ENFORCEMENT PROGRAM ANNUAL REPORT

Calendar Year 2012

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

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Executive Summary

The U.S. Nuclear Regulatory Commission (NRC) effectively implemented the Enforcement Policy and Program in calendar year (CY) 2012. Regional and headquarters program offices continued to focus on appropriate and consistent enforcement of the agency's regulations.

Escalated Enforcement Action Data

In CY 2012, the agency issued 111 escalated enforcement actions, which included 16 actions involving civil penalties totaling $418,700 and 95 escalated notices of violation without a civil penalty. The total number of escalated enforcement actions issued in CY 2012 increased by 15 largely because of an increase in the number of cases at reactor facilities involving licensed operators and cases involving radioactive material distributor licensees. Although the number of escalated enforcement actions issued in CY 2012 involving a civil penalty is comparable to the number issued in CY 2011, the total monetary amount increased by approximately a factor of three. This is mainly because of two civil penalties issued to reactor licensees that totaled $280,000. Three of the 16 actions involving civil penalties, totaling $14,000, were confirmatory orders issued as a result of mediation sessions conducted through the agency's Alternative Dispute Resolution (ADR) Program. In addition, the NRC issued 19 enforcement orders in CY 2012, including 7 orders prohibiting individuals from involvement in NRC-licensed activities and 11 orders associated with ADR mediation sessions. Although the number of escalated enforcement actions without civil penalties increased in CY 2012, it is consistent with the 5-year average. Of the 111 escalated enforcement actions issued in CY 2012, the agency withheld 29 from the public because they involved security or safeguards violations.

Noteworthy Program Accomplishments

The Commission approved two separate revisions to the Enforcement Policy in CY 2012, which became effective on June 7, 2012, and January 28, 2013 respectively. The Office of Enforcement (OE) issued three Enforcement Guidance Memoranda which provide the staff information on the dispositioning of specific enforcement actions. In addition, OE assessed implementation of the agency's enforcement program at two regional offices in CY 2012. The agency continued the successful use of ADR in 11 enforcement cases. The timeliness goals associated with processing escalated enforcement actions reported to Congress in the NRC's Performance Accountability Report were met.

Significant Cases

In CY 2012, the agency processed several significant cases that required extensive coordination and cooperation between internal and external stakeholders. These significant cases included: (1) a Severity Level II violation and Imposition of a Civil Penalty issued to Avera McKennan Hospital, (2) a notice of violation associated with three Red significance determination process findings issued to Fort Calhoun Station, (3) notices of violation associated with Yellow significance determination process findings issued to Palisades Nuclear Power Plant, Salem Nuclear Generating Station, and Wolf Creek Nuclear Power Plant, (4) a U. S. Department of Justice settlement agreement issued to Pentas Controls, Inc., (5) a confirmatory order issued to Honeywell International, Inc., and (6) Inspection Manual Chapter (IMC) 0350, "Oversight of Reactor Facilities in a Shutdown Condition due to Significant Performance and/or Operational Concerns," activities at Fort Calhoun Station.

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I. Program Overview

A. Mission and Authority

The U.S. Nuclear Regulatory Commission (NRC) regulates the civilian uses of nuclear materials in the United States to protect public health and safety, the environment, and the common defense and security. The agency accomplishes this 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: 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 NRC's sources of 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. The Energy Policy Act of 2005 expanded the definition of byproduct material, placing additional byproduct material under the NRC's jurisdiction including both naturally occurring and accelerator-produced radioactive materials (NARM). The agency implements its 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." The Administrative Dispute Resolution Act of 1996 provides the statutory framework for the Federal Government to use Alternative Dispute Resolution (ADR).

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

The NRC enforces compliance as necessary. Enforcement actions serve as a deterrent, emphasize the importance of compliance with regulatory requirements, and encourage prompt identification and prompt, comprehensive correction of violations. In addition, because violations occur in a variety of activities and have varying levels of significance, the NRC Enforcement Policy contains graduated sanctions.

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

The Reactor Oversight Process (ROP) compliments the enforcement process for operating nuclear reactors. Under the ROP, violations are not normally assigned a severity level but instead are assessed through the ROP and usually referred to as "findings." Under this program, the NRC determines the risk significance of inspection findings using the significance determination process (SDP), which assigns the colors of Green, White, Yellow, or Red with increasing risk significance. Findings under the ROP also may include licensee failures to meet self-imposed standards. As such, an ROP finding may or may not involve a violation of a regulatory requirement. While the ROP processes most violations at operating power reactors, it does not address aspects of some violations; such violations require the NRC to follow the traditional enforcement process.

These violations include violations that resulted in actual safety or security consequences, violations that may affect the ability of the NRC to perform its regulatory oversight function, and violations that involve willfulness. In addition, while ROP findings are not normally subject to civil penalties, the NRC does consider civil penalties for violations that involve actual consequences. SL IV violations and violations associated with Green ROP findings are normally dispositioned as noncited violations (NCVs). Inspection reports or inspection records document NCVs and briefly describe the corrective action that the licensee has taken or plans to take, if known at the time the NCV is documented. Additional information about the ROP is available at http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/index.html.

The Office of Enforcement (OE) develops policies (for Commission consideration) and programs for the enforcement of NRC requirements. In addition, OE oversees NRC enforcement, giving programmatic and implementation guidance to regional and headquarters offices that conduct or are involved in enforcement activities, and ensures that regional and program offices consistently implement the agency's enforcement program.

The Director of OE reports directly to the Deputy Executive Director for Materials, Waste, Research, State, Tribal, and Compliance Programs (DEDMRT), and is responsible for ensuring that the DEDMRT is kept apprised of certain escalated actions. The DEDMRT is consulted in any case that involves novel issues; substantial legal, programmatic, or policy issues raised during the enforcement review process; or in any case in which the Director of the Office of Enforcement believes the DEDMRT's involvement is warranted. OE works in partnership with NRC headquarters and regional offices to enforce the agency's requirements.

The NRC's enforcement Web site (http://www.nrc.gov/about-nrc/regulatory/enforcement.html) presents a variety of information, such as the Enforcement Policy, the Enforcement Manual, and current temporary enforcement guidance contained in enforcement guidance memoranda (EGM). This Web site also has information about significant enforcement actions the NRC has issued to reactor and materials licensees, nonlicensees (vendors, contractors, and certificate holders), and individuals. Consistent with NRC practices and policies, most security-related actions and activities are not available on the NRC's public Web site. The staff's collection of enforcement documents includes security orders that impose compensatory security requirements on various licensees.

B. Assessment of Escalated Enforcement Actions

Escalated enforcement actions include the following:

- NOVs, including SL I, II, or III violations
- NOVs associated with Red, Yellow, or White SDP findings (for operating reactor facilities)
- civil penalty actions
- enforcement orders (including confirmatory orders that result from the ADR process)

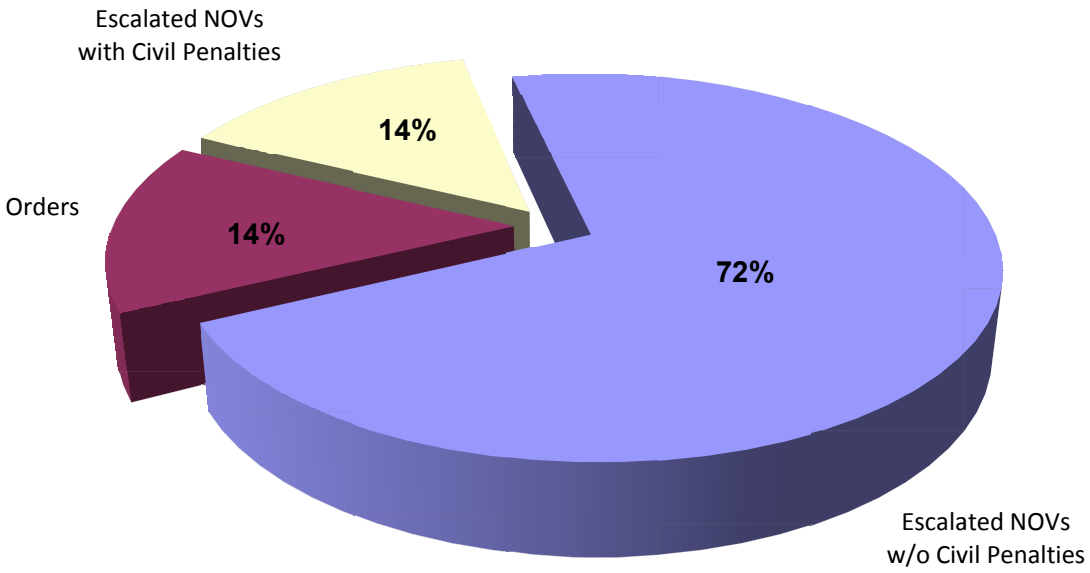

Figure 2: Escalated Enforcement by Type of Enforcement Action

Figure 2 (above) shows the distribution of escalated enforcement actions that the NRC issued in calendar year (CY) 2012 by type of action for the 111 total actions issued throughout the year to all licensees, nonlicensees, and individuals. The most common escalated enforcement action was an NOV without a civil penalty. Table 1 shows that the agency issued 79 NOVs without a civil penalty in CY 2012. Generally, the large percentage of NOVs without civil penalties is considered a positive trend because it reflects a strong licensee program with the majority of licensees self identifying and/or correcting violations. Thirteen of the NOVs and three of the ADR orders issued in CY 2012 included a civil penalty. The total number of escalated enforcement actions with a civil penalty is approximately equivalent to the number issued in CY 2011, and the 2-year trend is less than the 5-year average. The three ADR orders issued with civil penalties is a decrease from the five ADR orders issued in CY 2011 with civil penalties. However, this number still represents an increase from the number of ADR orders issued in the 5 years before CY 2011 when the NRC issued only one ADR order combined with a civil penalty. Including the ADR orders with civil penalties, there were 19 actions that involved the issuance of an order. This is a significant increase from the 10 orders issued in CY 2011 but is comparable to the 5-year average.

