program offices implement the NRC's Enforcement Program consistently.

The NRC Enforcement Policy establishes the general principles governing the NRC's Enforcement Program and specifies a process for implementing its enforcement authority in response to violations of agency 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 (vendors, contractors, and certificate holders), 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 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. In traditional enforcement, violations are normally assigned severity levels (SLs), which range from SL IV for violations of more than minor concern to SL I for the most significant violations.

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, the NRC staff does not normally assign SLs to violations but instead assigns them a "significance" by assessing their associated inspection findings. The NRC determines the risk significance of inspection findings using the significance determination process (SDP), which designates findings as green, white, yellow, or red (in order of increasing risk significance). Findings under the ROP may also include licensee failures to meet self-imposed standards; such findings may or may not involve violations of regulatory requirements. Violations and findings assessed as white, yellow, or red are considered escalated enforcement actions.

Although the ROP applies to most violations, 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 have actual safety or security consequences, affect the agency's ability 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 violations that have 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 actions 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's Enforcement website, available at <http://www.nrc.gov/about-nrc/regulatory/enforcement.html>, presents a variety of information, including the policy and the Enforcement Manual. It also contains information on escalated enforcement actions that the NRC has issued to reactor and materials licensees, nonlicensees, and individuals. In keeping with agency practices and policies, the NRC's public website does not provide details on 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
- 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) 2022, the NRC issued 73 escalated enforcement actions to licensees, nonlicensees, and individuals. Figure 2 shows the distribution of these actions by category.

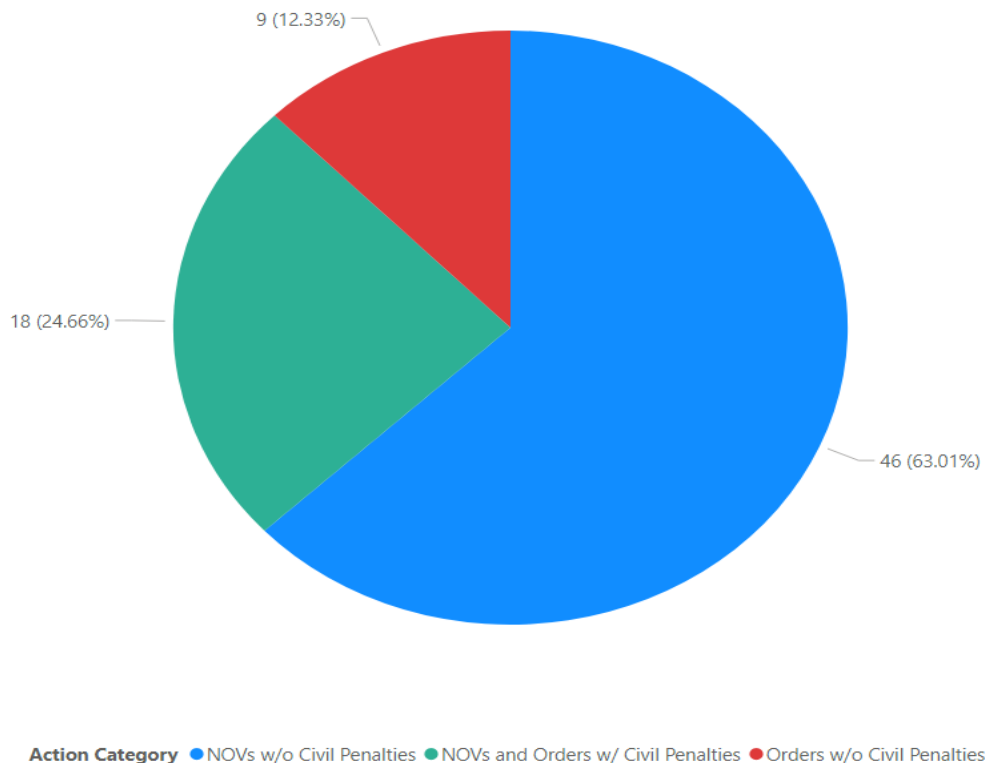


Figure 2 Escalated enforcement by type of action (CY 2022)

Of the 73 escalated enforcement actions issued in CY 2022, 46 (or approximately 63 percent) were NOVs without CPs. This is consistent with the average proportion of NOVs without CPs issued from CY 2018 through CY 2022 (approximately 64 percent). In general, the NRC considers a large percentage of NOVs without CPs to be a positive outcome because it demonstrates that most licensees identify and correct violations themselves—a goal of the Enforcement Program.

NOVs and orders with CPs comprised approximately 25 percent of the escalated enforcement actions. They included 2 COs with CPs, 1 order imposing a CP, and 16 NOVs with associated CPs.

Figure 3 shows the distribution of escalated enforcement actions issued in CY 2022 by business line. The number of escalated enforcement actions for each business line may also include actions issued to individuals.

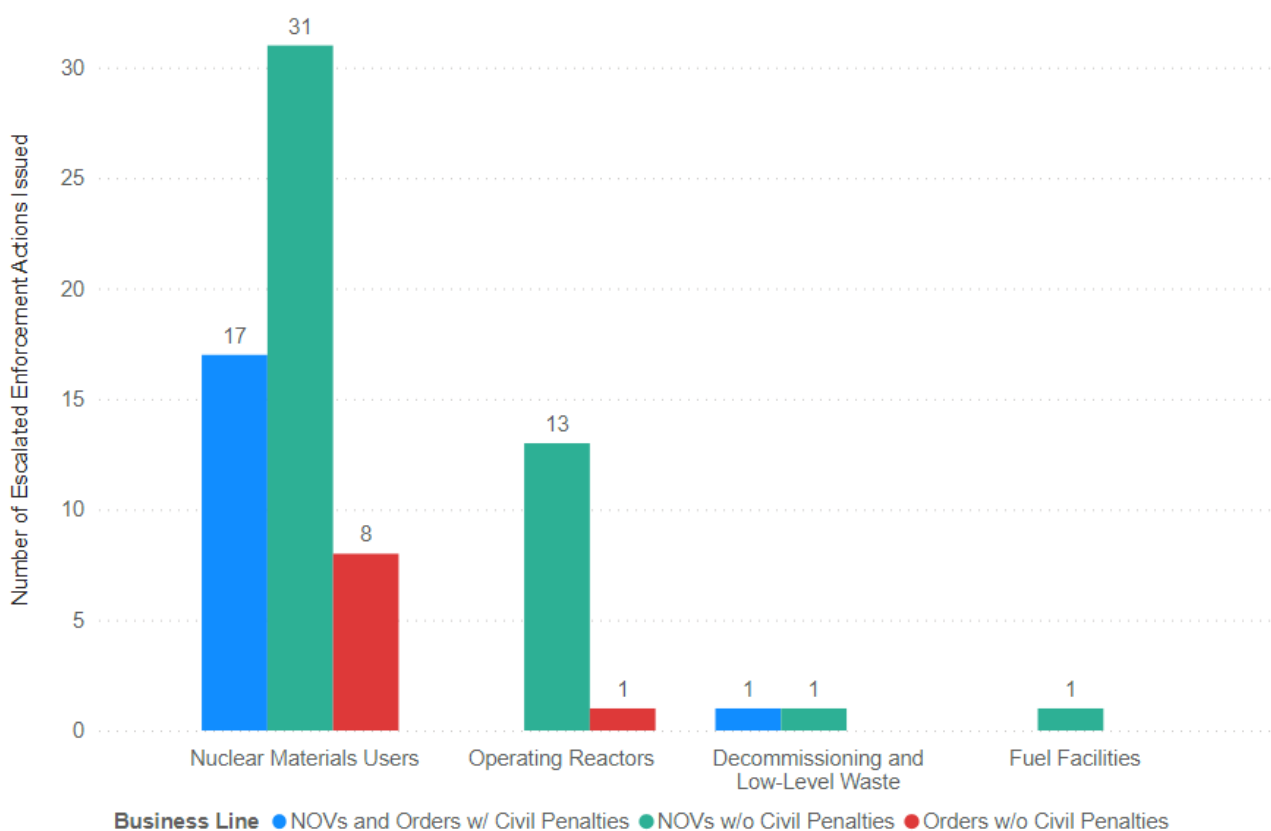


Figure 3 Escalated enforcement by business line (CY 2022)

As shown in figure 3, nuclear materials users received the highest number of escalated enforcement actions in CY 2022 (a total of 56), accounting for 77 percent of all actions issued. This was followed by operating reactors, which received 14 actions (or 19 percent of all actions). Fuel facilities and decommissioning and low-level waste accounted for three escalated enforcement actions in CY 2022 (or 4 percent of all actions).

Table 1 breaks down the escalated enforcement actions issued in CY 2022 by region and program office. Historically, Region II has had the fewest escalated enforcement actions

because it does not process nuclear materials user cases, which usually make up the highest percentage of escalated enforcement actions (77 percent in CY 2022). Additionally, for CY 2022, Region I had fewer enforcement actions than Regions III and IV. Overall, the number of escalated enforcement actions by the program offices was lower in CY 2022 than in past years. This may be attributed to the fact that in CY 2022, unlike in previous years, three program offices issued only one escalated enforcement action each. The data in Table 1 has not been normalized for either type or number of licensees in each region.

Table 1 Escalated Enforcement Actions by Region and Program Office (CY 2022)

Office/Region	NOVs and Orders w/ Civil Penalties	NOVs w/o Civil Penalties	Orders w/o Civil Penalties	Total
REGION IV	6	16	3	25
REGION III	7	14	2	23
REGION I	5	10	2	17
REGION II	0	5	0	5
NMSS	0	0	1	1
OIP	0	1	0	1
NRR	0	0	1	1
Total	18	46	9	73

Key to Program Offices

- NMSS—Office of Nuclear Material Safety and Safeguards
- OIP—Office of International Programs
- NRR—Office of Nuclear Reactor Regulation

1. Escalated Enforcement Trends

As previously noted, the NRC issued 73 escalated enforcement actions in CY 2022. This was higher than both the number issued in CY 2021 (60) and the annual average over the past 5 years (60). Table 2 breaks down the total number of escalated enforcement actions the NRC has issued over the past 5 years by type.

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Table 2 Escalated Enforcement Action Trends (CY 2018–CY 2022)

Action	2018	2019	2020	2021	2022	5-year average
NOV	26	32	28	35	35	31
Problem	5	3	10	5	11	7
NOV w/ CP	6	6	5	13	7	7
Problem w/ CP	4	3	9	6	9	6
Confirmatory Order	2	5	5	0	7	4
Confirmatory Order w/CP	0	0	0	0	2	1
Order Imposing CP	1	3	2	1	1	1
Prohibition Order	0	3	2	0	1	1
Suspension Order	0	1	2	0	0	1
Order w/ CP	1	1	0	0	0	1
Order Modifying License	0	0	0	0	0	0
Total	45	57	63	60	73	60

Note: The staff may have adjusted information reported for previous CYs in this year's annual report to reflect more accurate data than those available when previous annual reports were published.

Table 2 and figure 4 show that the number of NOVs issued without CPs was slightly higher in CY 2022 (46) than in CY 2021 (40). Additionally, the number of NOVs and orders with CPs issued in CY 2022 (18) is higher than the 5-year average (16).

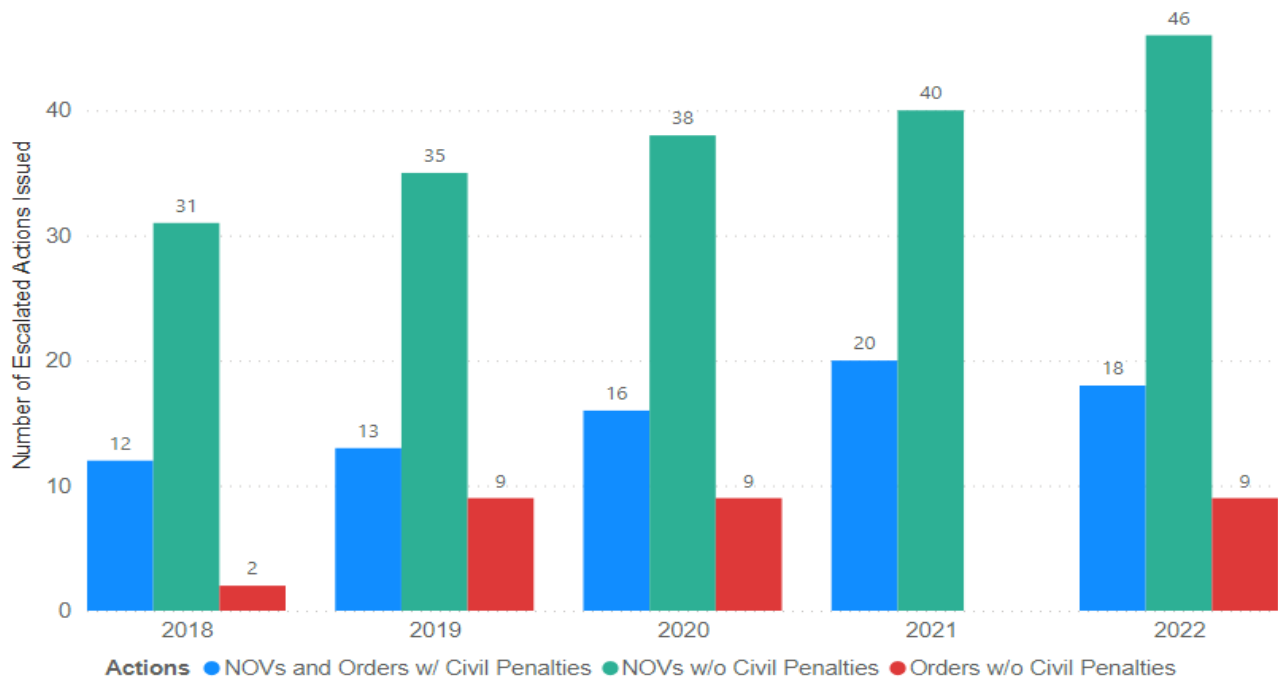


Figure 4 Escalated enforcement actions issued (CY 2018–CY 2022)

Figure 5 shows escalated enforcement trends from CY 2018 through CY 2022 by business line. As shown in the figure, the number of enforcement actions for nuclear materials users remained generally consistent from CY 2018 until CY 2022, when it rose significantly. However, in CY 2022, the number of enforcement actions for operating reactors dropped significantly from CY 2021, although it remained in line with the CY 2018 and CY 2019 enforcement actions.