Figure 3 (below) shows the distribution of enforcement actions based on the types of licensees to whom the NRC issued escalated enforcement actions in CY 2012. For this chart, individual actions were included in the appropriate category of licensee. The following charts and the tables at the end of this report give further detail by identifying the region or program office that initiated the action, as well as the licensees, nonlicensees, and individuals involved.

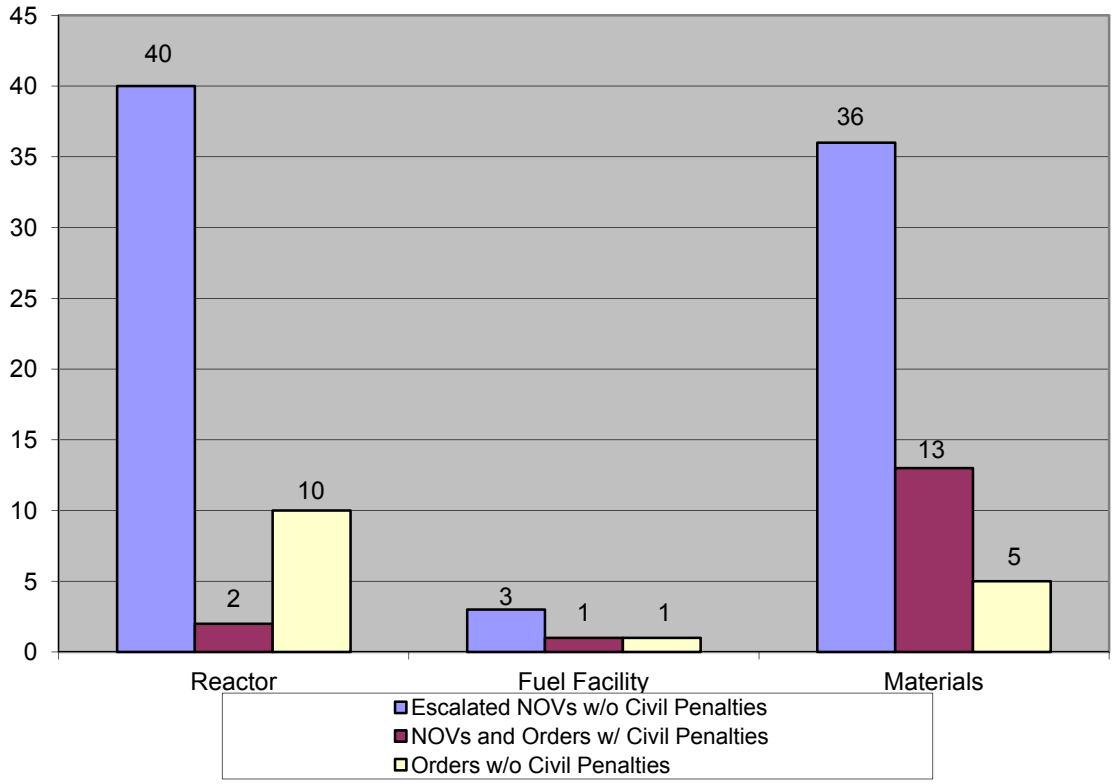

Figure 3: Escalated Enforcement by Type of Licensee

The total number of escalated enforcement actions issued to materials licensees continued to decrease in CY 2012 and reflects a 29 percent decrease from the total number of actions issued in CY 2010. This is mainly because of a decrease in enforcement actions issued to gauge user licensees (a 59 percent reduction from CY 2010 and a 27 percent reduction from CY 2011) and appears to indicate that materials licensees have improved their compliance with the security and control requirements imposed in 2008. Escalated enforcement actions without civil penalties issued to materials licensees were relatively evenly dispersed among the different types of licensees, as shown in Table 4, which further indicates improvements in gauge user licensee compliance. The number of escalated enforcement actions associated with reactor facilities in CY 2012 increased and the actions without a civil penalty exceeded the number of actions issued to material licensees. This is mainly because of an increase of enforcement actions issued to licensed reactor individuals. The total number of escalated enforcement actions issued to fuel cycle facilities decreased, mainly due to the significant decrease in the number of enforcement actions associated with civil penalties.

1. Escalated Enforcement Trends

In CY 2012, the agency issued 111 escalated enforcement actions which is a 15 percent increase from that of CY 2011. Although the 111 escalated enforcement actions are less than the 5-year average, they are comparable to the average number of enforcement actions issued between CY 2009 and CY 2011. The enforcement actions issued in CY 2008 were high mainly because of the implementation of the materials security-related increased controls requirements and subsequent inspections. Table 1 shows a breakdown of the number of escalated enforcement actions from CY 2008 to CY 2012 by type of enforcement action. Figure 4 displays this information in graphical form.

Table 1: Escalated Action Trends

	CY 2012	CY 2011	CY 2010	CY 2009	CY 2008	Average
Escalated NOVs (w/o CPs)	79	77	84	76	94	82
NOVs and Orders w/CPs	16	14	24	17	28	20
Orders (w/o CPs)	16	5	15	25	35	19
Orders Imposing CPs	0	0	1	3	0	1
Total	111	96	124	121	157	122

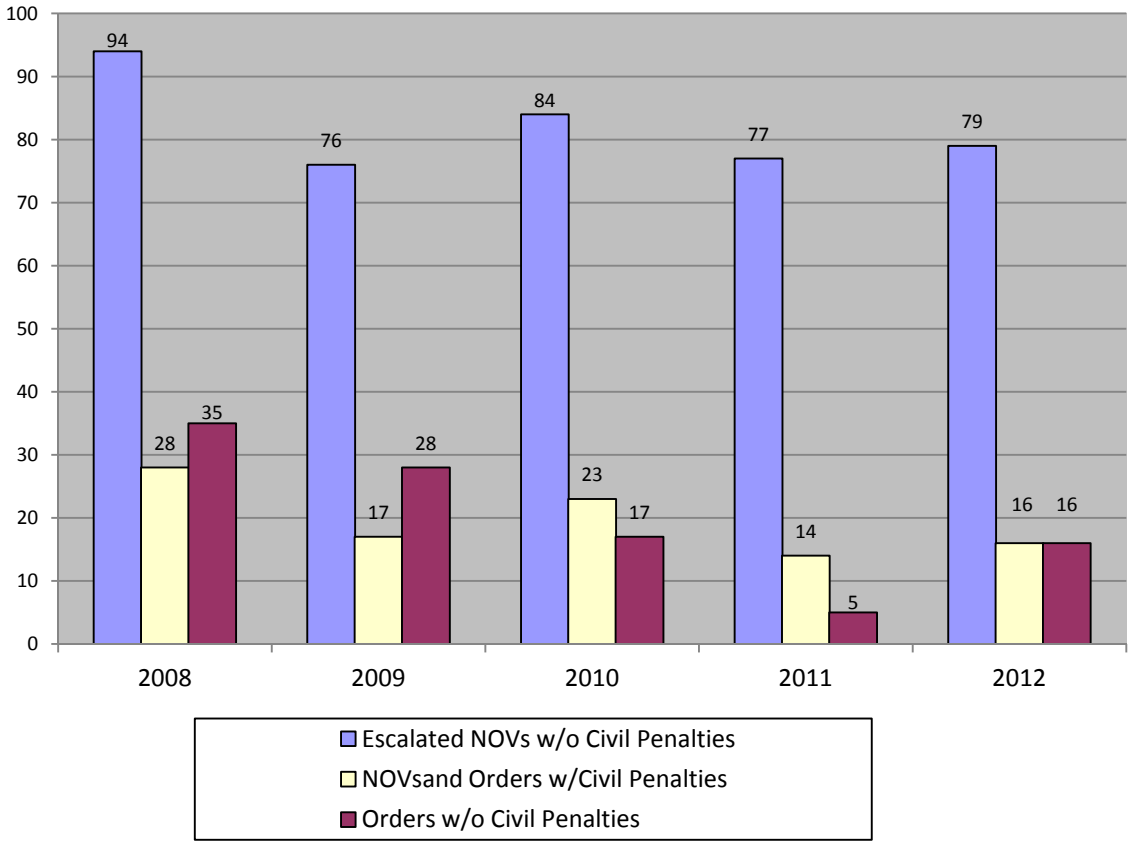

Figure 4: Escalated Action Trends (CY 2008—CY 2012)

As shown in Table 1, the total number of escalated enforcement actions issued in CY 2012 is less than the 5-year average. The number of enforcement actions not associated with a civil penalty is consistent with the 5-year average. Although the number of enforcement actions associated with civil penalties and orders issued without a civil penalty are less than the 5-year average, they are comparable to the average over the last 4 years (CY 2008 had an abnormally high number of enforcement actions issued).

2. Civil Penalty Actions

In CY 2012, the agency processed 16 enforcement actions that involved civil penalties. Seven of these cases 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 is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor; therefore, the agency may consider a violation involving willfulness to be more egregious than the underlying violation, taken alone, would have been, and it may increase the severity level accordingly. Three of the 16 enforcement actions were associated with ADR settlements following mediation sessions.

Table 2: Civil Penalty Information

	CY 2012	CY 2011	CY 2010	CY 2009	CY 2008	Average
Number of Proposed Civil Penalties	16	14	23	17	28	20
Number of Orders that Imposed Civil Penalties	0	0	1	3	0	1
Number of Civil Penalties Paid	14	11	21	15	29	18
Amount of Proposed Civil Penalties	$418,700	$146,750	$673,700	$174,000	$1,185,900	$519,810
Amount of Imposed Civil Penalties[1]	$0	$0	$32,500	$29,250	$0	$12,350
Amount of Civil Penalties Paid	$412,182	$123,529	$639,480	$279,750	$1,039,850	$498,958

Table 2 compares civil penalty assessments proposed, imposed, and paid for the current calendar year to those of the previous 5 years and the 5-year average. When reviewing the information in this table, it is important to note that an enforcement action may include more than one violation. In addition, a civil penalty may be proposed in one year and paid or imposed in another year. In some cases, the NRC has approved a civil penalty payment plan in which a licensee is permitted to pay the civil penalty in regular installments. Finally, the amount of a proposed civil penalty may be reduced, for example, as a result of exercising discretion as part of a settlement agreement developed during ADR.

The total number of civil penalties proposed in CY 2012 increased slightly from the number proposed in CY 2011 and is below the average number proposed over the last 5 years. The total dollar amount of proposed civil penalties increased significantly (approximately by a factor of three) in CY 2012 compared to CY 2011. This is a result of civil penalties issued to Florida Power and Light Company and Entergy Nuclear Operations for violations identified at the Turkey Point and River Bend Nuclear Power Plants respectively, each of which were assessed a $140,000 civil penalty. No reactor licensee was issued a civil penalty in CY 2011.

[1] The NRC issues an "order imposing civil monetary penalty" when a licensee chooses not to pay a proposed civil penalty, unless a basis exists for withdrawal of the proposed penalty.

The number and amount of civil penalties associated with ADR settlements decreased from those issued in CY 2011. Only three such civil penalties were issued in CY 2012 compared to five in CY 2011, even though the total number of ADR cases increased from 7 to 11. The amount of civil penalties associated with ADR settlements decreased from $50,000 in CY 2011 to $14,000 in CY 2012. Although each case is unique and settled on its specific merits, the staff will monitor this trend in the future.

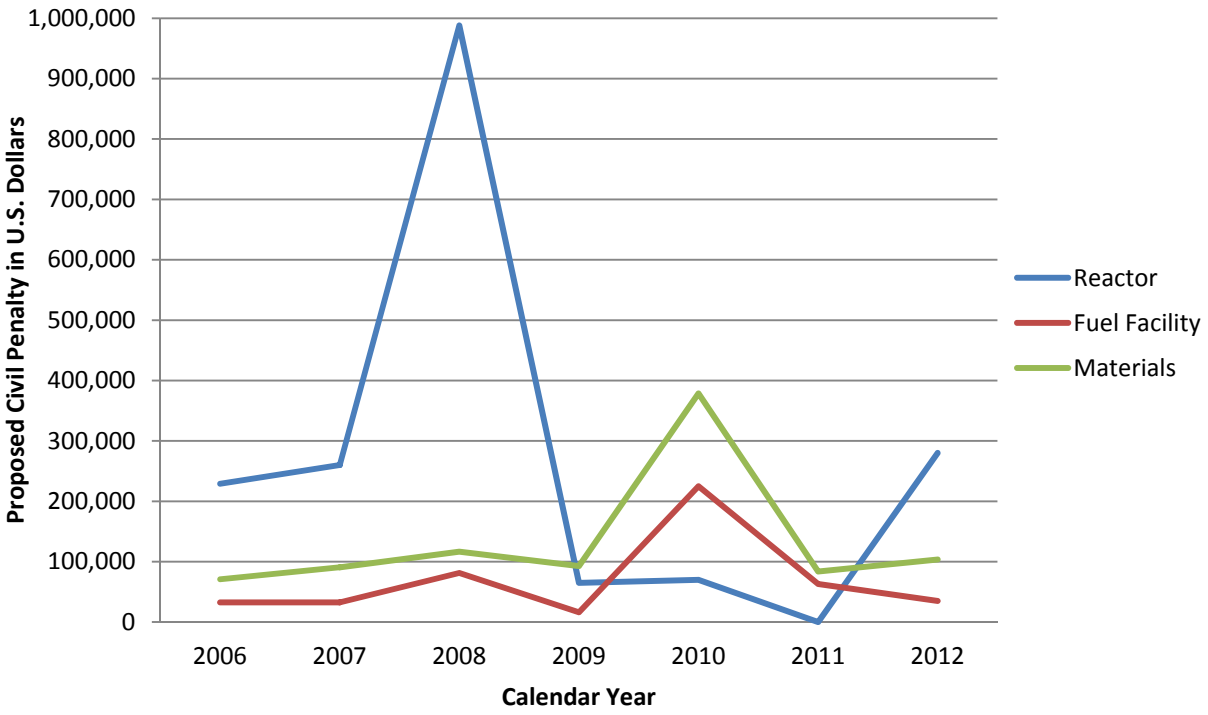

Figure 5: Amount of Proposed Civil Penalties by Type of Licensee for CY 2006-2012

Figure 5 shows the dollar amount of civil penalties proposed for reactor, materials, and fuel facility licensees in CY 2012 and the preceding 6 years. Figure 6 shows a significant increase in the percentage of the total civil penalty amount issued to reactor licenses compared to fuel cycle and materials licensees in CY 2012. This is because of the two civil penalties issued to reactor licensees in CY 2012 as discussed above. The largest peaks frequently are the result of a single civil penalty (e.g., Indian Point Nuclear Station in 2008 and the Philadelphia VA Medical Center in 2010). As a consequence, a single year may not indicate a trend, an important factor to consider in assessing possible trends. However, the total dollar amount of civil penalties issued to material licensees in CY 2012 is relatively consistent with past year amounts (other than the aforementioned CY 2010). Likewise, the dollar amount of civil penalties issued to fuel facility licensees in CY 2012 is relatively consistent with past year amounts (other than CY 2010 when three licensees were assessed a total of $192,500 in civil penalties).

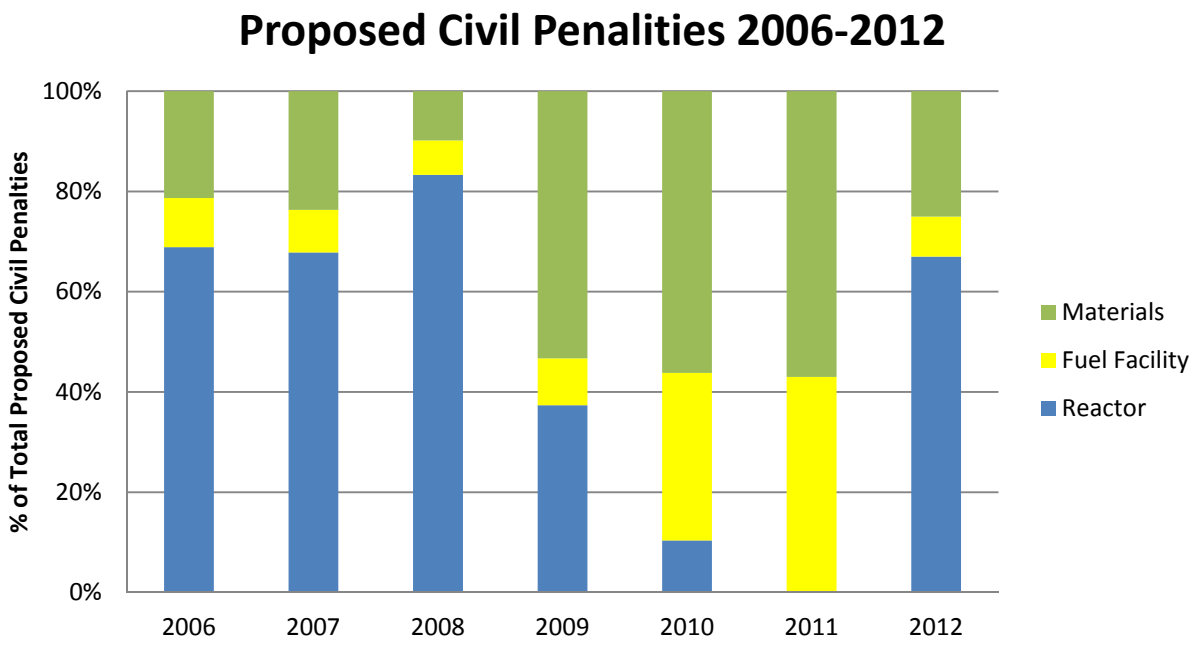

Figure 6: Percentage of Proposed Civil Penalties by Type of Licensee for CY 2006—2012

Appendix A to this report includes a brief description of each of the civil penalty actions for CY 2012. Security related issues involving NOVs with civil penalties are not addressed in Appendix A; however, the number of NOVs associated with security related issues is included in the data discussed in this report.