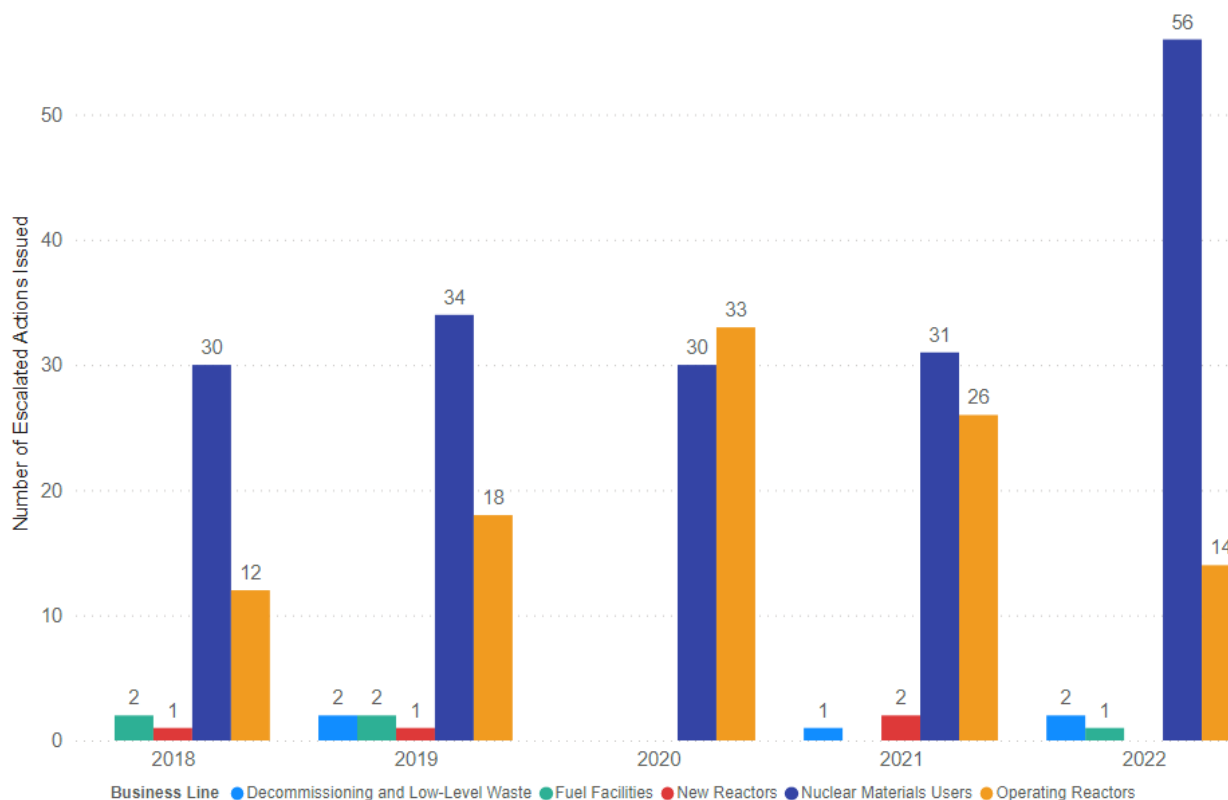


Figure 5 Escalated enforcement by business line (CY 2018–CY 2022)

Table 3 shows that the number of escalated enforcement actions issued to licensees, nonlicensees, and individuals increased from CY 2021 to CY 2022. The table also shows that operating reactors, hospitals, individual actors (i.e., licensed and nonlicensed individuals at reactor sites and individuals at materials licensees), and gauge users account for over half of the escalated enforcement actions in CY 2022. This is not surprising, since figure 5 also shows that the nuclear materials users and operating reactors business lines account for 96 percent of all escalated enforcement actions. In CY 2022, two decommissioning and low-level waste and one fuel facility business line escalated enforcement actions were included.

**Table 3 Escalated Enforcement Actions by Type of Licensee, Nonlicensee, or Individual
(CY 2018–CY 2022)**

Type of Licensee	2018	2019	2020	2021	2022	Total
Operating Reactor	8	8	16	15	8	55
Gauge	7	6	9	10	12	44
Radiographer	7	11	2	3	8	31
Individual Actor—Reactors	1	7	9	10	2	29
Hospital	5	1	7	4	11	28
Other	4	1	1	2	11	19
Materials Distributor	1	5	2	7	3	18
Individual Actor—Materials	1	5	2	0	8	16
Licensed Operator	2	2	6	0	3	13
Academic	3	1	0	5	1	10
Import/Export	1	3	5	0	1	10
Research and Test Reactor	1	0	2	1	1	5
Fuel Facility	2	1	0	0	1	4
Pharmacy	1	0	2	0	0	3
New Construction—Reactor	0	1	0	2	0	3
Nonoperating Reactor	0	2	0	0	1	3
Decommissioned Reactor/Site	0	0	0	1	1	2
Individual Actor—Fuel Facility	0	1	0	0	0	1
Individual Actor—Vendor	1	0	0	0	0	1
Mill	0	1	0	0	0	1
Vendor—Operating Reactors	0	1	0	0	0	1
Waste Disposal	0	0	0	0	1	1
Total	45	57	63	60	73	298

2. Civil Penalty Actions

In CY 2022, the NRC processed 19 enforcement actions that included CPs (18 proposed, 1 imposed), totaling \$283,100 in proposed CPs and \$25,600 in imposed CPs. Two of these enforcement actions included multiple proposed CPs. Of these 19 enforcement actions, 18 were associated with nuclear materials users and 1 involved a decommissioning and low-level waste licensee.

Of the 19 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 to act with integrity and communicate with candor; therefore, the NRC may consider a violation involving willfulness to be more egregious than the underlying violation taken alone, and the NRC may increase the SL accordingly.

Table 4 compares CP assessments proposed, imposed, and paid for the most recent 5 CYs and shows the 5-year average. When reviewing this table, note that an enforcement action may

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include more than one CP or more than one violation. In addition, a CP may be proposed one year and paid or imposed in a following year. In some cases, the NRC has approved a payment plan that lets a licensee pay the CP in regular installments, sometimes over several years. Finally, the amount of a proposed CP may be reduced, or even eliminated, if the NRC exercises enforcement discretion through the normal enforcement process, or as part of a settlement agreement reached through an ADR mediation session.

Table 4 CP Information: Number of Escalated Enforcement Actions and Total CP Amounts (CY 2018–CY 2022)

	2018	2019	2020	2021	2022	Average
Proposed CPs	11 \$459,850	9 \$630,750	14 \$1,586,413	19 \$664,750	18 \$283,100	14 \$724,973
Imposed CPs	1 \$22,400	3 \$101,500	2 \$1,213,884	1 \$75,000	1 \$25,600	2 \$287,677
CPs Paid	12 \$489,850	8 \$534,625	10 \$371,971	13 \$560,000	11 \$234,400	11 \$438,169

Note: Imposed CP amounts reflect CPs issued through orders that may include (1) CPs imposed after a licensee does not pay a proposed CP and (2) CPs included in a CO as part of ADR mediation. 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.

The total proposed CP amount issued in CY 2022 was much lower than the amount issued in CY 2021 and substantially lower than the 5-year average. This was partly because, in CY 2018 through CY 2021, operating reactors accounted for a substantial amount of the proposed CPs. In CY 2022, no operating reactors accounted for any of the CPs issued. The NRC also imposed one CP in the amount of \$25,600 in CY 2022. The total dollar amount of CPs paid (both proposed and imposed) was significantly lower in CY 2022 than in CY 2021. This could be due to the use of payment plans or because licensees had not yet paid their CPs by the end of CY 2022.

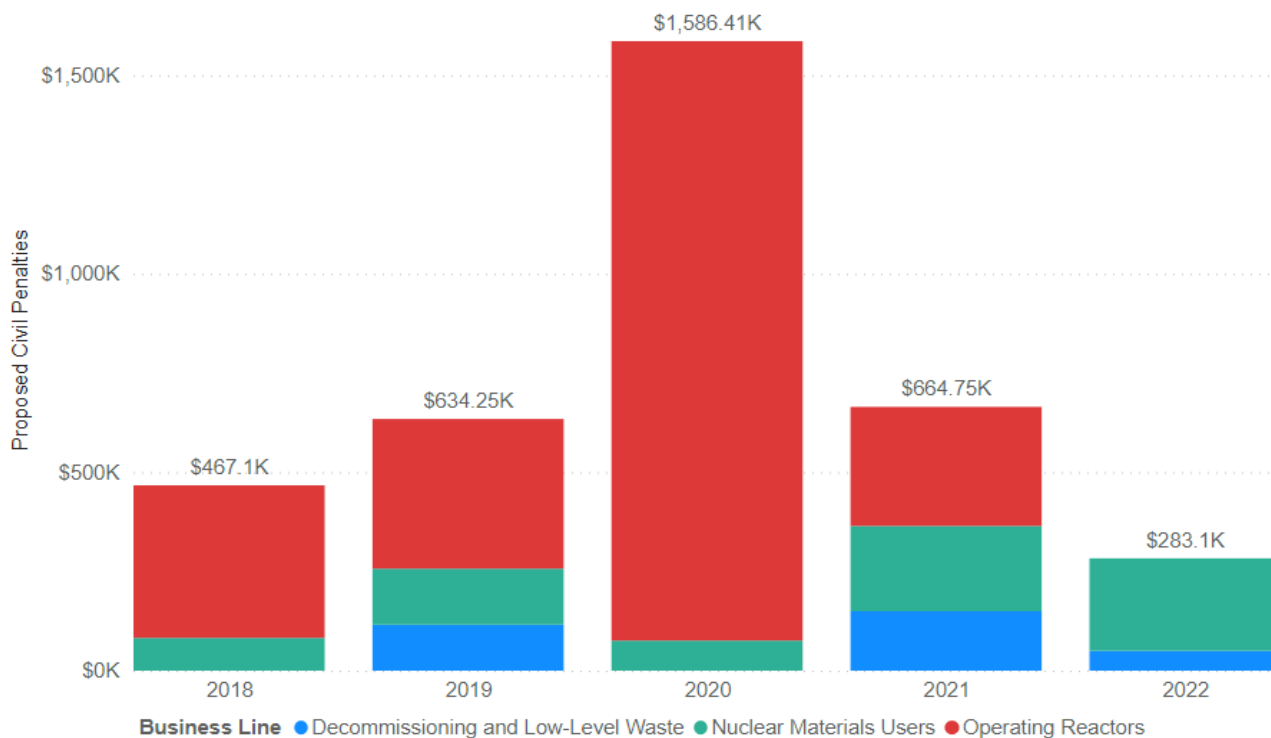


Figure 6 Proposed CPs by business line (CY 2018–CY 2022)

Figure 6 shows the total dollar amount of proposed CPs from CY 2018 through CY 2022 by business line. Appendix A to this report briefly describes each of the enforcement actions for which the NRC assessed a CP in CY 2022. Although the Appendix A does not describe NOVs with CPs that involved security-related issues, the data in this report do include such NOVs.

3. Notices of Violation without Civil Penalties

In accordance with Section 2.3.4, “Civil Penalty,” of the policy, a CP may not be warranted for escalated enforcement actions evaluated under traditional enforcement if the following criteria are met:

- The identified violation was 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.
- 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 have had actual consequences. In addition, the NRC may use enforcement discretion to refrain from proposing a CP, when appropriate, regardless of the normal CP assessment process described above.

In CY 2022, the NRC issued a total of 46 escalated NOVs without CPs: 9 to operating reactor licensees, 26 to nuclear materials user licensees, 1 to fuel facility licensees, and 10 to individuals (licensed or nonlicensed). Of the nine NOVs issued to operating reactor licensees, seven were associated with white SDP findings under the ROP, and two were SL III violations. There were no violations with yellow SDP findings, and, for the 10th consecutive year, the NRC issued no red SDP findings with or without associated violations. Of the 26 NOVs issued to nuclear materials user licensees, 20 were associated with either radiographers or gauge users, and the remaining NOVs were issued to hospitals, pharmacies, Master Materials Licensees, or import/export licensees.

Figure 7 shows the number of escalated NOVs associated with SDP findings at operating reactors over the past 10 years. This number has declined steadily since CY 2013; however, CY 2022 had a slight increase from the previous 4 years. The NRC has not issued any red findings since CY 2012 or any yellow findings since CY 2015. Appendix B to this report summarizes each of the NOVs issued without a CP, as well as the NOVs associated with SDP findings. Appendix B does not describe NOVs without CPs that involved security-related issues; however, the data in this report do include such NOVs.

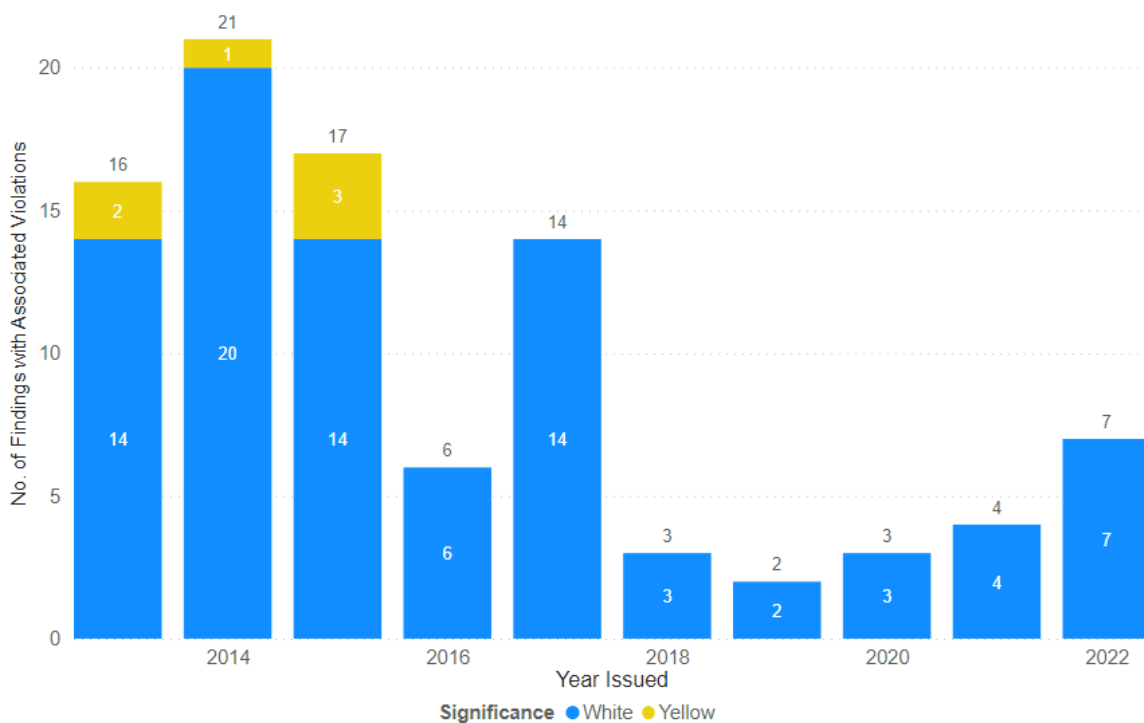


Figure 7 ROP SDP findings associated with escalated enforcement at operating reactors (CY 2013–CY 2022)

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 reactor licensees participating in the ROP; and orders that impose sanctions. The timeliness of escalated enforcement actions associated with investigations (cases involving potential willfulness and discrimination) to operating reactor and materials user licensees is an output measure (external goal) reported

annually to Congress as part of the NRC's Congressional Budget Justification (NUREG-1100). To stress the importance of issuing timely escalated enforcement actions, the agency has set goals that (1) 100 percent of cases not based on investigations by the Office of Investigations (OI) are to be completed within an NRC processing time not to exceed 160 days, and (2) 100 percent of OI-related cases are to be completed within an NRC processing time not to exceed 330 days.

The NRC processing time starts on the latest of (1) the inspection exit date for non-OI-related cases, (2) the date of the memorandum forwarding the OI report to the staff for OI-related cases, (3) for cases referred to the U.S. Department of Justice (DOJ) for potential criminal prosecution, the date the NRC is informed that the DOJ has declined to prosecute, and (4) the date of the U.S. Department of Labor decision that is the basis for the action. For the purposes of timeliness reporting, the NRC may group multiple related escalated enforcement actions and treat them as a single case. For example, the NRC may disposition a violation and take escalated enforcement action against a licensee and one or more individuals. Although multiple enforcement actions maybe involved, the NRC will treat these separate actions as one case in its timeliness reporting, to avoid biasing timeliness data either positively or negatively.

In CY 2022, the NRC staff issued all 48 non-OI-related enforcement actions within 160 processing days and all 25 OI-related enforcement actions within 330 processing days. It is likely that a streamlined process implemented in CY 2016 contributed significantly to the staff's ability to meet its timeliness goals. This process (the modified enforcement panel process) is used for traditional enforcement cases and enhances efficiency in processing enforcement cases that do not require additional interaction, clarifications, or extended communications. OE will continue to work closely with regional and program office staff towards early identification of enforcement cases that are likely to involve complex technical or legal questions or other case-specific challenges, to resolve issues that may lead to additional processing time.