3. Notices of Violation without Civil Penalties

In accordance with Section 2.3.4 of the Enforcement Policy, a civil penalty may not be warranted for escalated enforcement actions if certain criteria are met. For instance, (1) the identified violation is the first nonwillful SL III violation identified in the past 2 years or two inspections at the licensee's facility and the licensee took adequate corrective action to prevent its recurrence, or (2) this was not the first nonwillful SL III violation identified in the past 2 years or two inspections, but the licensee self-identified the violation and took adequate corrective action to prevent its recurrence. In addition, the agency may use enforcement discretion, when deemed appropriate, to refrain from proposing a civil penalty, regardless of the normal civil penalty assessment process described above.

In CY 2012, the NRC issued 95 escalated NOVs without civil penalties. Of these violations, 21 were associated with White SDP findings under the ROP. Three violations were associated with Yellow SDP findings, and three violations were associated with Red SDP findings which is a significant increase from violations associated with Yellow and Red findings in CY 2011. Thirteen power reactor facility related SL III violations not associated with a civil penalty were issued in CY 2012 compared to four issued in CY 2011. This is mainly due to six SLIII violations issued to

licensed operators compared to two such violations issued in CY 2011. The NRC issued 32 NOVs associated with SL IV violations and Green SDP findings to reactor licensees. NOVs associated with SL IV violations and Green SDP findings are not considered escalated enforcement actions. Figure 7 shows a comparison of escalated enforcement actions issued to reactor licensees based on the traditional enforcement process versus the ROP. The data in Figure 7 does not include escalated enforcement actions issued to individuals or vendors associated with reactor sites.

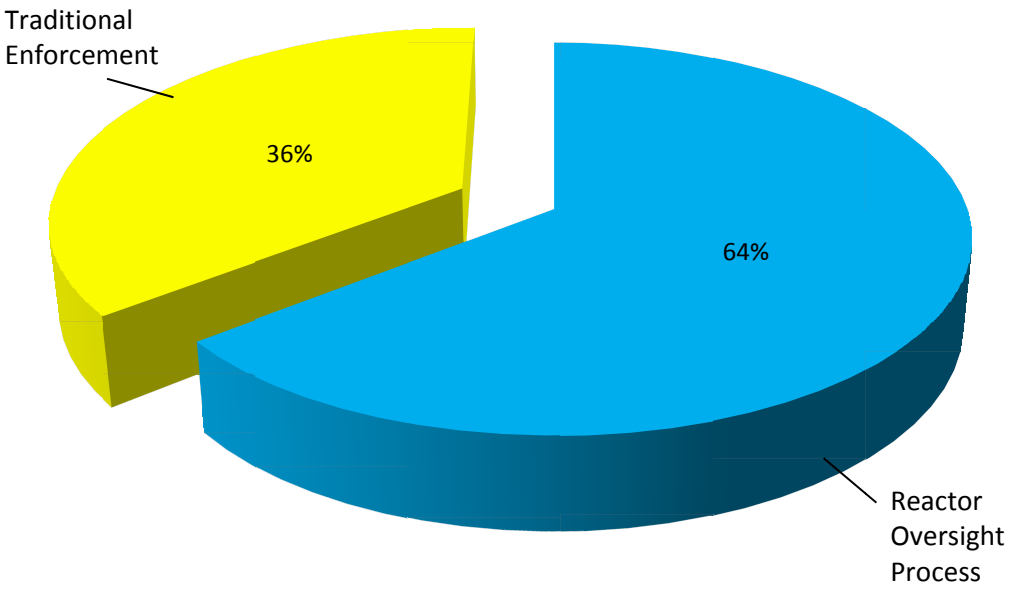

Figure 7: Escalated Enforcement Issued to Reactor Licensees

Appendix B to this report summarizes each of these NOVs without civil penalties issued to licensees, as well as the NOVs associated with SDP findings. Security related issues involving NOVs without civil penalties are not addressed in Appendix B; however, the number of NOVs associated with security related issues is included in the data discussed in this report.

4. Enforcement Program Timeliness

The timeliness associated with processing escalated enforcement actions to reactor and materials licensees is an output measure (external goal) reported annually to Congress in fiscal year (FY) units in the NRC's Performance Accountability Report. Therefore, Figures 8 and 9 report timeliness data in FY units. The external goals were modified in 2012 to stress the importance of processing escalated enforcement actions in a timely manner and are: (1) 100 percent of non-Office of Investigations (non-OI) cases are completed with an NRC processing time of less than or equal to 160 days; and (2) 100 percent of Office of Investigations (OI) cases are completed with an NRC processing time of less than or equal to 330 days.

In addition to the external goals, the NRC staff continues to use the additional timeliness measures (internal goals) for trending purposes and to provide information to support potential improvements to the processes. The internal goals are: (1) completing non-OI cases in an average NRC processing time of less than or equal to 120 days; and (2) completing OI cases in an average NRC processing time of less than or equal to 180 days.

The NRC processing time starts on the latest of the following dates: (1) the inspection exit for non-OI cases; (2) the date of the OI memorandum forwarding the report to staff for OI related cases; (3) the date that the Department of Justice (DOJ) indicates NRC may proceed for cases either prosecuted or reviewed for an extended period of time by DOJ; or (4) the date of the Department of Labor decision that is the basis for the action.

All OI related enforcement actions were issued in less than 330 processing days and all non-OI related enforcement actions were issued in less than 160 processing days. Therefore, the external goals for dispositioning OI and non-OI related enforcement actions were met in FY 2012. Figure 8 below shows that, on the average, the agency required 76 days to issue a non-OI related enforcement action. This is less than the goal of 120 processing days and continues a decreasing trend. Figure 9 shows that, on the average, the agency required 227 days to issue an OI related enforcement action. This is greater than the goal and is an increase in average processing time after a steady decreasing trend over the previous 3 years. The staff will examine the casework which resulted in the goal being exceeded to determine what corrective actions can be taken to improve timeliness following OI case completion. The staff will continue to monitor this trend in future years.

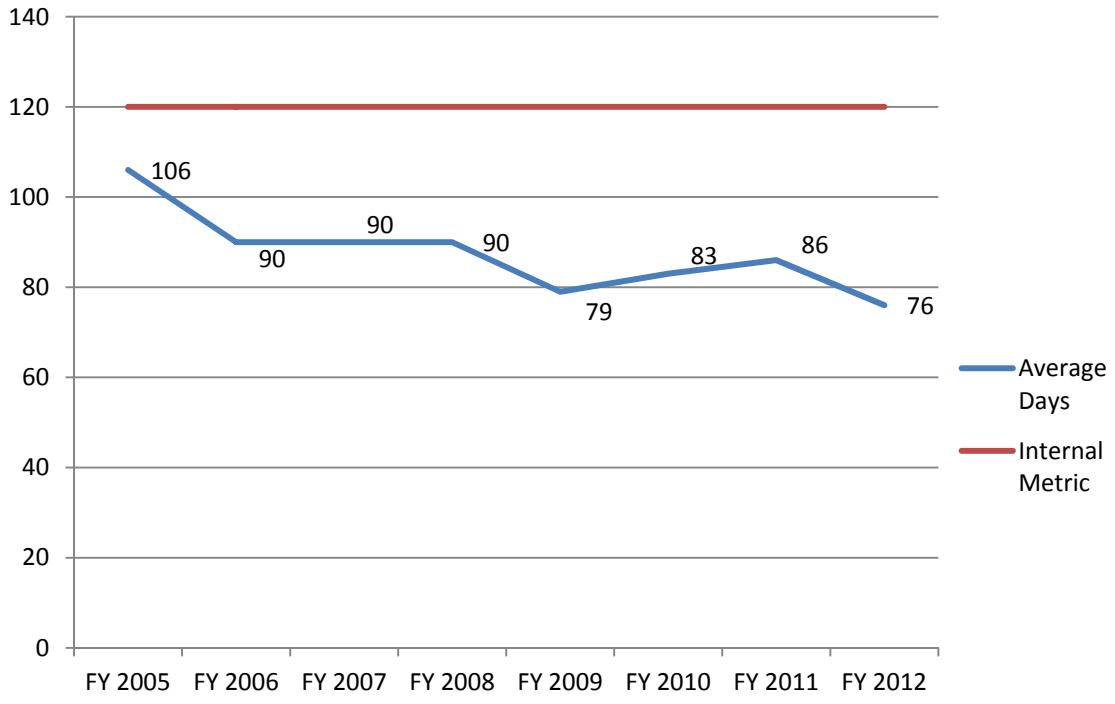

Figure 8: Non-OI Case Timeliness, Average Number of Days

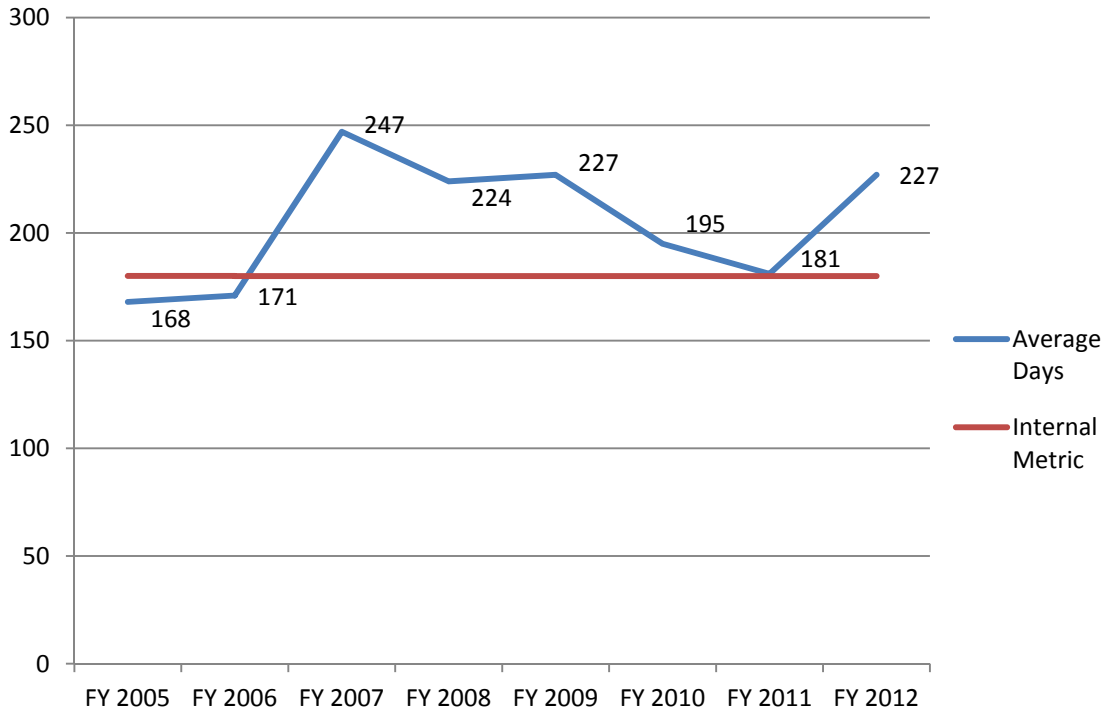

Figure 9: OI Case Timeliness, Average Number of Days

5. Alternative Dispute Resolution (ADR)

The term "postinvestigation ADR" refers to the use of mediation after the NRC Office of Investigations (OI) has completed its investigation and an enforcement panel has concluded that pursuit of an enforcement action appears to be warranted. Under the NRC's postinvestigation ADR process, mediation may be offered at three points in the traditional enforcement process for discrimination and other wrongdoing cases: (1) before a predecisional enforcement conference; (2) after the initial enforcement action is taken, typically the issuance of an NOV; or (3) after cases result in the issuance of an order imposing a civil penalty, but before a hearing request. Mediation is an informal and voluntary process in which a neutral mediator with no decision-making authority helps the parties attempt to reach an agreement. For certain escalated enforcement actions mediation provides an opportunity to achieve broader or more comprehensive corrective actions to better ensure public health and safety than outcomes typically achieved through the traditional enforcement process. For example, many times actions are taken fleetwide at reactor licensees to prevent occurrence at more than the site where the apparent violation occurred.

As Figure 10 shows, the number of confirmatory orders arising from the postinvestigation ADR program generally stayed at the same levels of approximately 5 to 10 confirmatory orders per year (excluding the uncharacteristically high number in CY 2009). In CY 2012, the NRC participated in 11 postinvestigation ADR mediations that resulted in orders confirming the terms of the parties' agreement (five reactor licensees, one reactor licensee contractor (a discrimination case), one licensed reactor operator, three materials licensees, and one individual that a materials licensee employed).

In CY 2012, the staff implemented several initiatives to enhance the postinvestigation ADR Program's timeliness, transparency and overall effectiveness. Those initiatives included (1) holding a public meeting to solicit feedback from the program's public stakeholders; (2) redesigning the program's public Web page, thereby making more information available; (3) revising several program documents, such as the postinvestigation brochure; and, (4) issuing more internal and external guidance documents. Although the realization of the impact of the NRC's ADR initiatives is more evolutionary than instantaneous, the timeliness data (Figure 11) reflects a positive trend.