Figure 8 shows that, on average, the NRC took 112 processing days to issue escalated enforcement actions in non-OI-related cases. This is well below the congressional goal of 160 processing days, which is the goal for any individual case. In CY 2020, OE developed and implemented a new communication strategy that involves senior management early engagement when it appears that an individual enforcement case may exceed a congressional metric. This new process continued to help the staff meet its timeliness goals for CY 2022.

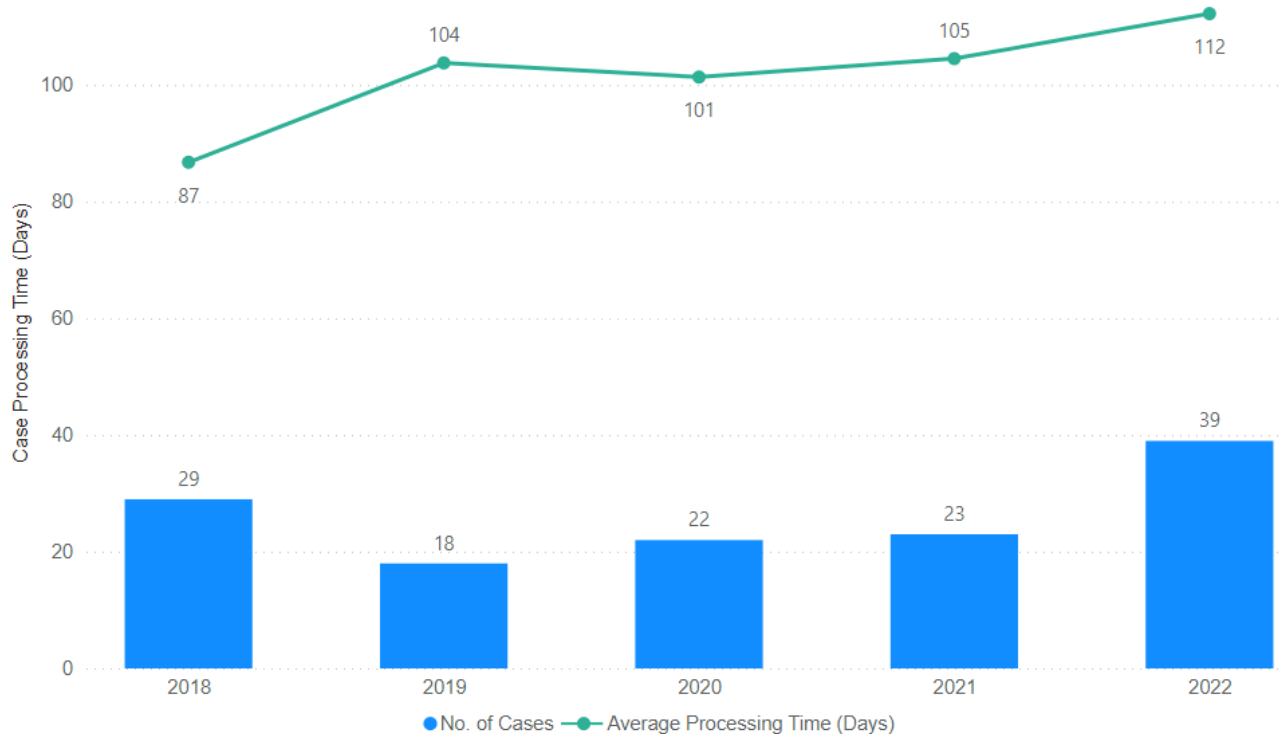


Figure 8 Non-OI-related case timeliness (CY 2018–CY 2022)

Figure 9 shows the trend in case processing times for OI-related escalated enforcement actions over the past 5 CYs. In CY 2022, on average, it took the NRC 278 days to issue an OI-related enforcement action. This is less than the congressional goal of 330 processing days and is higher than the 5-year average. The shortest and longest processing times for OI-related cases in CY 2022 were 96 days and 330 days, respectively.

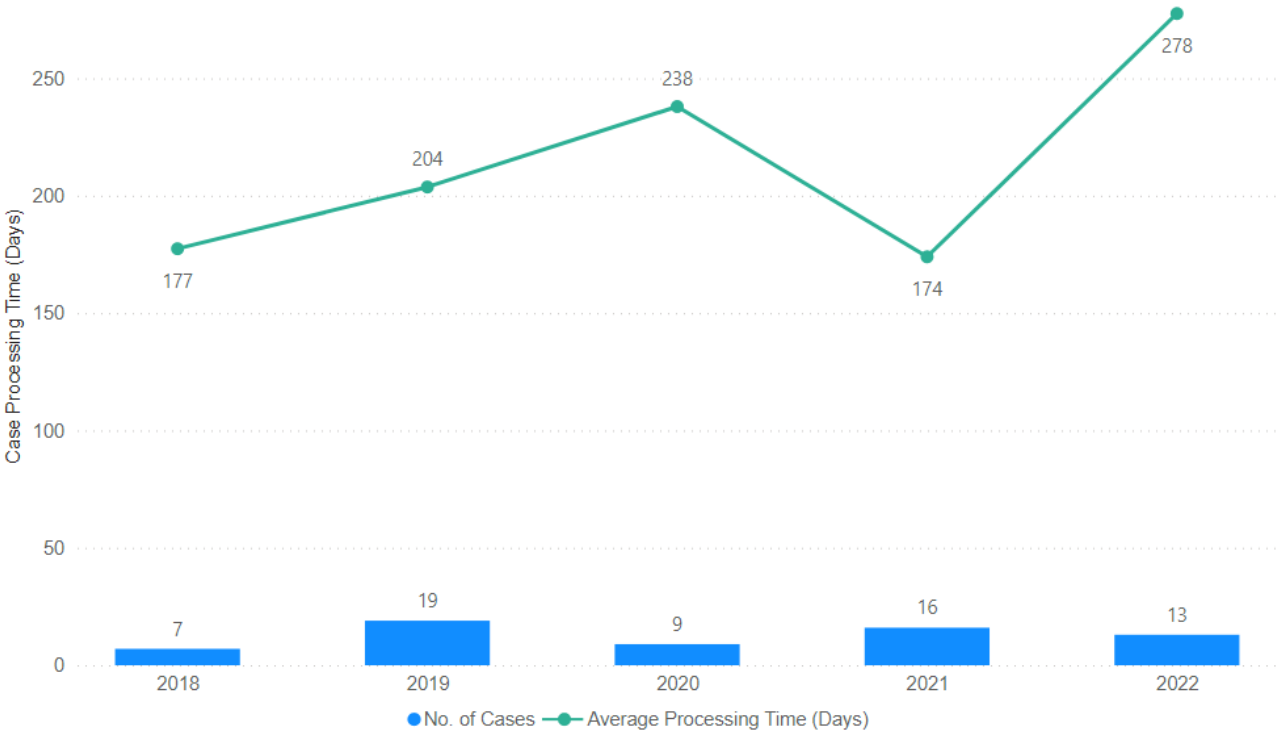


Figure 9 OI-related case timeliness (CY 2018–CY 2022)

Note: The numbers of non-OI-related (39) and OI-related (13) escalated enforcement cases do not add up to the total number of escalated enforcement actions (73) because some cases involved the issuance of multiple enforcement actions to licensees and individuals.

5. Alternative Dispute Resolution

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 the courts. The NRC’s enforcement ADR program employs mediation by a neutral third party with no decision-making authority. Participation in the process is voluntary, and the content of the final, mutual agreement is normally formalized in a CO.

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) in escalated nonwillful, traditional enforcement cases with the potential for CPs.

Under OE’s enforcement ADR process, the NRC may offer mediation at any of 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) upon the imposition of a CP and before a hearing request. For certain escalated enforcement actions, ADR allows the NRC to institute broader or more comprehensive corrective actions than those typically achieved through the normal enforcement process (i.e., restoring compliance).

As figure 10 shows, from CY 2018 through CY 2021, the NRC opened an average of five new cases per year under the enforcement ADR program. In CY 2022, this number rose: the NRC participated in nine ADR mediation sessions that resulted in orders confirming the terms of the parties' agreement.

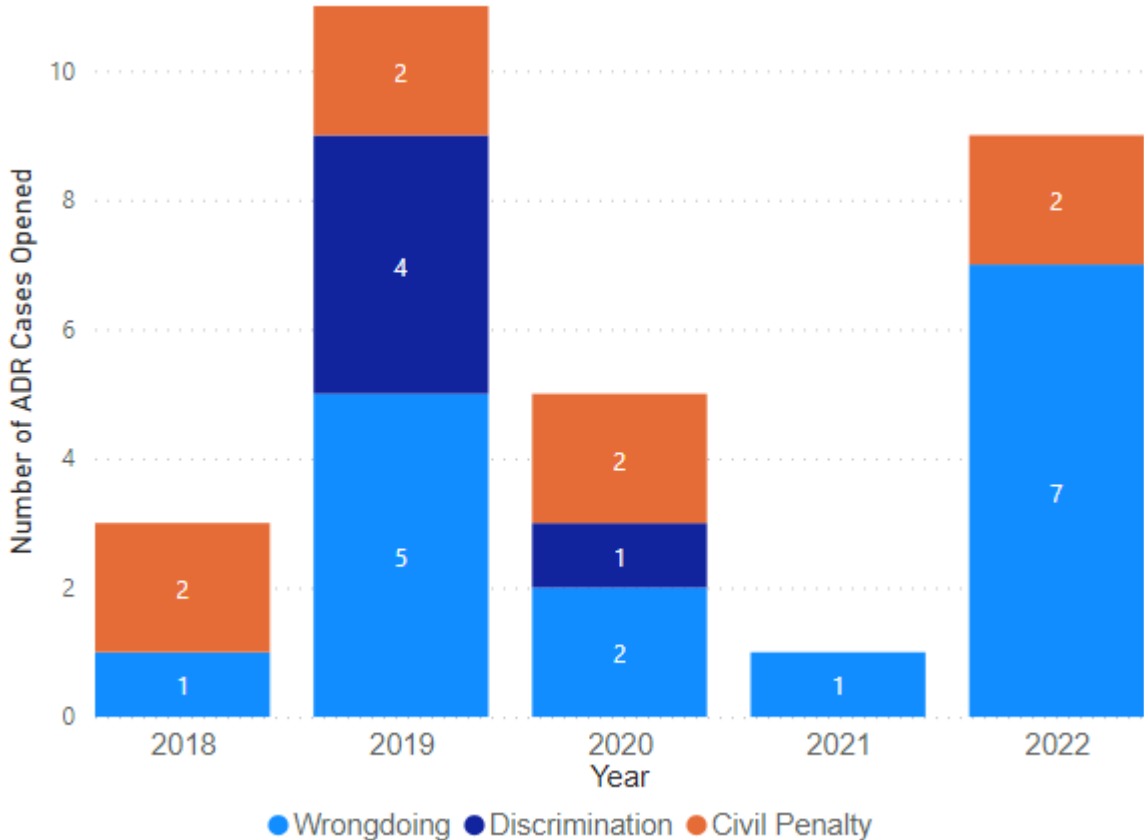


Figure 10 ADR cases (CY 2018–CY 2022)

In CY 2022, the staff continued to focus on increasing the ADR program's timeliness, transparency, and overall effectiveness. Efforts to enhance the ADR program included the use of lessons learned from previous years' mediation sessions, which have been conducted both virtually and in person during the post-pandemic period. In particular, the ADR program incorporated a variety of communication tools to enhance its effectiveness, using both traditional (email, telephone) and virtual platforms (Zoom, Teams, etc.). In CY 2022, eight ADR mediation sessions were held using virtual platforms, and one session was conducted in person.

As figure 11 indicates, the number of cases opened increased significantly compared to CY 2021; however, the average time to process an ADR case (from the date of the mediation offer to the issuance of a CO) decreased in CY 2022.

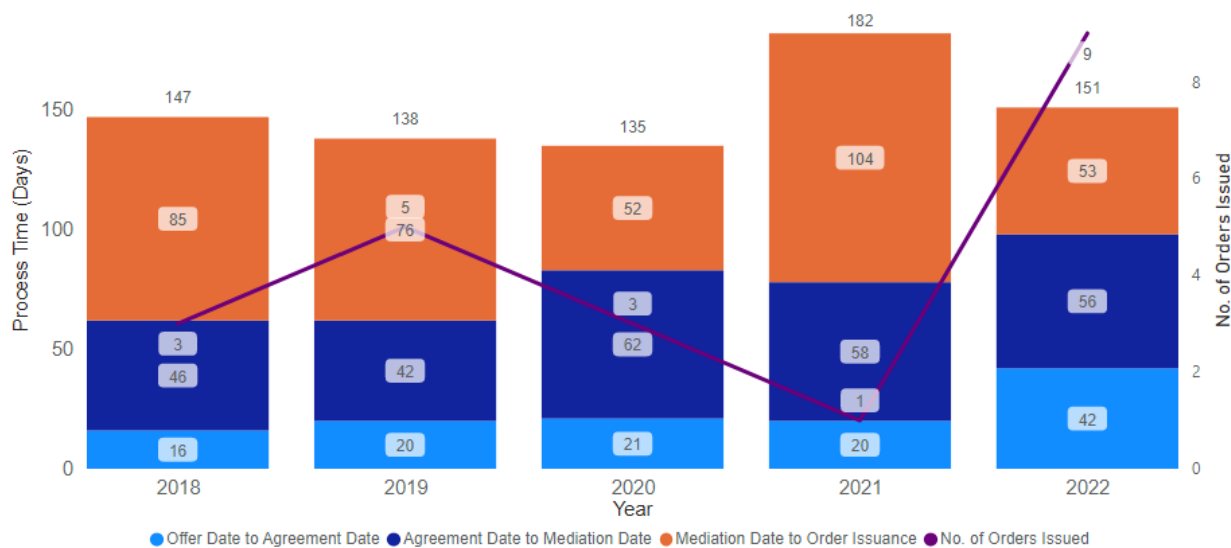


Figure 11 Calendar days from ADR offer to issuance of CO (CY 2018–CY 2022)

C. Nonescalated Enforcement

Nonescalated enforcement actions include SL IV NOVs and NCVs under traditional enforcement and NOVs and NCVs associated with green SDP findings under the ROP. The Reactor Program System captures information on operating reactors, and the Web-Based Licensing System records nonescalated actions for nuclear materials users.

Figure 12 shows the number of nonescalated enforcement actions at operating reactor sites by region. As noted in previous annual reports, there is an overall downward trend in the number of operating reactor SL IV NOVs and NCVs issued under traditional enforcement and the number of NOVs and NCVs associated with green SDP findings; however, in CY 2022, the data show an upward trend. The NRC’s response to the Coronavirus Disease 2019 (COVID-19) pandemic included reduced in-person presence at licensee facilities and allowing inspection requirements to be implemented with minimum samples; resumption of pre-pandemic in-person presence and inspection sample sizes may have contributed to the increase in findings in CY 2022. This rise matches those in the number of escalated enforcement actions observed across all regulatory oversight programs (i.e., licensee business lines), as well as the trends reflected in figure 12.