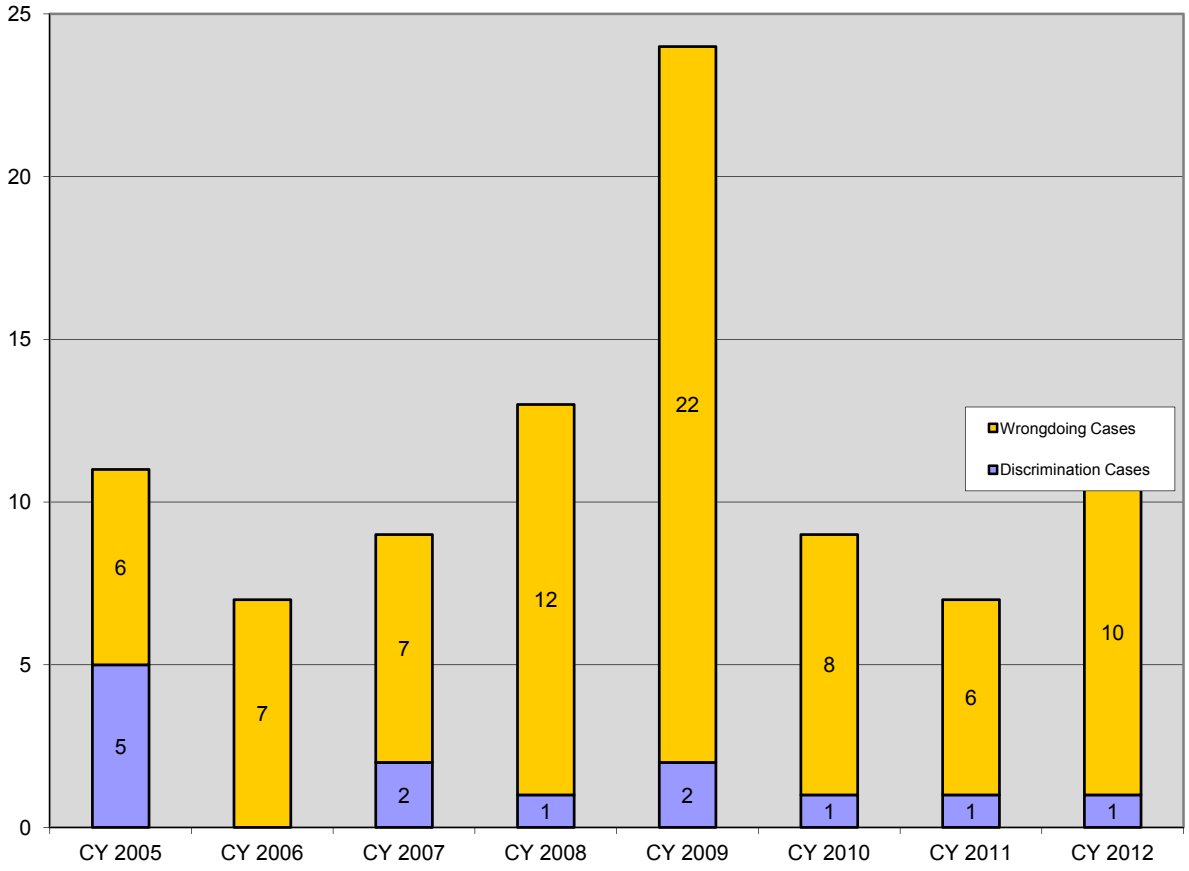

Figure 10: ADR Confirmatory Orders Issued in CY 2005—2012

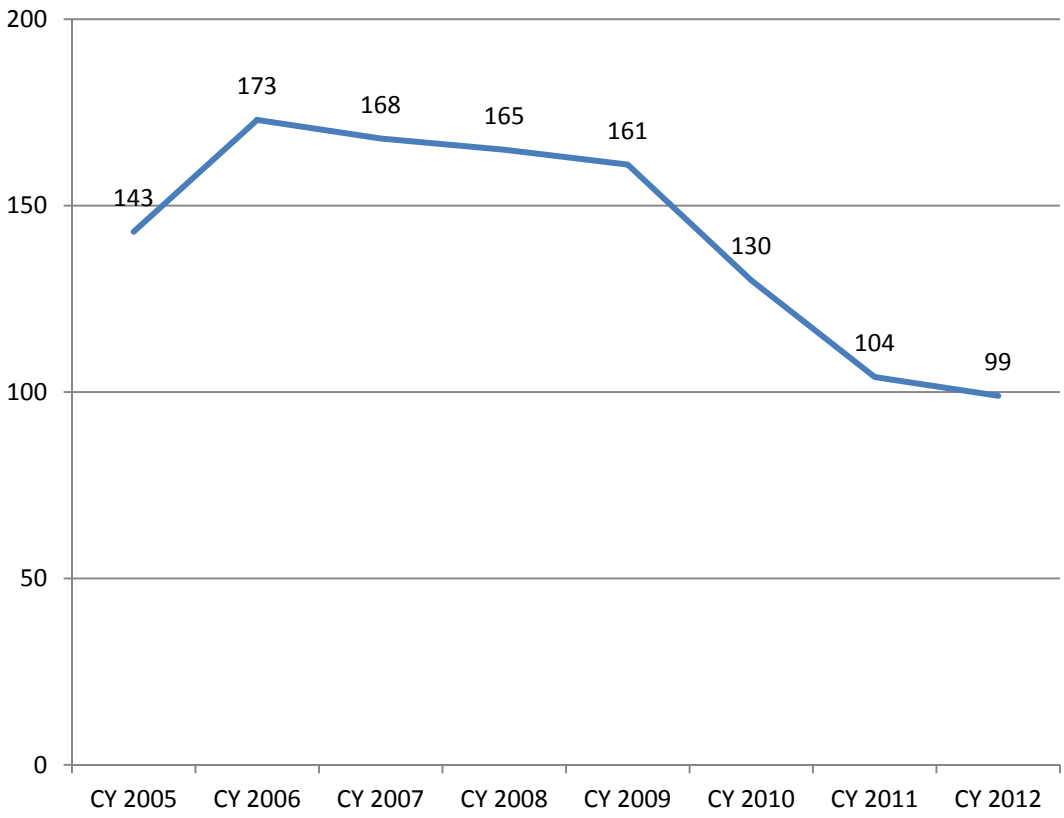

Figure 11: Processing Days to Issue ADR Confirmatory Orders

II. Enforcement Case Work

A. Significant Enforcement Actions

In CY 2012, the agency was involved in several significant enforcement actions that required coordination among internal and external stakeholders beyond the typical enforcement case and which were noteworthy in some aspects.

Pentas Controls, Inc.

In February 2011, the NRC Office of Investigations (OI) initiated an investigation into an allegation of discrimination involving Pentas Controls, Inc. (PCI). During the first investigation, OI initiated a second investigation in April 2011 to determine if the president of PCI made material false statements to OI during a deposition taken under oath. PCI, a nuclear vendor, refurbishes controls and power supplies and is listed as a safety-related basic component supplier by the Nuclear Procurement Issues Committee.

The first investigation substantiated the alleged discrimination. The second investigation concluded that the president made material false statements to conceal the fact that he directed a PCI employee to switch a display from an instrument chassis of one nuclear power plant with the display of another nuclear power plant, and sent the repaired chassis with the switched display without informing either nuclear power plant that PCI had taken this action. The investigation also concluded that the president directed other employees and previous employees to: (1) provide false statements to OI while under oath to support his material false statements; (2) file off the serial number on the switched display; and (3) destroy records related to repair of the display.

Because of the egregiousness of the president's actions, the U. S. Department of Justice (DOJ) prosecuted the case in Federal court. The president pled guilty to making false statements to OI, a felony, and was sentenced on February 11, 2013. In exchange for his guilty plea, the president will serve a 5 year probation during which time he will complete several conditions that the NRC developed and included in the DOJ's global settlement agreement. The NRC will monitor these conditions. These conditions were developed in CY 2012 and required extensive interaction between the NRC Offices of Enforcement, General Counsel, Investigations, and New Reactors (which provides for vendor-related inspection and enforcement), and DOJ.

Because DOJ prosecuted this case, the NRC did not propose further enforcement action against the parties in accordance with the Enforcement Policy and the conditions of probation included in the settlement agreement.

Honeywell International Inc.

On September 30, 2011, the NRC issued Temporary Instruction (TI) 2600/015, "Evaluation of Licensee Strategies for the Prevention and/or Mitigation of Emergencies at Fuel Facilities," to independently verify that fuel facility licensees are adequately prepared to prevent and/or mitigate the consequences of selected safety or licensing bases events and to evaluate the adequacy of those emergency prevention and/or mitigation strategies for dealing with the consequences of those events. The TI 2600/015 inspections were in response to the March 2011 Tohoku-Taiheiyou-Oki earthquake near Honshu, Japan, which caused significant damage to the Fukushima Dai-ichi nuclear power station (Fukushima).

An inspection was conducted at the Honeywell International fuel fabrication facility in Metropolis, IL, on May 21 - 24, 2012, in accordance with TI 2600/015. As a result of this inspection two apparent violations were identified involving (1) the failure to identify all relevant accident sequences related to credible seismic events and tornadoes that could result in large uranium hexafluoride (UF6) releases for which protective actions may be needed as required by 10 CFR 40.31(j)(3); and (2) the failure to provide complete and accurate information related to Honeywell Metropolis Works' Emergency Response Plan (ERP) as 10 CFR 40.9(a) requires. The inspection also identified significant concerns related to the licensee's UF6 and hydrogen fluoride (HF) source terms, used as a basis for the Honeywell ERP. The design of the process equipment in Honeywell's Feed Materials Building lack seismic restraints, supports, and bracing that would assure process equipment integrity during a credible seismic event or tornado. Specifically, when the facility is operating, the amount of UF6 that could be released during a credible seismic event or tornado could be significantly larger than that assumed in the development of the facility's ERP.

Because the Honeywell facility had been shut down for a planned maintenance outage since May 9, 2012, no immediate safety concern existed. However, the NRC concluded that significant corrective actions were necessary to provide reasonable assurance of public health and safety. On July 13, 2012, a confirmatory action letter (CAL) was issued documenting the corrective actions necessary prior to allowing the facility to restart operations (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12198A109). In evaluating the appropriate enforcement action, the staff concluded that in lieu of issuance of an NOV and consideration of a civil penalty for the above apparent violations, formalizing the corrective actions proposed necessitated issuance of a confirmatory order, consistent with Section 3.7 of the NRC's Enforcement Policy. On October 15, 2012, a confirmatory order was issued to Honeywell specifying the corrective actions required to be taken before the NRC authorized restart of operations (ADAMS Accession No. ML12289A800). This confirmatory order supersedes the CAL issued on July 13, 2012.

The NRC is monitoring the licensee's progress of the required modifications to the Honeywell Metropolis facility. In determining the appropriate enforcement action and followup activities, the NRC communicated with local governments and public stakeholders as well as coordinated with NRC Offices of Enforcement, General Counsel, Nuclear Material Safety and Safeguards, Region II and the U. S. Geological Service.

Inspection Manual Chapter 0350 Activities at Fort Calhoun Station

In 2011, an outage at the Omaha Public Power District's Fort Calhoun Station (FCS) was extended because of the Missouri River flooding that affected the site from June through September 2011. Performance concerns involving the recovery actions associated with the flood have delayed restart of the facility. These concerns include restoration of plant systems, security, and geotechnical and site restoration. As a result of the continuous performance assessment of FCS, on December 13, 2011, the NRC modified its regulatory oversight to Inspection Manual Chapter (IMC) 0350 "Oversight of Reactor Facilities in a Shutdown Condition due to Significant Performance and/or Operations Concerns," rather than the usual IMC 0305, "Operating Reactor Assessment Program." The IMC 0350 process establishes a regulatory oversight framework that adheres to implementation of an oversight panel, inspection plan, restart checklist and a record of actions taken and technical issues resolved to provide adequate protection of public health and safety, and security. These actions were agreed to in a CAL dated September 2, 2011. On February 26, 2013, the NRC issued a revised CAL to confirm corrective actions that the NRC determined needed to be reviewed or inspected before the plant restarted.

The IMC 0350 process is available on the NRC website at: http://www.nrc.gov/info-finder/reactor/fcs/special-oversight.html. The IMC 0350 Oversight Panel reviews apparent deficiencies, findings and violations identified during IMC 0350 inspections. The functions of the normal enforcement process, including the review of apparent escalated violations, conducting regulatory conferences, and the issuance of NOVs with civil penalties or orders are superseded by the authority given to the Oversight Panel. The panel reviews all greater-than-green issues and documents them in an inspection report. The significance of these findings are typically bounded by the Yellow finding associated with the flooding event and therefore are not characterized by a color significance. Since the NRC evaluates identified deficiencies, findings and violations under the IMC 0350 process and captures them in the restart checklist, there is typically no regulatory conference. The licensee always has the option to request a conference, present its position on an item, or dispute a deficiency, finding or violation under the normal process.

The following is a summary of the significant enforcement actions processed under IMC 0350, in which the items are documented in an inspection report issued in CY 2012 and captured in the restart checklist.

(EA-12-023) On April 10, 2012, an NOV was issued for a violation associated with three Red SDP findings associated with inadequate design control and corrective actions that contributed to a switchgear fire event. Specifically, the violation involved:

- The failure to ensure that the new modification to the 480 Vac load center breakers met the design requirements as required by 10 CFR 50, Appendix B, Criterion III, "Design Control." This resulted in the catastrophic switchgear fire caused by high-resistance connections within the switchgear;

- Inadequate corrective actions from 2008, to prevent high resistance connections in load center 1B4A due to the presence of hardened grease and oxidation, as required by 10 CFR 50, Appendix B, Criterion XVI, "Corrective Actions". The procedure did not contain adequate guidance for torquing bolted connections or

measuring abnormal connection temperatures due to loose electrical connections in the bus compartment of the switchgear; and,

- The failure to ensure that design reviews for electrical protection and train separation of the 480 Vac electrical power distribution system were adequate to ensure that a fire in a load center would not adversely affect operation of redundant safety shutdown equipment as required by License Condition 3.D, "Fire Protection Program."

(EA-12-095) On September 14, 2012, a violation bounded by the Yellow SDP finding associated with the flooding was issued for maintaining inadequate procedures, inadequate classification of intake structure sluice gates, and not meeting the requirements for the design basis flood event. Specifically, the violation involved:

- Maintaining inadequate procedures contrary to Technical Specification 5.8.1.a and Regulatory Guide 1.33, Revision 2, Appendix A, 1978. The licensee's procedures were inadequate to mitigate the consequences of external flooding by: (1) failing to provide operators with sufficient information to ensure a transfer of power from offsite to an onsite emergency diesel generator prior to a loss of offsite power, (2) failing to identify that the class-1E powered motor operators of the six intake structure sluice gates were located at an elevation of 1,010 feet mean sea level, (3) failing to identify that three of the six sluice gate motor operators would be de-energized when offsite power was transferred from offsite to one onsite emergency diesel generator, and (4) not adequately ensuring the fuel transfer hose to the emergency diesel generator day tanks was staged prior to river level exceeding 1,004 feet mean sea level.

- Failing to classify the six intake structure exterior sluice gates and their motor operators as Safety Class III as defined in the Updated Safety Analysis Report, Appendix N as required by 10 CFR 50, Appendix B, Criterion III, “Design Control.”

- Failing to translate design basis requirements for protection of the safety related raw water system during a design basis flood as required by 10 CFR 50, “Design Control,” Appendix B, Criterion III. Specifically, the design basis states that water level inside the intake cells can be controlled during a design basis flood by positioning the exterior sluice gates to restrict the inflow into the cells and this operation was not assured under all design basis conditions.

Violations Associated with Red and Yellow Findings

In CY 2012, the NRC issued NOVs associated with three Red SDP findings to one reactor licensee and three separate Yellow SDP findings to three additional reactor licensees. In CY 2011 the NRC issued one violation associated with a Red SDP finding and one violation associated with a Yellow finding. Short summaries of the nonsecurity cases issued in CY 2012 are listed below.

- On April 10, 2012, an NOV associated with three Red SDP findings was issued to Omaha Public Power District for three violations identified at the Fort Calhoun Station. The Red findings involved a deficient modification, inadequate maintenance of the safety-related 480 Vac electrical distribution system, and a failure to maintain in effect all provisions of the approved fire protection program that resulted in a catastrophic switchgear fire. Details of the NOV are discussed in the IMC 0350 activities section above.

- On February 14, 2012, an NOV associated with a Yellow SDP finding was issued to Entergy Nuclear Operations, Inc. as a result of an inspection at the Palisades Nuclear Power Plant for a violation involving the failure to ensure that the work performed on Electrical Bus D11-2 was prescribed by documented instructions or procedures of a type appropriate to the circumstances and accomplished in accordance with the instructions or procedures as required by 10 CFR 50, Appendix B, Criterion V, “Instructions, Procedures, and Drawings.” Specifically, on September 25, 2011, the work order instructions did not provide critical steps and lacked proper step progression. The work order instructions also included action steps which were not implemented. In addition, workers attempted to remove a horizontal positive bus bar in Bus D11-2, which was not a prescribed step in the work order instructions. As a result, these performance deficiencies caused an electrical fault which caused the loss of the left train 125-Volt DC safety-related system and loss of both preferred AC sources associated with the left train DC system.

- On September 21, 2012, an NOV associated with a Yellow SDP finding was issued to the Wolf Creek Nuclear Operating Corporation as a result of an inspection at the Wolf Creek Nuclear Power Plant for a violation involving the failure to implement maintenance on safety-related equipment in accordance with written procedures as required by TS 5.4.1(a) and Regulatory Guide 1.33, Appendix A, Section 9.a. Specifically, although required by a work order, the licensee failed to install insulating sleeves on two splices associated with a startup transformer protective relay circuit. The startup transformer subsequently experienced a trip and lockout. The protective lockout caused a prolonged loss of offsite power to all Train B equipment and all nonsafety related buses.

B. Hearing Activities

There were no enforcement-related proceedings held before the Atomic Safety and Licensing Board in CY 2012.

C. Orders

In CY 2012, the NRC issued 19 orders to licensees, nonlicensees, and individuals. These orders do not include orders revoking a license issued by the Office of the Chief Financial Officer for lack of required payment of fees. Eleven of the 19 orders are confirmatory orders that were issued to confirm commitments associated with ADR settlement agreements. Three of these orders included a requirement to pay a civil penalty as a result of the settlement agreements. Two of the 11 ADR orders were issued to two individuals as a result of separate successful mediations sessions. One order associated with employee discrimination was issued to a vendor providing consulting services to a reactor licensee.

Seven of the 19 orders were issued to individuals. One individual is prohibited from involvement in NRC-licensed activities until specific actions are taken to ensure reasonable assurance is provided for the protection of public health and safety. Orders issued to individuals prohibiting involvement in NRC licensed activities include: one individual for 5 years; one individual for 3 years; one individual for 18 months; and three individuals for 1 year.

As shown in Table 1, the number of orders the NRC issued in CY 2012 increased from CY 2011 partly because of an increase in the number of cases involving individuals.

Appendix C includes a brief description of the enforcement orders issued in CY 2012.

D. Enforcement Actions Supported by the Office of Investigations

In CY 2012, OI investigations supported 33 percent of the escalated enforcement actions (37 of the 111). The escalated actions supported by OI investigations include the following:

- 7 of the 15 escalated NOVs with civil penalties (47 percent)
- 12 of the 77 escalated NOVs without civil penalties (16 percent)
- 16 of the 19 enforcement orders (84 percent)

The 37 enforcement actions that OI investigations supported are higher than the 21 enforcement actions supported in CY 2011, but they are equal to the average number of enforcement actions OI investigations supported over the previous 5 years (CY 2007 – CY 2011). The percentage of enforcement actions that OI investigations supported (33 percent) is slightly higher than the percentage of enforcement actions that OI investigations supported over the previous 5-year period of CY 2007 through CY 2011 (31 percent).

E. Actions Involving Individuals and Nonlicensee Organizations

In CY 2012, the agency issued 18 escalated enforcement actions to licensed and unlicensed individuals. This number is included in the total number of escalated enforcement actions (NOVs and orders) that the agency issued in CY 2012. Appendix C summarizes the orders that were issued to individuals and Appendix D summarizes the NOVs issued to individuals in CY 2012. These appendices do not include individual enforcement actions involving security related violations. The number of escalated actions issued to individuals in CY 2012 is a significant increase from the seven escalated actions issued to individuals in CY 2011 and is comparable to the17 issued in CY 2009.

The agency issued one escalated enforcement action to a nonlicensee organization in CY 2012. Appendix E summarizes this action.

F. Enforcement Action Involving Discrimination

In CY 2012, one case involving an allegation of discrimination was resolved using postinvestigation ADR. This is equivalent to the number processed in CY 2011 and CY 2010. On April 17, 2012, the NRC issued a confirmatory order (EA-11-254) to confirm commitments made as result of an ADR mediation session held on March 12, 2012, between ABSG Consulting Inc. (ABSG) and the NRC. This confirmatory order arose out of an apparent violation of 10 CFR 50.7, “Employee Protection,” in which the NRC had reached a preliminary conclusion that an ABSG was terminated on September 28, 2009, because the employee participated in a Commission proceeding before the NRC Atomic Safety and Licensing Board Panel. A more detailed discuss of this case is located in Appendix E.

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

The NRC may choose to exercise discretion and either escalate or mitigate enforcement sanctions or otherwise refrain from taking enforcement action within its statutory authority. The exercise of discretion allows the NRC to determine which actions should be taken in a particular case, notwithstanding the guidance contained in the Enforcement Policy. After considering the general tenets of the Enforcement Policy and the safety and security significance of a violation and its surrounding circumstances, the NRC may exercise judgment and discretion in determining the severity levels of violations and the appropriate enforcement sanctions.

In CY 2012, the NRC exercised enforcement discretion in 47 cases to address violations of NRC requirements. This is a 38 percent increase from the number of cases in CY 2011 mainly because of the increase in the use of discretion, in accordance with EGM-09-004, to disposition violations of the Naturally Occurring and Accelerator-Produced Radioactive Materials (NARM) requirements. Below is a discussion of the significant cases dispositioned with discretion in CY 2012.

1. Discretion Involving Enforcement Guidance

In 30 cases, the NRC used discretion in accordance with either the Interim Enforcement Policy guidance related to fire protection issues (Section 9.1 of the Enforcement Policy) or an enforcement guidance memorandum (EGM).

- The NRC continued to perform fire protection inspections at power reactor sites to verify compliance with requirements of 10 CFR 50, Appendix R, “Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979.” Violations of these requirements that were identified at sites transitioning to the National Fire Protection Association Standard 805 (NFPA 805) and met the criteria as stated in the Interim Enforcement Policy, “Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48)” warranted enforcement discretion and notices of violation were not issued. Six documented cases involved this type of discretion. One case involved the extension of the 3-year enforcement discretion period after the licensee provided adequate justification for an extension. This extension was issued as a confirmatory order.