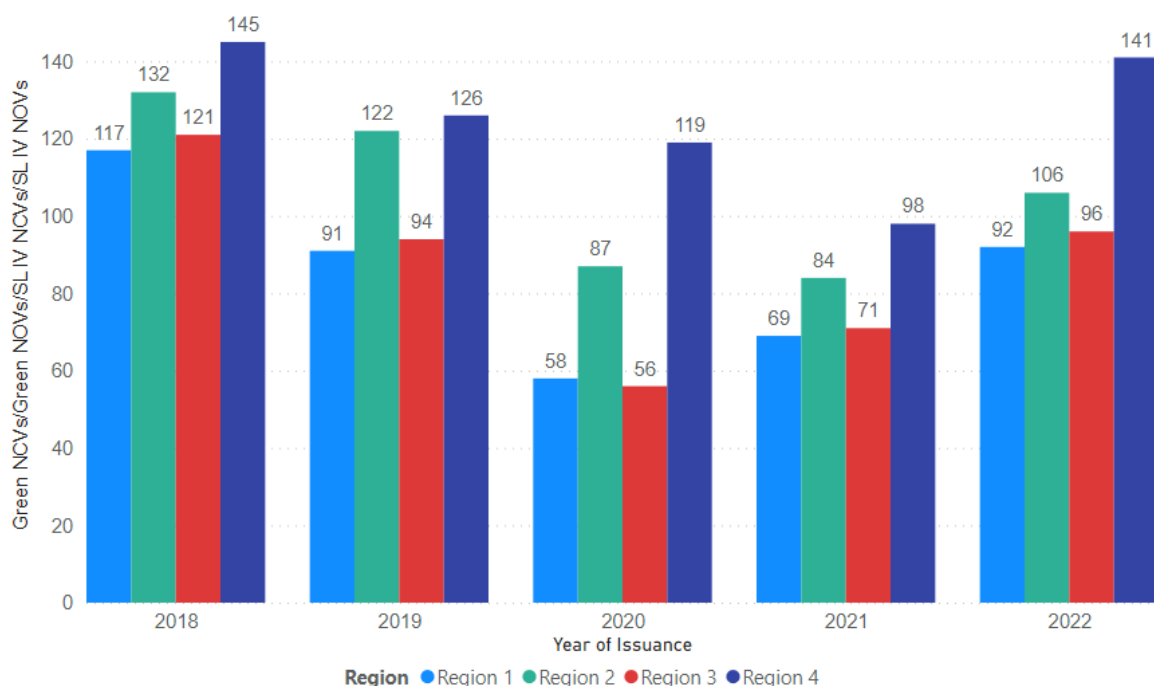


Figure 12 Nonescalated enforcement actions for operating reactors (CY 2018–CY 2022)

Figure 13 shows the trend in the number of nonescalated enforcement actions for each region over the past 5 years. This information, obtained from the Reactor Program System, was normalized to show the average number of nonescalated actions per operating reactor in each region. Figure 13 shows that since CY 2018 through CY 2021, this number has steadily become more consistent across the four regions; in particular, Regions I, II, and III are all averaging around three nonescalated enforcement actions per operating reactor. Although the average for Region IV is higher, it also exhibited an overall downward trend. However, in CY 2022 the averages rose across the four regions. As noted above, the NRC’s response to the COVID-19 pandemic included reduced in-person presence at licensee facilities and allowing inspection requirements to be implemented with minimum samples; resumption of pre-pandemic in-person presence and inspection sample sizes may have contributed to the increase in findings in CY 2022.

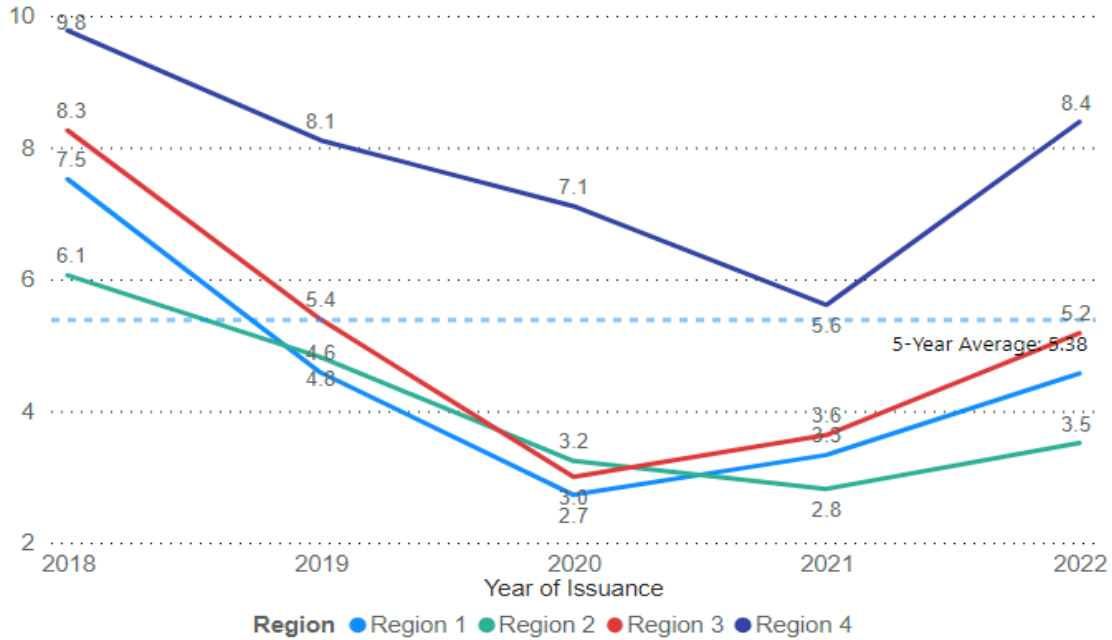


Figure 13 Nonescalated enforcement actions per operating reactor, by region (CY 2018–CY 2022)

Note: This figure reflects information available from the Reactor Program System as of February 22, 2023.

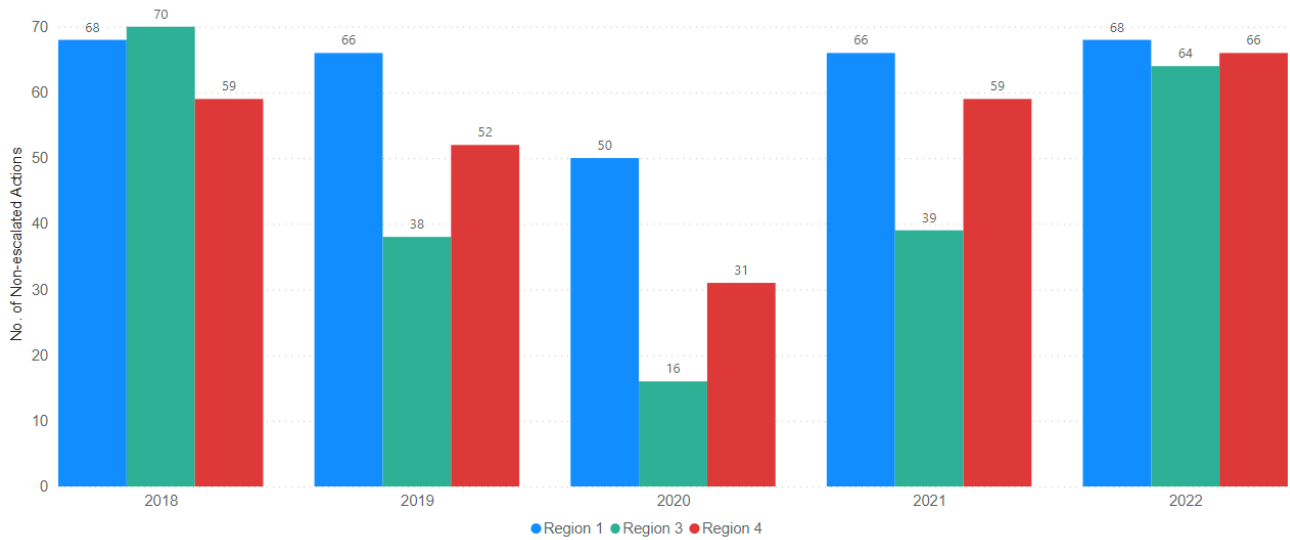


Figure 14 Nonescalated enforcement actions for materials users (CY 2018–CY 2022)

Note: This figure reflects information available from the Web-Based Licensing System as of February 28, 2023.

Figure 14 shows the 5-year trend in the number of nonescalated enforcement actions for nuclear materials users for each region. As noted in previous annual reports, the number of SL IV NOVs and NCVs issued to nuclear materials users has tended to remain steady, except for a noticeable decline in CY 2020. The NRC's response to the COVID-19 pandemic included reduced in-person presence at licensee facilities and allowing inspection requirements to be implemented with minimum samples; resumption of pre-pandemic in-person presence and inspection sample sizes may have contributed to the increase in findings in CY 2022.

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II. Enforcement Case Work

A. Significant Enforcement Actions

In calendar year (CY) 2022, the U.S. Nuclear Regulatory Commission (NRC) participated in several noteworthy enforcement actions, as summarized below. A complete writeup can be found on the Issued Significant Enforcement Actions website at <https://www.nrc.gov/about-nrc/regulatory/enforcement/current.html>.

Holtec Decommissioning International, LLC

On January 26, 2022, the NRC issued a confirmatory order (CO) to Holtec Decommissioning International, LLC (HDI), confirming commitments reached during an alternative dispute resolution (ADR) mediation session held on October 14, 2021. The ADR session was associated with apparent violations of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical Protection of Plants and Materials," Appendix B, "General Criteria for Security Personnel," Criterion VI.G, "Weapons, Personal Equipment, and Maintenance," and 10 CFR 50.9, "Completeness and accuracy of information." The apparent violations involved a (now former) training superintendent at Oyster Creek Nuclear Generating Station, who was also responsible for performing armorer duties and who deliberately failed to perform firearms maintenance activities and also falsified records related to those activities. As a result of the CO, HDI agreed to complete wide-ranging corrective actions (CAs) and enhancements that are expected to improve the security program. In consideration of the CAs and commitments outlined in the CO, the NRC agreed to (1) reduce the amount of the civil penalty (CP) to \$50,000, (2) not issue a separate notice of violation (NOV) in addition to the CO, and (3) not consider the issuance of the CO as escalated enforcement for future CP assessment purposes consistent with the agency's Enforcement Policy.

Air Force Medical Readiness Agency

On September 22, 2022, the NRC issued an NOV and proposed imposition of a CP in the amount of \$96,000 to the Air Force Medical Readiness Agency (licensee), for three Severity Level (SL) III problems associated with 10 related violations. The violations involved the licensee's failure (1) to maintain and implement its Master Materials License program consistent with the associated NRC inspection and enforcement programs, (2) to provide adequate oversight at Kirtland Air Force Base and ensure that activities conducted under the permit were authorized under the Master Materials License, were consistent with NRC regulations, and established a radiation protection program that was protective of personnel, the public, and the environment, and (3) to provide oversight and control of specific locations at Kirtland. In addition, the NOV included one SL III violation for the licensee's failure to secure or maintain surveillance of licensed material and other violations of low security significance that were categorized as SL IV in accordance with the NRC Enforcement Policy.

National Institute of Standards and Technology, Center for Neutron Research

On August 1, 2022, the NRC issued a CO to the National Institute of Standards and Technology, Center for Neutron Research (licensee), confirming commitments reached as part of an ADR mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of a special inspection in which

the NRC identified one apparent violation of 10 CFR 50.59, “Changes, tests and experiments,” and six apparent violations of the licensee’s technical specification requirements. The apparent violations involved the exceedance of reactor fuel cladding temperature, which resulted in a damaged fuel element. Additionally, the licensee agreed to complete wide-ranging CAs and enhancements that are expected to improve reactor safety, as fully described in the CO. In consideration of the CAs and commitments outlined in the CO, the NRC agreed not to pursue any further enforcement action associated with the violations. The issuance of this CO is considered as escalated enforcement consistent with the NRC Enforcement Policy.

Avera McKennan

On May 19, 2022, the NRC issued a CO to Avera McKennan (licensee), confirming commitments reached as part of an ADR mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Avera McKennan in which the NRC identified two apparent violations of regulations: (1) 10 CFR 35.63(a) which requires that a licensee determine doses of unsealed byproduct material for medical use by direct measurement of the activity of dosages before medical use, and (2) 10 CFR 30.9, “Completeness and accuracy of information,” which is related to maintaining accurate measurement records. The CO acknowledges the licensee’s view that no violation of requirements occurred. The parties agreed to disagree on whether violations occurred. The licensee agreed to complete wide-ranging actions that are expected to improve its licensed program, as fully described in the CO. In consideration of the actions and commitments outlined in the CO, the NRC agreed to (1) refrain from imposing a CP and (2) not issue a separate NOV.

Mr. Joseph Berkich, Steel City Gamma, LLC

On March 2, 2022, the NRC issued an order prohibiting Mr. Joseph Berkich from involvement in NRC-licensed activities. Mr. Berkich, former owner of Steel City Gamma, LLC (SCG), deliberately caused SCG to be in violation of 10 CFR 150.20, “Recognition of Agreement State licenses,” and 10 CFR 30.3, “Activities requiring license,” when he conducted licensed activities using radiography under NRC jurisdiction without filing for reciprocity and without a specific NRC license. Mr. Berkich will be prohibited from conducting, supervising, directing, or in any other way engaging in NRC-licensed activities for a period of 5 years and immediately cease all current involvement in NRC-licensed activities. After the 5-year prohibition has expired, Mr. Berkich must notify the agency within 20 days following acceptance of his first employment offer involving NRC-licensed activities.

B. Hearing Activities

No hearing activities resulted from enforcement actions in CY 2022.

C. Enforcement Orders

In CY 2022, the NRC issued 11 orders to licensees, nonlicensees, and individuals. The 11 orders included 9 COs that were issued to confirm commitments associated with ADR settlement agreements, 1 CP imposition order to a licensee, and 1 prohibition order. Appendix C to this document briefly describes the enforcement orders that the NRC issued in CY 2022.

D. Enforcement Actions Supported by the Office of Investigations

In CY 2022, the Office of Investigations (OI) investigations supported 34 percent (25 out of 73) of the escalated enforcement actions issued by the NRC. This figure is lower than last year's percentage (45 percent). The OI-supported actions included the following:

- 3 of the 16 escalated NOVs with CPs (19 percent)
- 12 of the 46 escalated NOVs without CPs (26 percent)
- 10 of 11 enforcement orders issued (91 percent)

In CY 2022, OI investigated 7 cases that were substantiated for willfulness (enforcement actions may not have been taken on some of these cases) and 26 cases that were unsubstantiated. Additionally, OI conducted 31 assists to staff cases in CY 2022. This assistance provides the NRC staff with clarifying information about concerns to better inform decision-making, allowing the agency to take the most appropriate action.

E. Actions Involving Individuals and Nonlicensee Organizations

In CY 2022, the NRC issued 13 escalated enforcement actions to individuals (10 were SL III NOVs and 3 COs) and no actions to nonlicensees. The number of escalated enforcement actions issued to individuals in CY 2022 is comparable to the 5-year average. Appendix D to this document summarizes the enforcement actions that the NRC issued to individuals in CY 2022.

F. Enforcement Actions Involving Discrimination

In CY 2022, no escalated enforcement actions resulted from a substantiated allegation of discrimination. Between CY 2018 and CY 2022, the NRC handled, on average, just one substantiated discrimination case per year; however, it is not unprecedented to have no escalated enforcement actions related to discrimination in any given 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 circumstances, the NRC may exercise judgment and discretion in determining the SL of the violation and the appropriate enforcement sanction.

In CY 2022, the NRC exercised discretion in 34 enforcement cases to address violations of agency requirements. As described in detail below, most cases involved the use of EGMs for Part 37 violations at power reactor facilities, possession and use limits of by-product material, and tornado hazards at independent spent fuel storage installations, resulting in twice the number of discretion cases in CY 2021 (14 cases).

1. Discretion Involving Temporary or Interim Enforcement Guidance

The NRC exercised enforcement discretion through an enforcement guidance memorandum (EGM) 23 times in CY 2022, as opposed to 9 times in CY 2021:

- On April 18, 2013, the staff issued EGM-13-003, “Interim Guidance for Dispositioning Violations Involving 10 CFR 35.60 and 10 CFR 35.63 for the Calibration of Instrumentation to Measure the Activity of Rubidium-82 and the Determination of Rubidium-82 Patient Dosages” (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13101A318). This EGM addressed two specific instances in which it is not possible to meet the current NRC regulatory requirements. The NRC dispositioned four cases in CY 2022 that met the criteria in this guidance.
- On March 13, 2014, the staff issued EGM-14-001, “Interim Guidance for Dispositioning 10 CFR Part 37 Violations with Respect to Large Components or Robust Structures Containing Category 1 or Category 2 Quantities of Material at Power Reactor Facilities Licensed under 10 CFR Parts 50 and 52” (ML14056A151). This EGM provides staff guidance to disposition violations associated with large components or Category 1 or Category 2 quantities of radioactive material stored in robust structures at power reactor facilities. The NRC dispositioned nine cases in CY 2022 that met the criteria in this guidance.
- 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” (ML18170A167). This EGM allowed the use of a graded approach to evaluate the likelihood of an opportunity for loss or theft of a portable gauge, or exposure to workers or the public. This approach would allow citation as an SL IV for violations of 10 CFR 20.1802, “Control of material not in storage,” that are less serious, but are of more than minor concern, that resulted in no or relatively inappreciable potential safety or security consequences. The NRC dispositioned one case in CY 2022 that met the criteria in this guidance.
- On July 15, 2020, the staff issued EGM-20-003, “Interim Guidance for Dispositioning Violations of Licensed Material Possession and Use Limits” (ML20156A340). This EGM provides staff guidance to disposition violations of 10 CFR 30.34, “Terms and conditions of licenses,” that are associated with licensed possession and use of byproduct material. The NRC dispositioned five cases in CY 2022 that met the criteria in this guidance.
- On April 15, 2022, the staff issued EGM-22-001, “Enforcement Discretion for Noncompliance of Tornado Hazards Protection Requirements at Independent Spent Fuel Storage Installations” (ML22087A496). This EGM provides guidance to NRC staff on the exercise of enforcement discretion when a licensee holding a specific or general license for an independent spent fuel storage installation does not comply with its design or licensing basis for protection against environmental conditions and natural phenomena, as required by 10 CFR Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste.” The agency dispositioned four cases that met the criteria in this guidance.

2. Discretion Involving Violations Identified Because of Previous Enforcement Actions

In accordance with Section 3.3, “Violations Identified Because of Previous Enforcement Action,” of the policy, the NRC staff may exercise enforcement discretion if the licensee identified the violation as part of the corrective action for a previous enforcement action, and the root cause of the violation is the same as or similar to that of the violation causing the previous enforcement action.

The NRC did not exercise enforcement discretion under this section of the policy in CY 2022.

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 seven times in CY 2022 to disposition the following violations of its requirements:

- (1) Schlumberger Technology Corporation (licensee)—On January 31, 2022, the NRC exercised enforcement discretion to not issue a violation to Schlumberger Technology Corporation. Because of a hurricane, the licensee evacuated personnel from an offshore oil rig while two well-logging sources remained in the well and not in storage. Upon evaluating the noncompliance with regulations, the NRC determined that the licensee acted in good faith to inform the agency and that the issue resulted from matters not entirely within the licensee’s control. Compliance was restored in a timely manner, and no personnel exposure or loss of material occurred during the period of noncompliance.
- (2) Geotechnical and Materials Engineers, Inc. (licensee)—On February 14, 2022, the NRC exercised enforcement discretion to not issue a CP to Geotechnical and Materials Engineers, Inc. NRC inspection found that the licensee had not appropriately stored and secured a portable gauge. Upon evaluating the violations, the NRC determined that the licensee’s corrective actions, including transferring the gauge to another authorized recipient, warranted credit in accordance with sections 2.3.4 and 3.5 of the policy. The NRC concluded that information on the reasons for the violations, the corrective actions that were taken, the results achieved, and the date when full compliance was achieved were adequately addressed.

- (3) U.S. Department of the Navy (licensee)—On June 29, 2022, the NRC exercised enforcement discretion to not issue a violation to the U.S. Department of the Navy. The NRC evaluated the facts and circumstances of the case and concluded that the Navy, in accordance with its enforcement program, appropriately identified and assessed the issue as required. The details of the finding are official use only—security-related information.
- (4) Nordson Corporation (licensee)—On April 13, 2022, the NRC exercised enforcement discretion to not issue a violation to Nordson Corporation. The licensee had recently acquired a separate company, NDC Technologies, Inc. During due diligence audits of the acquired company, the licensee identified a violation involving the failure to obtain a specific license to export a gamma backscatter gauge. Upon evaluating the noncompliance with regulations, the NRC determined that the violation occurred 6 months before the acquisition when the licensee did not own or control the entity that committed the violation, the licensee self-reported the violation to the NRC after identifying it through proactive audits, and the licensee promptly initiated appropriate corrective actions to prevent recurrence.
- (5) Global Laser Enrichment, LLC (licensee)—On March 10, 2022, the NRC exercised enforcement discretion to not issue a violation to Global Laser Enrichment, LLC. The licensee has not met all requirements of the National Industrial Security Program Operating Manual (NISPOM) rule, under 32 CFR Part 117, which became effective August 2021. Upon evaluating the noncompliance, the NRC determined that the licensee has demonstrated effort to come into compliance with the rule in the brief implementation timeframe. The licensee is required to submit a compliance plan for NRC review and approval.
- (6) Louisiana Energy Services, LLC (licensee)—On June 1, 2022, the NRC exercised enforcement discretion to not issue a violation to Louisiana Energy Services, LLC. The licensee has not met all requirements of the NISPOM rule, under 32 CFR Part 117, which became effective August 2021. Upon evaluating the noncompliance, the NRC determined that the licensee has demonstrated due diligence to come into compliance with the rule in the brief implementation timeframe. The licensee is required to submit a compliance plan for NRC review and approval.
- (7) U.S. Department of Energy, Fort St. Vrain (licensee)—On October 13, 2022, the NRC exercised enforcement discretion to not issue a violation to the U.S. Department of Energy, Fort Saint Vrain. The licensee has not met all requirements of the NISPOM rule, under 32 CFR Part 117, which became effective August 2021. Upon evaluating the noncompliance, the NRC determined that the licensee has demonstrated effort to come into compliance with the rule in the brief implementation timeframe. The licensee is required to submit a compliance plan for NRC review and approval.

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 described in section 2.3.4 of the policy, the NRC may exercise discretion by (1) proposing a CP when application of the CP assessment factors would otherwise result in zero penalty, (2) increasing the amount of the CP to appropriately reflect the significance of the issue, or (3) decreasing the amount based on the merits of the case and the ability of various classes of licensees to pay.

The NRC did not exercise enforcement discretion under this section of the policy in CY 2022.

5. Discretion Involving No Performance Deficiency under the Significance Determination Process

Section 3.10, “Reactor Violations with No Performance Deficiencies,” of the policy states that violations of NRC requirements normally falling within the Reactor Oversight Process significance determination process (SDP) 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. This is similar to the approach described in policy Section 3.2, “Violations Involving Old Design Issues.”

The NRC did not exercise enforcement discretion under this section of the policy in CY 2022.

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 plant conditions. In these circumstances, the NRC staff may choose not to enforce the applicable requirements. This enforcement discretion is called a notice of enforcement discretion (NOED). In accordance with policy Section 3.8, “Notices of Enforcement Discretion for Operating Power Reactors and Gaseous Diffusion Plants,” the staff issues an NOED only if it is satisfied that the action is clearly 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 public safety or security.

When requesting an NOED, a licensee must include justification that documents the safety basis for the request and must provide other information that the staff deems necessary for issuing an NOED.

The NRC issued four NOEDs in CY 2022:

- (1) Dominion Energy Inc. (licensee)—On January 26, 2022, the NRC granted an NOED to Dominion Energy Inc. for Technical Specification Limiting Condition for Operation (TS LCO) 3.5.2 and TS LCO 3.7.3 at Millstone Power Station, Unit 3. The licensee’s NOED request involved an extension of 72 hours to replace a failed fan motor and fan assembly that provided supporting ventilation for the B train charging pump and B train reactor plant component cooling water pump. Upon evaluating the request, the NRC determined that granting this NOED was consistent with the policy and agency guidance. The NOED request met the criteria in section 2.5 of appendix F, “Notices of Enforcement Discretion,” to the Enforcement Manual. Granting this NOED avoided an unnecessary shutdown of a reactor without a corresponding benefit to public health and safety or the environment.

- (2) Tennessee Valley Authority (licensee)—On July 21, 2022, the NRC granted an NOED to Tennessee Valley Authority for TS LCO 3.5.2 at Sequoyah Nuclear Plant, Unit 1. The licensee’s NOED request involved an extension of 69 hours to replace the 1B-B centrifugal charging pump. Upon evaluating the request, the NRC determined that granting this NOED was consistent with the policy and agency guidance. The NOED request met the criteria in section 2.5 of appendix F, “Notices of Enforcement Discretion,” to the Enforcement Manual. Granting this NOED avoided an unnecessary shutdown of a reactor without a corresponding benefit to public health and safety or the environment.
- (3) Virginia Electric and Power Company (licensee)—On July 24, 2022, the NRC granted an NOED to Virginia Electric and Power Company for TS LCO 3.16 and TS LCO 3.0.2 at Surry Power Station, Units 1 and 2. The licensee’s NOED request involved an extension of 48 hours to repair the Unit 1 emergency diesel generator. Upon evaluating the request, the NRC determined that granting this NOED was consistent with the policy and agency guidance. The NOED request met the criteria in section 2.5 of appendix F, “Notices of Enforcement Discretion,” to the Enforcement Manual. Granting this NOED avoided an unnecessary shutdown of two reactors without a corresponding benefit to public health and safety or the environment.
- (4) Energy Harbor Nuclear Corp. (licensee)—On December 23, 2022, the NRC granted an NOED to Energy Harbor Nuclear Corp. for TS LCO 3.7.9 at Davis-Besse Nuclear Power Station, Unit 1. The licensee’s NOED request involved an extension of 42 hours to provide sufficient time for the water level of the ultimate heat sink to stabilize following a sustained high-wind condition. Upon evaluating the request, the NRC determined that granting this NOED was consistent with the policy and agency guidance. The NOED request met the criteria in section 2.5 of appendix F, “Notices of Enforcement Discretion,” to the Enforcement Manual. Granting this NOED had no adverse impact on public health and safety or the environment.

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 NRC’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 enforcement actions and, in some instances, recategorize or withdraw them.

The Office of Enforcement has established a metric for the quality of enforcement actions based on the total number of disputed violations received for consideration and the percentage of enforcement actions withdrawn in a fiscal year; however, this report covers CY 2022 rather than a fiscal year. The target is for no more than 50 percent of disputed enforcement actions to be withdrawn in any fiscal year. This metric does not include violations withdrawn because of supplemental information that was not available to NRC inspectors or staff before the assessment of an enforcement action.

In CY 2022, no enforcement actions were withdrawn.

III. Ongoing Activities

A. Enforcement Policy and Guidance

1. Enforcement Policy Revisions

On January 14, 2022, the Office of Enforcement (OE) revised the Enforcement Policy to incorporate the adjusted civil monetary penalties for 2022, in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

2. Enforcement Manual Guidance

The staff periodically revises the manual to reflect changes to the policy, operating experience, and stakeholder input. The primary purpose of the change noted below was to update several sections in parts I and II of the manual to reflect current enforcement practices and to provide clarifying guidance where needed. In addition, the staff added one enforcement guidance memorandum to appendix A.

On February 24, 2022, the staff incorporated the following changes into Revision 11 of the manual:

- Part I—Section 1.2.12.1.F.12, “Enforcement Action (EA) Numbers,” was revised to state that an EA number is to be assigned to a notice of enforcement discretion (NOED). This change corrects a discrepancy between section 1.2.12.1 and Appendix F, “Notices of Enforcement Discretion.”
- Part I—Section 2.3.6.D, “Licensee Response to a Non-Escalated NOV,” was revised to instruct users to refer to Section 2.8, “Disputed Violations,” if a licensee disputes a nonescalated enforcement action.
- Part I—Section 2.3.7, “Disputed Violation Resolution Process for Non-Escalated Enforcement Actions,” was deleted and relocated, in part, to the new section 2.8.
- Part I—Section 2.4.4, “Licensee Response to Escalated NOVs,” was revised by deleting all guidance associated with responding to a licensee’s denial of an escalated notice of violation (NOV). This guidance, in part, was relocated to the new section 2.8.
- Part I—Section 2.6.2, “NOV/CP Coordination, Review and Issuance,” was revised to update the guidance for processing a civil penalty invoice.
- Part I—Section 2.6.4.F and G, “Licensee Response to NOV/CPs,” was revised by deleting all guidance associated with a user’s response to a licensee’s denial of an NOV/CP. This guidance, in part, was relocated to the new section 2.8.
- Part I—Section 2.8, “Disputed Violations,” is a new section that contains updated guidance for responding to any disputed violation. Previously, guidance was located in several different sections of the manual (i.e., 2.3.6.D, 2.3.7, 2.4.4, and 2.6.4).

- Part I—Section 2.8.3, “Backfitting Concerns and Appeals,” is a new section that provides staff guidance for handling backfitting concerns that are received as part of the disputed violation process.

On April 15, 2022, the staff added the following enforcement guidance memorandum (EGM) to appendix A:

- EGM-22-001, “Enforcement Discretion for Noncompliance of Tornado Hazards Protection Requirements at Independent Spent Fuel Storage Installations,” dated April 15, 2022 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML22087A496).

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 manual) is available on the U.S. Nuclear Regulatory Commission’s (NRC’s) public website, at <https://www.nrc.gov/reading-rm/basic-ref/enf-man/app-a.html>. OE issued one EGM in CY 2022:

- On April 15, 2022, the staff issued EGM-22-001. This EGM provides guidance to NRC staff on the exercise of enforcement discretion when a licensee holding a specific or general license for an independent spent fuel storage installation does not comply with its design or licensing basis for protection against environmental conditions and natural phenomena as required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste.” The agency dispositioned four cases that met the criteria under this guidance.

B. Enforcement Program Initiatives

In CY 2022, OE engaged in several activities designed to enhance and continuously improve the NRC’s Enforcement Program. Typical activities include development of internal office procedures, maintenance of adequate staff knowledge and training, mentoring of new staff members by more experienced staff, and participation in counterpart meetings.

1. Program Enhancements

Throughout the year, the staff worked on several initiatives to keep the Enforcement Program effective and efficient, including the following:

- The enforcement dashboards have been developed, and the staff routinely uses them to gather enforcement information. OE continues to perform routine maintenance on the system and updates the dashboards accordingly.
- OE made substantial progress in its efforts to resolve comments associated with the initiative to revise the policy. The Commission paper was distributed to all offices and regions for concurrence.

- The staff conducted an Enforcement Program Town Hall, including inspection personnel, focusing on first principles of roles, responsibilities, and authorities.
- OE initiated a lessons-learned working group on employee protection program enhancements.
- The staff conducted internal audits of OE databases (i.e., Enforcement Action Tracking, Individual Action Tracking) to ensure the integrity of the data to extract the appropriate figures, statistics, and information for the OE annual report and other OE reporting requirements (e.g., the semiannual report to Congress).

2. Knowledge Management

Activities associated with training and knowledge transfer in CY 2022 include the following:

- OE continued developing and posting a series of short videos in Microsoft Teams to provide detailed training and refresher training for enforcement specialists. These videos are intended for internal staff use to raise the overall knowledge level and proficiency of program personnel. The series are structured to serve as either overall training, if the videos are used in sequence, or just-in-time training, if individual videos are selected.
- OE further developed and enhanced internal office procedures, internal Enforcement Program SharePoint sites, and Microsoft Teams pages to ensure the consistency of Enforcement Program implementation and the functionality of OE web-based programs.
- OE continued developing an electronic file storage and retrieval system within the office's SharePoint site to capture documents related to precedent-setting enforcement cases and policy changes. The system leverages the capabilities of ADAMS and SharePoint to make it easier for staff members to search for and retrieve documents that have shaped the NRC's Enforcement Program throughout its history.

C. Regional Accomplishments

In CY 2022, the regional offices conducted periodic reviews of enforcement actions issued by each region, to ensure effective performance and to identify opportunities for continuous improvement. The reviews encompassed reactor and materials cases involving both nonescalated and escalated enforcement actions; they included activities that required a high degree of coordination with other NRC stakeholders. Overall, the reviews showed that the regions were effectively implementing the Enforcement Program. The regions developed and implemented improvement plans to address any weaknesses identified during the reviews.

D. Calendar Year 2023 Focus Areas

During CY 2023, OE plans to address the following focus areas:

- Finalize the Commission notation vote paper that describes the basis for the proposed policy revisions and request Commission approval.
- Conduct an enforcement program counterpart meeting focused on team building, program enhancement collaboration, and knowledge management.
- Continue knowledge management activities, such as video development and revision of internal office procedures to improve the reliability of Enforcement Program implementation and decision-making.
- Complete the review of current enforcement boilerplates to ensure that they comply with revised guidance found in NUREG-1379, "NRC Editorial Style Guide," Revision 3, dated April 2022 (ADAMS Accession No, ML22115A119) and consolidate boilerplates where applicable.
- Clarify the policy guidance for the lost source policy and the determination of an associated civil penalty.
- Update the enforcement manual to be consistent with the Commission Tribal Policy Statement.
- Continue coordination efforts with the Office of the Chief Information Officer and the Office of Investigations to select a contractor to modernize and integrate case work databases (i.e., Enforcement Action Tracking System, Case Management System-Web, and Allegations Management System) into a single consolidated and integrated web-based application solution.

Appendix A—Summary of Cases Involving Civil Penalties¹

Civil Penalties Issued to Operating Reactor Licensees

None

Civil Penalties Issued to Decommissioning Reactor Licensees

Holtec Decommissioning International, LLC (EA-21-041)
Oyster Creek Nuclear Generating Station

On January 26, 2022, the U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order (CO) to Holtec Decommissioning International, LLC (HDI), confirming commitments reached during an alternative dispute resolution (ADR) mediation session held on October 14, 2021. The ADR session was associated with apparent violations of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, “Physical Protection of Plants and Materials,” Appendix B, “General Criteria for Security Personnel,” Criterion VI.G, “Weapons, Personal Equipment, and Maintenance,” and 10 CFR 50.9, “Completeness and accuracy of information.” The apparent violations involved a (now former) training superintendent at Oyster Creek Nuclear Generating Station, who was also responsible for performing armorer duties, and who deliberately failed to perform firearms maintenance activities and also falsified records related to those activities. As a result of the CO, HDI agreed to complete wide-ranging corrective actions (CAs) and enhancements that are expected to improve the security program. In consideration of the CAs and commitments outlined in the CO, the NRC agreed to (1) reduce the amount of the civil penalty (CP) to \$50,000, (2) not issue a separate notice of violation (NOV) in addition to the CO, and (3) not consider the issuance of the CO as escalated enforcement for future CP assessment purposes consistent with the agency’s Enforcement Policy.

Civil Penalties Issued to Materials Licensees

Banner Health Wyoming Medical Center (EA-22-061)
Casper, Wyoming

On December 14, 2022, the NRC issued an NOV and proposed imposition of a CP of \$8,000 to Banner Health Wyoming Medical Center (licensee), for a Severity Level (SL) III problem associated with two related violations. The violations involved the licensee’s failure to (1) prepare written directives that were dated and signed by an authorized user as required by 10 CFR 35.40(a) and (2) ensure that the written directives for permanent implant brachytherapy contain the total source strength before and after the implementation, in accordance with 10 CFR 35.40(b)(6).

St. Vincent’s Medical Center (EA-22-048)
Bridgeport, Connecticut

On December 13, 2022, the NRC issued an NOV and proposed imposition of a CP of \$8,000 to St. Vincent’s Medical Center (licensee), for one SL III problem associated with three related violations. These violations are related to the licensee’s failure to maintain control over a sealed cesium-137 source when, on October 22, 2021, a St. Vincent’s contract employee, without knowledge that the source was being stored in a biohazard waste container, disposed of it along with other waste and failed to conduct a radiological survey of the waste shipment. The violations related to this event include the licensee’s failure to (1) dispose of licensed material only by transfer to an authorized

¹ Cases involving security-related issues are not included in the public appendices.

recipient, decay in storage, or release in effluents within the limits required by 10 CFR 20.2001(a), (2) monitor the surface of byproduct material before disposal as decay-in-storage waste, as required by 10 CFR 35.92(a)(1), and (3) conduct a semiannual physical inventory of sealed sources in their possession, as required by 10 CFR 35.67(g). In addition, the NOV included other violations of low safety and security significance that were categorized as SL IV in accordance with the NRC Enforcement Policy.

Cammenga and Associates, LLC
Dearborn, Michigan

(EA-21-157)

On October 6, 2022, the NRC issued a CO and a CP of \$5,000 to Cammenga and Associates, LLC (licensee), confirming commitments reached as part of an ADR mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Cammenga and Associates, LLC. As a result of the investigation, the NRC identified apparent violations of 10 CFR 30.34(c), one of which was willful. However, the NRC's determination of willfulness was not based on a finding that Cammenga deliberately intended to violate NRC requirements, but rather on Cammenga's careless disregard in failing to pursue necessary actions to ensure compliance with applicable requirements. The apparent violations involved initially transferring, for sale or distribution, products containing tritium that were not authorized for distribution on an NRC license at the time of distribution. In consideration of the CAs and commitments outlined in the CO, the NRC agreed to (1) reduce the amount of the CP to \$5,000, (2) not issue a separate NOV in addition to the CO but, rather, describe the violations in the body of the CO, and (3) for future CP assessment purposes, consider the issuance of this CO as escalated enforcement consistent with the agency's Enforcement Policy.

Air Force Medical Readiness Agency
Falls Church, Virginia

(EA-22-007)

On September 22, 2022, the NRC issued an NOV and proposed imposition of \$96,000 in CPs to the Air Force Medical Readiness Agency (licensee), for three SL III problems associated with 10 related violations. The violations involved the licensee's failure (1) to maintain and implement its Master Materials License program consistent with the associated NRC inspection and enforcement programs, (2) to provide adequate oversight at Kirtland Air Force Base and ensure that activities conducted under the permit were authorized under the Master Materials License, were consistent with NRC regulations, and established a radiation protection program that was protective of personnel, the public, and the environment, and (3) to provide oversight and control of specific locations at Kirtland. In addition, the NOV included one SL III violation for the licensee's failure to secure or maintain surveillance of licensed material, and other violations of low security significance that were categorized as SL IV in accordance with the NRC Enforcement Policy.

Indiana University—IUPUI/IU Medical Center Campus
Indianapolis, Indiana

(EA-21-167)

On September 1, 2022, the NRC issued an NOV and proposed imposition of a CP of \$8,000 to Indiana University—IUPUI/IU Medical Center Campus (licensee), for a SL III violation. The violation associated with the CP involved the licensee's failure to monitor exposure to radiation and radioactive material at levels sufficient to demonstrate compliance with the occupational dose limits of 10 CFR Part 20, "Standards for Protection against Radiation," as required by 10 CFR 20.1502(a)(1). In addition, the NOV included a SL III problem associated with three related violations, which involved failure to (1) control occupational dose to individual adults to an annual limit of 5 rem total effective dose equivalent, as required by 10 CFR 20.1201(a)(1)(i), (2) implement

a radiation protection program commensurate with the scope and extent of licensed activities sufficient to ensure compliance with 10 CFR Part 20, as required by 10 CFR 20.1101(a), and (3) instruct individuals who in the course of employment are likely to receive in a year an occupational dose in excess of 100 millirem, as required by 10 CFR 19.12(a)(3).

Testing Engineers & Consultants, Inc.
Troy, Michigan

(EA-22-018)

On August 11, 2022, the NRC issued an NOV and proposed imposition of a CP of \$24,000 to Testing Engineers & Consultants, Inc. (licensee), for three SL III violations. The violations involved the licensee's failure to (1) control and secure two moisture density gauges, as required by 10 CFR 20.1801, "Security of stored material," and 10 CFR 20.1802, "Control of material not in storage," leading to their loss, (2) maintain constant surveillance or use two independent physical controls that form tangible barriers for removal, or to secure a moisture density gauge that was left unattended, as required by 10 CFR 20.1802, 10 CFR 30.34(i), and licensee's License Condition 16, and (3) maintain security requirements for stored gauges, as required by 10 CFR 30.34(i). In addition, the NOV included a fourth SL III violation with no CP for failure to maintain a radiation safety officer, as required by licensee's License Condition 11, and 12 SL IV violations.

Alt and Witzig Engineering, Inc.
Carmel, Indiana

(EA-22-020)

On July 11, 2022, the NRC issued an NOV and proposed imposition of a CP of \$8,000 to Alt and Witzig Engineering, Inc. (licensee), for a SL III problem associated with two related violations. The violations involved the licensee's failure to (1) control and secure a portable gauge with two independent physical controls while not under control and constant surveillance by the licensee, as required by 10 CFR 30.34(i) and 10 CFR 20.1802, and (2) lock the portable gauge or its container during transportation, as required by the licensee's NRC License No.13-18685-02.

Advanced Inspection Technologies, Inc.
Tulsa, Oklahoma

(EA-21-129)

On June 14, 2022, the NRC issued an NOV and proposed imposition of a CP of \$8,000 to Advanced Inspection Technologies (licensee), for a SL III violation. The violation involved the licensee's failure to file NRC Form 241, "Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters," at least 3 days before engaging in licensed activities within NRC jurisdiction, as required by 10 CFR 150.20, "Recognition of Agreement State licenses." In addition, the notice included one SL IV violation for the licensee's failure to provide complete and accurate information to the Commission, as required by 10 CFR 30.9(a).

Defense Health Agency
Falls Church, Virginia

(EA-21-132)

On April 27, 2022, the NRC issued an NOV and proposed imposition of a CP of \$3,500 to the Defense Health Agency (licensee), for a SL III violation. The violation involved the licensee's failure to control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage, as required by 10 CFR 20.1802. In addition, the NOV included one SL IV violation for the licensee's failure to report by telephone to the NRC Headquarters Operations Center immediately after it was aware that licensed material was missing in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C,

“Quantities of Licensed Material Requiring Labeling,” to 10 CFR Part 20 and, as required by 10 CFR 20.2201(a), under such circumstances that persons in unrestricted areas could be exposed.

Steel City Gamma, LLC
Daisytown, Pennsylvania

(EA-21-045)

On March 2, 2022, the NRC issued an NOV and proposed imposition of a CP of \$25,600 to Steel City Gamma, LLC (SCG), for a SL II problem associated with two related violations. The violations involved (1) SCG’s failure to file NRC Form 241 at least 3 days before engaging in licensed activities within NRC jurisdiction, as required by 10 CFR 150.20, and (2) SCG’s performance of licensed activities under NRC jurisdiction without a license as required by 10 CFR 30.3, “Activities requiring license.” In addition, on many occasions, SCG engaged in industrial radiography without holding a specific NRC license authorizing such activities.

Acuren Inspection, Inc.
Duluth, Minnesota

(EA-21-133)

On February 28, 2022, the NRC issued an NOV and proposed imposition of a CP of \$16,000 to Acuren Inspection, Inc. (licensee), for a SL III problem associated with two related violations. Based on the information collected during the inspection and the information provided by the licensee in response to the inspection report dated November 18, 2021, the NRC determined that two violations of agency requirements occurred. The violations include (1) conducting radiography without at least one other qualified individual present contrary to 10 CFR 34.41(a), and (2) the licensee’s failure to maintain continuous direct visual surveillance of the radiographic operation to protect against entry into the restricted area and the high-radiation area contrary to requirements in 10 CFR 34.51, “Surveillance.” The NRC considers the violations to be significant because these failures resulted in actual consequences to a member of the public, although the brief exposure did not result in an overexposure based on dose reconstruction calculations.

Marian Medical Services, LLC
Wildwood, Missouri

(EA-21-120)

On February 16, 2022, the NRC issued an NOV and proposed imposition of a CP of \$7,000 to Marian Medical Services, LLC (licensee), for a SL III violation. The violation involved the licensee’s failure to (1) secure from unauthorized removal or access licensed materials that were stored in controlled or unrestricted areas, as required by 10 CFR 20.1801, and (2) control and maintain constant surveillance of licensed material that was in a controlled or unrestricted area and was not in storage, as required by 10 CFR 20.1802. In addition, the notice included one SL III problem associated with three related violations. The violations involved the licensee’s failure to (1) confine possession and use of the byproduct material to the locations and purposes authorized in the license, as required by 10 CFR 30.34(c), (2) develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed activities and sufficient to ensure compliance with the provisions of 10 CFR Part 20, as required by 10 CFR 20.1101(a), and (3) conduct a semiannual physical inventory of all sealed sources in its possession authorized under 10 CFR Part 35, “Medical Use of Byproduct Material,” as required by 10 CFR 35.67(g).

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

Notices of Violation Issued to Operating Reactor Licensees

Constellation Energy Generation, LLC (EA-22-089)
Calvert Cliffs Nuclear Power Plant

On December 5, 2022, the U.S. Nuclear Regulatory Commission (NRC) issued a notice of violation (NOV) associated with a white significance determination process finding to Constellation Energy Generation, LLC (licensee), at Calvert Cliffs Nuclear Power Plant, Unit 1. The white finding, an issue of low-to-moderate safety significance, involved the licensee's failure to prevent the introduction of foreign material into the Calvert Cliffs Unit 1 "1A" emergency diesel generator leading to its failure during routine testing required by the facility's technical specifications (TS).

Constellation Energy Generation, LLC (EA-22-062)
Quad Cities Nuclear Power Station

On November 29, 2022, the NRC issued an NOV associated with a white significance determination process finding to Constellation Energy Generation, LLC (licensee), at the Quad Cities Nuclear Power Station, Unit 2. The white finding, an issue of low-to-moderate safety significance, involved the failure of one of the four electromatic relief valves (ERVs) associated with the automatic depressurization subsystem to actuate during surveillance testing. The NRC determined that the ERV inoperability resulted from the licensee's failure to have documented procedures of a type appropriate to the circumstances for rebuilding the 2-0203-3B ERV solenoid actuator, which failed to meet the requirements 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."

Constellation Energy Generation, LLC (EA-22-071)
Peach Bottom Atomic Power Station

On November 28, 2022, the NRC issued an NOV associated with a white significance determination process finding to Constellation Energy Generation, LLC (licensee), at Peach Bottom Atomic Power Station, Unit 2. The white finding, an issue of low-to-moderate safety significance, involved the licensee's failure to use a preplanned procedure during a planned offsite power source outage, which is a violation of 10 CFR Part 50, Appendix B, Criterion V.

Dominion Energy (EA-22-039)
Virgil C. Summer Nuclear Station

On October 18, 2022, the NRC issued an NOV associated with a white significance determination process finding to Dominion Energy (licensee), at Virgil C. Summer Nuclear Station. The white finding, an issue of low-to-moderate safety significance, involved the licensee's failure to adequately assess erratic emergency diesel generator (EDG) governor operation, which resulted in an inoperable EDG. This failure to document the EDG performance is a violation of 10 CFR Part 50, Appendix B, Criterion XVI, "Corrective Action," and since this inoperable EDG exceeded the licensee's TS allowed outage time, the NRC also issued a TS violation.

Entergy Operations, Inc. (EA-22-033)
Waterford Steam Electric Station

On September 12, 2022, the NRC issued an NOV associated with a white significance determination process finding to Entergy Operations, Inc. (licensee), at the Waterford Steam Electric Station, Unit 3. The white finding, an issue of low-to-moderate safety significance, involved calibration errors associated with the main condenser wide-range gas monitor; accordingly, the licensee failed to maintain the effectiveness of an emergency plan that met the requirements in 10 CFR Part 50, Appendix E, "Emergency Planning and Preparedness for Production and Utilization Facilities," and the planning standards of 10 CFR 50.47(b), as required by 10 CFR 50.54(q)(2).

Energy Harbor Nuclear Corp. (EA-21-155)
Davis-Besse Nuclear Power Station

On March 1, 2022, the NRC issued an NOV associated with a white significance determination process finding to Energy Harbor Nuclear Corporation's (licensee) Davis-Besse Nuclear Power Station. The white finding, an issue of low-to-moderate safety significance, involved the licensee's failure to establish the required voltage specifications for EDG speed control switches as required by 10 CFR Part 50, Appendix B, Criterion III, "Design Control." As a result, on May 27, 2021, the Division 1 EDG failed to reach required voltage and frequency during surveillance testing.

Southern Nuclear Operating Company (EA-21-026)
Vogtle Electric Generating Plant

On January 4, 2022, the NRC issued a severity level (SL) III NOV to Southern Nuclear Operating Company's Vogtle Electric Generating Plant, Units 1 and 2, for a violation of 10 CFR 50.9(a) and 10 CFR 55.27, "Documentation," for the failure to maintain complete and accurate medical qualification records for a senior reactor operator.

Notices of Violation Issued to Materials Licensees

Terra Site Development, Inc. (EA-22-064)
Westfield, Indiana

On November 17, 2022, the NRC issued an NOV to Terra Site Development, Inc. (licensee), for a SL III problem associated with two related violations. The violations involved the licensee's failure to control and secure a portable gauge with two independent physical controls while not under control and constant surveillance by the licensee, as required by 10 CFR 20.1802, "Control of material not in storage," and 10 CFR 30.34(i).

CMSC, LLC, dba Great Falls Clinic Hospital (EA-22-052)
Great Falls, Montana

On November 17, 2022, the NRC issued an NOV to CMSC, LLC, dba Great Falls Clinic Hospital (licensee), for a SL III problem associated with two related violations. The violations involved the licensee's failure to ensure that written directives contained the required dosage information as required by 10 CFR 35.40(b)(1), and that they were signed and dated by an authorized user as required by 10 CFR 35.40(a).

NukeMed, Inc., dba SpectronRx
Indianapolis, Indiana

(EA-22-065)

On November 10, 2022, the NRC issued an NOV to NukeMed, Inc., dba SpectronRx (licensee), for a SL III violation. The violation involved the licensee's failure to confine its possession of material to what is approved on its NRC license, as required by 10 CFR 30.3(a).

K2 Environmental LLC
Lisbon, Ohio

(EA-22-029)

On October 13, 2022, the NRC issued an NOV to K2 Environmental LLC for a SL III violation. The violation involved K2's failure to file NRC Form 241, "Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters," at least 3 days before engaging in licensed activities within NRC jurisdiction, as required by 10 CFR 150.20, "Recognition of Agreement State licenses."

National Institute of Standards and Technology
Gaithersburg, Maryland

(EA-22-009)

On October 5, 2022, the NRC issued an NOV to the National Institute of Standards and Technology (licensee), for a SL III violation involving failure to comply with its license, which states, in part, that source custodians shall maintain control over source utilization and ensure that work is done in compliance with appropriate protocols, instructions, and safe handling practices. A source custodian under contract with the licensee did not follow the appropriate instructions and emergency procedures when a release of radioactivity occurred during the preparation of short-lived radioactive standards. Instead, the source custodian attempted to decontaminate himself, equipment, and lab facilities to avoid disruption of his work.

Niowave, Inc.
Lansing, Michigan

(EA-22-021)

On June 30, 2022, the NRC issued an NOV to Niowave, Inc. (licensee), for a SL III problem associated with three related violations related to the following: (1) failure to control the occupational dose to the skin of any extremity of individual adults to an annual dose limit of 50 rem shallow-dose equivalent, as required by 10 CFR 20.1201(a)(2)(ii), (2) failure to perform adequate surveys to ensure compliance with the occupational dose limits of 10 CFR 20.1201(a)(2)(ii), as required by 10 CFR 20.1501(a), and (3) failure to use, to the extent practical, procedures and engineering controls based on sound radiation protection principles to achieve occupational doses that are as low as reasonably achievable, as required by 10 CFR 20.1101(b).

Core Engineering & Consulting, Inc.
Fort Thompson, South Dakota

(EA-22-002)

On June 2, 2022, the NRC issued an NOV to Core Engineering & Consulting, Inc. (licensee), for two SL III violations. The violations involved the licensee's failure to (1) secure a portable gauge from unauthorized removal with a minimum of two independent physical controls that form tangible barriers when the portable gauge is not under the control and constant surveillance of the licensee and secure from unauthorized removal or access licensed materials that were stored in an unrestricted area contrary to 10 CFR 30.34(i) and 10 CFR 20.1801, respectively, and (2) confine the possession of regulated byproduct material to the locations authorized on its NRC license as required by 10 CFR 30.34(c).

Industrial Nuclear Company, Inc.
San Leandro, California

(EA-21-125)

On May 27, 2022, the NRC issued an NOV to Industrial Nuclear Company, Inc. (licensee), for one SL III violation. The SL III violation involved the licensee's submittal of an advanced notification for the export of one source (2.109 terabecquerels of selenium-75) to a foreign recipient, but failed to include a copy of the recipient's authorization to receive and possess the material to be exported or a confirmation from the government of the importing country that the recipient was so authorized, as required by 10 CFR 110.50(c)(3)(i)(H) and 10 CFR 110.32(g). In addition, the NOV included one SL IV violation involving the licensee's failure to submit to the NRC advanced notifications for exports that were complete and accurate in all material respects, as required by 10 CFR 110.7a, "Completeness and accuracy of information"; 10 CFR 10.50(c)(3)(i)(H); and 10 CFR 110.32(g).

University of Wyoming
Laramie, Wyoming

(EA-22-001)

On May 17, 2022, the NRC issued an NOV to the University of Wyoming (licensee), for a SL III problem associated with two related violations and one SL IV violation. The violations involved the licensee's (1) failure to establish adequate administrative controls to ensure safe operations involving licensed materials as required by 10 CFR 33.13(c)(3), (2) possession and use of byproduct material in excess of the NRC-authorized possession limits contrary to 10 CFR 30.3(a), and (3) failure to use proper labeling of a container with byproduct material in accordance with 10 CFR 20.1904(a). Further, on November 17, 2021, the licensee possessed an approximately 18.4 millicurie americium-241 metal source that was not authorized by its NRC license, and the source was not labeled as required with sufficient information to take precautions to avoid or minimize exposures.

Kakivik Asset Management, LLC
Anchorage, Alaska

(EA-21-100)

On April 5, 2022, the NRC issued an NOV to Kakivik Asset Management, LLC (licensee), for a SL III problem associated with two related, willful violations. The violations involved the licensee's failure to (1) ensure that an individual wore personnel monitoring equipment during radiographic operations as required by 10 CFR 34.47(a), and (2) read and record the exposure of a direct reading dosimeter at the start of a shift, as required by 10 CFR 34.47(b).

Northwest Inspection, Inc.
Kennewick, Washington

(EA-21-145)

On March 14, 2022, the NRC issued an NOV to Northwest Inspection, Inc. (licensee), for a SL III violation. The violation involved the licensee's failure to ensure that a radiographer's assistant wore a personnel dosimeter while performing radiographic operations, contrary to 10 CFR 34.47(a). The NRC considers this violation to be significant because of the potential for radiological exposure in excess of regulatory limits.

Cultilux
New Orleans, Louisiana

(EA-21-103)

On March 14, 2022, the NRC issued an NOV to Cultilux (licensee), for a SL III problem associated with three related violations. The violations include the licensee's (1) failure to possess an NRC license before distributing byproduct material, contrary to 10 CFR 30.3(a), (2) failure to limit

the distribution of ceramic metal halide bulbs to models authorized on the license, contrary to 10 CFR 30.34(a) and License Conditions 6.A–9.A of NRC Materials License 17-35464-01 E, and (3) failure to file a report of all transfers of byproduct material with the Director of the Office of Nuclear Material Safety and Safeguards covering the preceding calendar year as required by 10 CFR 32.16(a) and 10 CFR 32.16(c)(1).

Geotechnical and Materials Engineers, Inc.
Fort Wayne, Indiana

(EA-21-134)

On February 14, 2022, the NRC issued an NOV and exercise of enforcement discretion to Geotechnical and Materials Engineers, Inc. (licensee), for a SL III problem associated with two related violations. The violations involved the licensee's failure to (1) confine the possession of the regulated byproduct material to the locations authorized by its NRC license as required by 10 CFR 30.34(c), and (2) secure a portable gauge from unauthorized removal with a minimum of two independent physical controls that form tangible barriers when the portable gauge is not under the control and constant surveillance of the licensee, in accordance with 10 CFR 30.34(i). In addition, as part of its corrective actions, the licensee transferred the gauge to another authorized recipient, and the NRC exercised discretion not to propose a civil penalty in accordance with Section 3.5, "Violations Involving Special Circumstances," of the Enforcement Policy.

Union Carbide Corporation
South Charleston, West Virginia

(EA-21-114)

On February 14, 2022, the NRC issued an NOV to Union Carbide Corporation (licensee), for a SL III violation. The violation involved the licensee's failure to maintain a qualified radiation safety officer (RSO) as required by Condition 12 of its NRC license. In addition, the NOV included three SL IV violations associated with License Conditions 15 and 23, involving the licensee's failure to (1) maintain records of physical inventories of its devices, (2) monitor authorized users to evaluate their doses to ensure they are within the required regulatory limits, and (3) perform periodic radiation surveys of radiation fields around the sources to ensure that radiation exposure is within established limits.

KRONUS, Inc.
Star, Idaho

(EA-21-119)

On January 25, 2022, the NRC issued an NOV to KRONUS, Inc. (licensee), for a SL III violation for failure to survey, in accordance with 10 CFR 20.1501(a), those areas necessary for the licensee to comply with 10 CFR Part 20, "Standards for Protection against Radiation," and evaluate potential radiological hazards. Between December 1999 and May 2021, the licensee failed to make adequate physical surveys with a radiation detection survey meter that could reasonably detect low activity amounts of iodine-125 contamination and did not perform surveys at the end of the day where unsealed iodine-125 was handled.

Department of the Army
Charlottesville, Virginia

(EA-21-115)

On January 3, 2022, the NRC issued an NOV to the Department of the Army, National Ground Intelligence Center (licensee), for a SL III violation of its license for failure to have an NRC-authorized individual identified to fulfill the duties and responsibilities of a Type A broad-scope RSO. Beginning January 2020, the licensee appointed a new RSO who lacked the required qualifications. After the RSO retired in July 2021, the licensee remained without the required RSO

until September 2021, when it submitted for NRC approval a license amendment naming a qualified RSO.

Genesis Alkali, LLC
Green River, Wyoming

(EA-22-067)

On October 3, 2022, the NRC issued an NOV to Genesis Alkali, LLC (licensee), for a SL III violation. The violation involved the licensee failing to secure from unauthorized removal or access licensed materials that were stored in a controlled or unrestricted area as required by 10 CFR 20.1801, "Security of stored material."

Department of the Army, Corps of Engineers
Vicksburg, Mississippi

(EA-22-044)

On November 15, 2022, the NRC issued an NOV to the Department of the Army, Corps of Engineers (licensee), for a SL III violation. The violation involved the licensee failing to have a qualified individual as the named RSO in License Condition 11.C of NRC License 23-01544-10, Amendment 31.

Notices of Violation Issued to Fuel Cycle Facilities Licensees

None

Appendix C—Summary of Orders

Orders Issued to Operating Reactor Licensees

Confirmatory Orders

National Institute of Standards and Technology Center for Neutron Research (EA-21-148)
Gaithersburg, Maryland

On August 1, 2022, the U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order (CO) to the National Institute of Standards and Technology, Center for Neutron Research (licensee), confirming commitments reached as part of an alternative dispute resolution (ADR) mediation settlement agreement between the licensee and the NRC. The ADR mediation and subsequent CO were based on the results of a special inspection in which the NRC identified one apparent violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.59, “Changes, tests and experiments,” and six apparent violations of the licensee’s technical specification requirements. The apparent violations involved the exceedance of reactor fuel cladding temperature, which resulted in a damaged fuel element. Additionally, the licensee agreed to complete wide-ranging corrective actions (CAs) and enhancements that are expected to improve reactor safety, as fully described in the CO. In consideration of the CAs and commitments outlined in the CO, the NRC agreed not to pursue any further enforcement action associated with the violations. The issuance of this CO is considered as escalated enforcement consistent with the NRC Enforcement Policy.

Orders Issued to Decommissioning Reactor Licensees

Holtec Decommissioning International, LLC (EA-21-041)
Oyster Creek Nuclear Generating Station

On January 26, 2022, the NRC issued a CO to Holtec Decommissioning International, LLC (HDI) confirming commitments reached during an ADR mediation session held on October 14, 2021. The ADR session was associated with apparent violations of 10 CFR Part 73, “Physical Protection of Plants and Materials,” Appendix B, “General Criteria for Security Personnel,” Criterion VI.G, “Weapons, Personal Equipment, and Maintenance,” and 10 CFR 50.9, “Completeness and accuracy of information.” The apparent violations involved a (now former) training superintendent at Oyster Creek Nuclear Generating Station, who was also responsible for performing armorer duties, and who deliberately failed to perform firearms maintenance activities and also falsified records related to those activities. As a result of the CO, HDI agreed to complete wide-ranging CAs and enhancements that are expected to improve the security program. In consideration of the CAs and commitments outlined in the CO, the NRC agreed to (1) reduce the amount of the civil penalty (CP) to \$50,000, (2) not issue a separate notice of violation (NOV) in addition to the CO, and (3) not consider the issuance of the CO as escalated enforcement for future CP assessment purposes consistent with the NRC Enforcement Policy.

Orders Issued to Material Licensees

Confirmatory Orders

Cabell Huntington Hospital
Huntington, West Virginia

(EA-22-003)

On November 10, 2022, the NRC issued a CO to Cabell Huntington Hospital, LLC (licensee), confirming commitments reached as part of an ADR mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at the licensee's facility in which the NRC identified 14 apparent violations, one of which was willful. The apparent violations involved the licensee's failure to develop and implement its radiation protection program; control occupational dose to three individuals below regulatory limits; confine possession of licensed material at an authorized location; and comply with other areas of the radiation safety program as required by its license and applicable requirements in 10 CFR Part 20, "Standards for Protection against Radiation." Additionally, the licensee agreed to complete wide-ranging CAs and enhancements, as fully described in the CO. In consideration of the licensee commitments outlined in the CO, the NRC agreed to (1) not issue a CP and not take further actions for these violations, (2) not issue a separate NOV in addition to the CO but, rather, describe the violations in the body of the CO, and (3) for future CP assessment purposes, consider the issuance of this CO as escalated enforcement action consistent with the NRC Enforcement Policy.

Avera McKennan
Sioux Falls, South Dakota

(EA-21-027)

On May 19, 2022, the NRC issued a CO to Avera McKennan (licensee), confirming commitments reached as part of an ADR mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Avera McKennan in which the NRC identified two apparent violations: (1) 10 CFR 35.63(a), which requires that a licensee determine doses of unsealed byproduct material for medical use by direct measurement of the activity of dosages before medical use, and (2) 10 CFR 30.9, "Completeness and accuracy of information," related to maintaining accurate measurement records. The CO acknowledges Avera McKennan's view that no violation of requirements occurred. The parties agreed to disagree on whether violations occurred. The licensee agreed to complete wide-ranging actions that are expected to improve its licensed program, as fully described in the CO. In consideration of the actions and commitments outlined in the CO, the NRC agreed to (1) refrain from imposing a CP and (2) not issue a separate NOV.

U.S. Department of Veterans Affairs
North Little Rock, Arkansas

(EA-21-059)

On April 22, 2022, the NRC issued a CO to the U.S. Department of Veterans Affairs (VA) (licensee), confirming commitments reached as a part of an ADR mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at the VA Greater Los Angeles Healthcare System facility in which the NRC identified two areas of apparent violations: (1) willful failure of a nuclear medicine technologist to perform "breakthrough" tests on a strontium-82/rubidium-82 generator as required by 10 CFR 35.204(c), and (2) violation of 10 CFR 30.9 related to the same technologist's falsification of records for "breakthrough" measurements as required by 10 CFR 35.204(d) and 10 CFR 35.2204, "Records of molybdenum-99, strontium-82, and strontium-85 concentrations." Additionally, the licensee agreed

to complete wide-ranging CAs and enhancements that are expected to improve the safety program, as fully described in the CO. In consideration of the CAs and commitments outlined in the CO, the NRC agreed to (1) refrain from proposing a CP, (2) not issue a separate NOV in addition to the CO but, rather, describe the violations in the body of the order, and (3) not consider the CO an escalated enforcement action for future assessment of violations occurring at the VA.

Somat Engineering, Inc.
Taylor, Michigan

(EA-21-146)

On March 3, 2022, the NRC issued a CO to Somat Engineering, Inc. (licensee), confirming commitments reached during an ADR mediation session held on January 11, 2022. The commitments were made as part of the settlement agreement between the licensee and the agency based on evidence gathered during an investigation in which the NRC identified three apparent violations of its requirements. The first violation is related to the loss of a portable moisture density gauge due to the licensee's failure to control and maintain constant surveillance of the gauge after failing to secure it as required by 10 CFR 20.1802, "Control of material not in storage," and 10 CFR 30.34(i). The second violation involves the licensee's failure to secure a gauge from shifting during transportation as required by 10 CFR 71.5(a) and 49 CFR 173.448(a). The third apparent violation is related to the licensee's failure to secure a second portable moisture density gauge from unauthorized removal or access as required by 10 CFR 20.1801, "Security of stored material." In consideration of the CAs taken, the commitments outlined in the CO, and the license modifications described in section V of the CO, the NRC agreed not to pursue any further enforcement action or CP in connection with the apparent violations. However, the NRC will consider this CO as an escalated enforcement action.

Cammenga and Associates, LLC
Dearborn, Michigan

(EA-21-157)

On October 6, 2022, the NRC issued a CO and CP of \$5,000 to Cammenga and Associates, LLC (licensee), confirming commitments reached as part of an ADR mediation settlement agreement between the licensee and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Cammenga and Associates in which the NRC identified apparent violations of 10 CFR 30.34(c), one of which was willful. However, the agency's determination of willfulness was not based on a finding that the licensee deliberately intended to violate NRC requirements, but rather on the licensee's careless disregard in failing to pursue necessary actions to ensure compliance with applicable requirements. The apparent violations involved initially transferring, for sale or distribution, products containing tritium, that were not authorized for distribution on an NRC license at the time of distribution. In consideration of the CAs and commitments outlined in the CO, the NRC agreed to (1) reduce the amount of the CP to 5,000, (2) not issue a separate NOV in addition to the CO but, rather, describe the violations in the body of the CO, and (3) for future CP assessment purposes, consider the issuance of this CO as an escalated enforcement action consistent with the NRC Enforcement Policy.

Suspension Orders

None.

Orders Issued to Individuals

Ms. Shannon Gray

(IA-21-060)

On May 19, 2022, the NRC issued a CO to Ms. Gray confirming commitments reached as part of an ADR mediation settlement agreement between Ms. Gray and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Avera McKennan (licensee), in which the NRC identified an apparent violation of 10 CFR 30.10(a)(1) associated with Ms. Gray, a nuclear medicine manager employed by the licensee, for willfully failing to ensure that the licensee determined doses of unsealed byproduct material for medical use as required by 10 CFR 35.63(a). Ms. Gray disagrees that a violation of 10 CFR 35.63(a) occurred and that deliberate misconduct was associated with the apparent violation. The parties agreed to disagree on whether the violation occurred. Additionally, Ms. Gray agreed to complete wide-ranging actions that are expected to improve the licensee program, as fully described in the CO. In consideration of the actions and commitments outlined in the CO, the NRC agreed not to issue an NOV for the apparent violation.

Ms. Traci Hollingshead

(IA-21-061)

On May 19, 2022, the NRC issued a CO to Ms. Hollingshead confirming commitments reached as part of an ADR mediation settlement agreement between Ms. Hollingshead and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Avera McKennan (licensee), in which the NRC identified an apparent violation of 10 CFR 30.10(a)(1) associated with Ms. Hollingshead, the licensee's radiation safety officer, for willfully failing to ensure that the licensee determined doses of unsealed byproduct material for medical use as required by 10 CFR 35.63(a). Ms. Hollingshead disagrees that a violation of 10 CFR 35.63(a) occurred and that deliberate misconduct was associated with the apparent violation. The parties agreed to disagree on whether the violation occurred. Additionally, Ms. Hollingshead agreed to complete wide-ranging actions that are expected to improve the licensee program, as fully described in the CO. In consideration of the actions and commitments outlined in the CO, the NRC agreed not to issue an NOV for the apparent violation.

Mr. Joseph Berkich

(IA-21-062)

On March 2, 2022, the NRC issued an order prohibiting Mr. Joseph Berkich from involvement in NRC-licensed activities. Mr. Berkich, former owner of Steel City Gamma, LLC (SCG), deliberately caused SCG to be in violation of 10 CFR 150.20, "Recognition of Agreement State licenses," and 10 CFR 30.3, "Activities requiring license," when he conducted licensed activities using radiography under NRC jurisdiction without filing for reciprocity and without a specific NRC license. Mr. Berkich will be prohibited from conducting, supervising, directing, or in any other way engaging in NRC-licensed activities for a period of 5 years and immediately cease all current involvement in NRC-licensed activities. After the 5-year prohibition has expired, Mr. Berkich will be required to notify the agency within 20 days following acceptance of his first employment offer involving NRC-licensed activities.

CP Imposition Orders

Steel City Gamma, LLC
Daisytown, Pennsylvania

(EA-21-045)

On October 11, 2022, the NRC issued an order imposing a civil monetary penalty (order) of \$25,600 to Steel City Gamma, LLC (SCG). The order was necessary because SCG did not respond to a March 2, 2022, NOV and proposed imposition of a CP of \$25,600 for a Severity Level II problem. The violations involved SCG's willful failure to file for reciprocity before performing work under NRC jurisdiction, as required by 10 CFR 150.20, and performing licensed activities under NRC jurisdiction without a license, contrary to 10 CFR 30.3. As of the date of the order, SCG had not paid the proposed CP of \$25,600 and had taken no action to address the NOV.

Appendix D—Summary of Escalated Enforcement Actions against Individuals

Notices of Violation

Dr. Nathan Hatfield (IA-22-023)

On November 10, 2022, the U.S. Nuclear Regulatory Commission (NRC) issued a notice of violation (NOV) for a Severity Level (SL) III violation to Dr. Nathan Hatfield, an interventional radiologist working at Cabell Huntington Hospital (licensee), in West Virginia. Dr. Hatfield failed to comply with Title 10 of the *Code of Federal Regulations* (10 CFR) 30.10(a) and placed the licensee in violation of 10 CFR 20.1502(a) when he deliberately failed to wear his assigned dosimetry and did not allow the licensee to monitor occupational exposure to radiation sources under its control.

Dr. William Regits (IA-22-026)

On October 5, 2022, the NRC issued an NOV to Dr. Regits for a SL III violation for engaging in deliberate misconduct while employed as a designated source custodian and researcher under contract with the U.S. Department of Commerce, National Institute of Standards and Technology (licensee), and caused the licensee to be in violation of 10 CFR 30.10, “Deliberate misconduct.” Dr. Regits caused the licensee to violate its NRC license by deliberately failing to comply with licensee procedures for responding to a release of radioactivity and, instead, attempting to decontaminate himself, equipment, and lab facilities to avoid disruption of his work.

Dr. Sabah Butty (IA-22-005)

On September 1, 2022, the NRC issued an NOV for a SL III violation to Dr. Butty, an interventional radiologist working at Indiana University—IUPUI/IU Medical Center Campus (licensee), in Indianapolis. Dr. Butty failed to comply with 10 CFR 30.10(a) and placed the licensee in violation of 10 CFR 20.1502(a) when he deliberately failed to wear his assigned dosimetry and did not allow the licensee to monitor occupational exposure to radiation sources under its control.

Dr. Maximilian Pyko (IA-22-006)

On September 1, 2022, the NRC issued an NOV for a SL III violation to Dr. Pyko, an interventional radiologist working at Indiana University—IUPUI/IU Medical Center Campus (licensee), in Indianapolis. Dr. Pyko failed to comply with 10 CFR 30.10(a) and placed the licensee in violation of 10 CFR 20.1502(a) when he deliberately failed to wear his assigned dosimetry and did not allow the licensee to monitor occupational exposure to radiation sources under its control.

Mr. Ronald Salgado (IA-22-027)

On August 12, 2022, the NRC issued an NOV to Mr. Ronald Salgado for a SL III violation. Mr. Salgado, a licensed reactor operator assigned to Turkey Point Nuclear Generating Station, violated the terms and conditions of his license when he performed activities authorized by his license while under the influence of alcohol, which could adversely affect his ability to perform licensed duties safely and competently, as required by 10 CFR 55.53(j).

Ms. Sharon Busby

(IA-21-069)

On June 14, 2022, the NRC issued an NOV to Ms. Busby for a SL III violation. Ms. Busby, the owner and President of Advanced Inspection Technologies, Inc. (licensee), failed to comply with 10 CFR 30.10(a) and placed the licensee in violation of 10 CFR 150.20, "Recognition of Agreement State licenses," when she deliberately failed to file NRC Form 241, "Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters," at least 3 days before engaging in licensed activities within NRC jurisdiction.

Mr. Matthew Carberry

(IA-22-025)

On June 7, 2022, the NRC issued an NOV to Mr. Matthew Carberry for a SL III violation. Mr. Carberry, a licensed reactor operator assigned to the Limerick Generating Station, violated the terms and conditions of his license when he performed activities authorized by his license while under the influence of an illegal substance that could adversely affect his ability to perform licensed duties safely and competently, as required by 10 CFR 55.53(j).

Ms. Shannon Gray

(IA-21-060)

On May 19, 2022, the NRC issued a confirmatory order (CO) to Ms. Gray confirming commitments reached as part of an alternate dispute resolution (ADR) mediation settlement agreement between Ms. Gray and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Avera McKennan (licensee), in which the NRC identified an apparent violation of 10 CFR 30.10(a)(1) associated with Ms. Gray, a nuclear medicine manager employed by the licensee, for willfully failing to ensure that the licensee determined doses of unsealed byproduct material for medical use as required by 10 CFR 35.63(a). Ms. Gray disagrees that a violation of 10 CFR 35.63(a) occurred and that deliberate misconduct was associated with the apparent violation. The parties agreed to disagree on whether the violation occurred. Additionally, Ms. Gray agreed to complete wide-ranging actions that are expected to improve the licensee program, as fully described in the CO. In consideration of the actions and commitments outlined in the CO, the NRC agreed not to issue an NOV for the apparent violation.

Ms. Traci Hollingshead

(IA-21-061)

On May 19, 2022, the NRC issued a CO to Ms. Hollingshead confirming commitments reached as part of an ADR mediation settlement agreement between Ms. Hollingshead and the agency. The ADR mediation and subsequent CO were based on the results of an investigation at Avera McKennan (licensee), in which the NRC identified an apparent violation of 10 CFR 30.10(a)(1) associated with Ms. Hollingshead, the licensee's radiation safety officer, for willfully failing to ensure that the licensee determined doses of unsealed byproduct material for medical use as required by 10 CFR 35.63(a). Ms. Hollingshead disagrees that a violation of 10 CFR 35.63(a) occurred and that deliberate misconduct was associated with the apparent violation. The parties agreed to disagree on whether the violation occurred. Additionally, Ms. Hollingshead agreed to complete wide-ranging actions that are expected to improve the licensee program, as fully described in the CO. In consideration of the actions and commitments outlined in the CO, the NRC agreed not to issue an NOV for the apparent violation.

Mr. Joseph Berkich

(IA-21-062)

On March 2, 2022, the NRC issued an order prohibiting Mr. Joseph Berkich from involvement in NRC-licensed activities. Mr. Berkich, former owner of Steel City Gamma, LLC (SCG), deliberately caused SCG to be in violation of 10 CFR 150.20 and 10 CFR 30.3, "Activities requiring license,"

when he conducted licensed activities using radiography under NRC jurisdiction without filing for reciprocity and without a specific NRC license. Mr. Berkich will be prohibited from conducting, supervising, directing, or in any other way engaging in NRC-licensed activities for a period of 5 years and immediately cease all current involvement in NRC-licensed activities. After the 5-year prohibition has expired, Mr. Berkich will be required to notify the agency within 20 days following acceptance of his first employment offer involving NRC-licensed activities.

Mr. Magnus Quitmeyer

(IA-21-051)

On January 27, 2022, the NRC issued an NOV to Mr. Magnus Quitmeyer for a SL III violation. Mr. Quitmeyer, a licensed reactor operator assigned to the Palo Verde Nuclear Generating Station, violated the terms and conditions of his license when he performed activities authorized by his license while under the influence of an illegal substance that could adversely affect his ability to perform licensed duties safely and competently, as required by 10 CFR 55.53(j).

Mr. Kevin Wright

(IA-21-040)

On January 26, 2022, the NRC issued an NOV to Mr. Kevin Wright for a SL III violation of 10 CFR 50.5(a) requirements. Mr. Wright, the security training superintendent responsible for armorer duties, deliberately caused Holtec Decommissioning International, LLC (the licensee for Oyster Creek Nuclear Generating Station), to be in violation of 10 CFR Part 73, "Physical Protection of Plants and Materials," Appendix B, "General Criteria for Security Personnel," Criterion VI.G, "Weapons, Personal Equipment, and Maintenance," when he failed to perform required annual material condition inspections of firearms and falsified the records submitted to the NRC that related to these activities. Mr. Wright deliberately did not perform required annual material condition inspections on all duty firearms as described in facility procedures and the Commission-approved Training and Qualification Plan. Additionally, after the NRC questioned him about not performing the annual material condition inspection, he inaccurately documented in the firearms maintenance logs that the inspections had been performed.

Mr. Michael Giles

(IA-21-050)

On January 4, 2022, the NRC issued an NOV to Mr. Michael Giles for a SL III violation. Mr. Giles, a licensed senior reactor operator, violated 10 CFR 50.5(a)(1) when he deliberately failed to report prescribed medications being taken, including the doses, which caused the facility licensee to maintain incomplete and inaccurate medical records.

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

Notices of Violation Issued to Nonlicensees

None.