- The agency dispositioned 17 violations using discretion in accordance with EGM-09-004, “Interim Guidance for Dispositioning Violations of Naturally Occurring and Accelerator-Produced Radioactive Materials (NARM) Requirements,” dated May 13, 2009. Enforcement discretion may be exercised for violations of the NARM requirements if certain criteria are met as described in EGM-09-004.

- The NRC dispositioned five violations using discretion in accordance with EGM-11-004, “Interim Guidance for Dispositioning Violations of Security Requirements for Portable Gauges," dated April 28, 2011. Enforcement discretion may be exercised for violations of 10 CFR 30.34(i) if certain criteria are met as described in EGM-11-004.

- The NRC dispositioned two violations using discretion in accordance with EGM-11-003, "Dispositioning Boiling Water Reactor Licensee Non-Compliance with Technical Specification Containment Requirements During Operations with a Potential for Draining the Reactor Vessel," dated October 4, 2011. Enforcement discretion may be exercised for violations of certain Technical Specification requirements at boiling-water reactors if certain criteria are met as described in EGM-11-003.

2. Discretion Involving Special Circumstances

Eight cases involved the use of discretion to disposition violations in accordance with Section 3.5 of the Enforcement Policy, “Special Circumstances.” In seven cases, the staff determined that the facts supported issuance of a closeout letter to the licensee instead of an NOV. In one case, the staff determined that the facts supported categorizing the violation at SL IV and not issuing a NOV and a civil penalty for a SLIII violation. Below is a discussion of some of the significant cases dispositioned in CY 2012.

- A violation of 10 CFR 34.46, "Supervision of Radiographers' Assistants," normally categorized at SL III, was dispositioned using enforcement discretion in accordance with Section 3.5 of the Enforcement Policy. In Prudhoe Bay, AK, two radiographer's assistants conducted radiography while not under the supervision of a radiographer. An NRC review of the specific facts for this case identified that, among other considerations: (1) the violation was isolated to a single occurrence of brief duration and did not involve willful noncompliance; (2) the licensee's procedure resulted in the identification of the incident within hours; (3) the licensee promptly notified the NRC of the incident, when notification was not required, and afforded the NRC an opportunity to review the licensee's corrective actions; (4) the licensee took immediate and comprehensive corrective actions; (5) the incident posed no significant potential for safety or security consequences; and (6) programmatic weakness was not indicated. Therefore, the NRC categorized this violation at SL IV.

- The NRC dispositioned violations at four reactor facilities in accordance with Section 3.5 of the Enforcement Policy for equipment that was declared inoperable for a period of time that exceeded the applicable technical specification limit. In each case, the staff concluded that although the individual issues constituted a violation, the reason for the equipment inoperability was not within the licensee's control to detect. The NRC dispositioned a violation at a materials licensee similarly in accordance with Section 3.5 of the Enforcement Policy related to an unauthorized disposal of licensed material. Although unauthorized disposal of licensed material constitutes a violation, the staff concluded that the violation resulted from matters not reasonably within the licensee's ability to foresee and control.

- The NRC concluded that the merits of two cases warranted disposition of violations in accordance with Section 3.5 of the Enforcement Policy because of inadequate or lack of clear guidance. Further details are not provided because of the security nature of the violations.

3. Exercise of Discretion to Issue Orders

One case involved use of discretion to issue a confirmatory order instead of issuance of an NOV with a civil penalty to formalize corrective actions in accordance with Section 3.7 of the Enforcement Policy. On October 10, 2012, a confirmatory order was issued to Honeywell International, Inc. to formalize the corrective actions committed to in the CAL issued on July 13, 2012. This confirmatory order was issued in lieu of an NOV for violations identified during an inspection at the Honeywell Metropolis Works facility. The confirmatory order supersedes CAL dated July 13, 2012. (See Appendix C for further details).

4. Discretion Used in Determining the Amount of a Civil Penalty

The staff exercised enforcement discretion, in accordance with Section 3.6 of the Enforcement Policy, to escalate the amount of a proposed civil penalty in two cases and to forego the imposition of a civil penalty in another case to ensure that the enforcement actions properly reflected the significance of the circumstances of the violations. These enforcement actions differed from the action that would have resulted

from application of the normal civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. In CY 2011, the staff exercised enforcement discretion to forego proposing a civil penalty in one case.

- In recognition of particularly poor performance by Avera McKennan Hospital (Avera), the staff exercised enforcement discretion and doubled the $5,600 civil penalty derived from the normal civil penalty assessment process for a SL II violation associated with medical events (NMED 120067) that occurred on January 16 and 17, 2012. This violation was a repeat violation resulting in radiation underexposures to the intended treatment site and exposures to an unintended site on two consecutive days. A proposed Imposition of a civil penalty in the amount of $11,200 was issued to Avera on October 3, 2012. (See Appendix A for further details).

- In recognition of particularly poor performance by JANX Integrity Group, Inc. (JANX), the staff exercised enforcement discretion and doubled the $14,000 civil penalty derived from the normal civil penalty assessment process for two SL III safety violations identified as a result of a radiography inspection. Normally, a base civil penalty in the amount of $7,000 would be proposed for each SL III violation of this type. In addition, the staff exercised enforcement discretion and doubled the $7,000 civil penalty derived from the normal civil penalty assessment process for one of two security violations associated with the same event. A proposed Imposition of a civil penalty in the amount of $28,000 for the two safety violations and $21,000 for the two security violations was issued to JANX on June 25, 2012. (See Appendix A for further details).

- The NRC concluded that enforcement discretion to forego proposing a civil penalty was appropriate in the case of a McGarvin-Moberly Construction Company repeat SL III violation involving inadequate control of a portable radiographic device. The basis of the agency's conclusion was that the licensee took effective immediate corrective actions and the licensee terminated its license. Normally a base civil penalty in the amount of $3,500 would be proposed for a violation of this type. Further details are not provided because of the security nature of the violation.

5. Notices of Enforcement Discretion

Occasionally, circumstances may arise in which a power reactor licensee's compliance with a technical specification or other license condition would require a plant transient or performance testing, inspection, or other system realignment that is of greater risk than the current specific plant conditions. In these circumstances, the NRC staff may choose not to enforce the applicable requirements. The staff exercises this enforcement discretion, designated as a notice of enforcement discretion (NOED) in accordance with Section 3.8 of the Enforcement Policy, only if it is clearly satisfied that the action is consistent with protecting the public health and safety. The staff may also issue NOEDs in cases involving severe weather or other natural phenomena when it determines that exercising this discretion will not compromise safety. NOEDs require justification from a licensee or certificate holder that documents the safety basis for the request and provides whatever other information the staff deems necessary to issue an NOED. The NRC issued five NOEDs in CY 2012 and denied one request for a NOED.

- NOED 12-3-001. The NRC verbally granted enforcement discretion on July 7, 2012, to Exelon Generation Company (Braidwood Station), which allowed the license to extend the 6-hour completion times for Technical Specification (TS) 3.7.9, "Ultimate Heat Sink - Operability," Required Action A.1 by 18 additional hours and to increase the limit on the average water temperature of the ultimate heat sink (UHS) from less than or equal to 100 degrees Fahrenheit to less than or equal to 102 degrees Fahrenheit for a period of 24 hours to provide sufficient time for UHS water temperature to subside following a sustained period of hot weather or commence a plant shutdown. The condition requiring the NOED was exited on July 8, 2012.

- NOED 12-3-002. The NRC verbally granted enforcement discretion on July 19, 2012, to Indiana Michigan Power Company (Donald C. Cook Nuclear Power Plant), which allowed the license to extend the 6-hour and 12-hour completion times for TS 3.3.2, "Engineering Safety Feature Actuation System Instrumentation," Required Actions I.1 and I.2, respectively by 24 hours to complete repairs to a dump valve for two of four steam generator stop valves or commence a plant shutdown. Enforcement discretion was needed for about an hour for TS 3.3.2 Action I.1 and it was not needed for TS 3.3.2 Action I.2 because the plant repairs were completed before the completion time required for the required actions with the NOED extension.

- NOED 12-2-001. The NRC verbally granted enforcement discretion on July 21, 2012, to Carolina Power and Light Company (Shearon Harris Nuclear Power Plant), that allowed the licensee to extend the 72-hour completion time for TS 3.8.1.1, "AC Sources – Operating," Required Action B.3, by 12 hours to restore a diesel generator to operable status or commence a plant shutdown. On July 22, 2012, the emergency diesel generator was declared operable following successful testing within the normal completion time and the NOED was not needed to comply with the existing TS requirement.

- NOED 12-2-002. A request for enforcement discretion by the Southern Nuclear Company (Joseph M. Farley Nuclear Plant) to extend the 10-day completion time for TS 3.8.1.B, "A/C Sources – Operating, One Diesel Generator Set Inoperable" by an additional 66 hours in order to restore diesel generator 1B to operable status or commence a plant shutdown was verbally denied on July 26, 2012. The NRC declined to issue the NOED because it concluded the condition would reduce the safety margins if the extended allowed outage time was granted. The licensee subsequently complied with the required actions of TS 3.8.1.B.

- NOED 12-2-003. The NRC verbally granted enforcement discretion on August 12, 2012, to Virginia Electric and Power Company (Surry Power Station) which allowed the licensee to extend the 7-day outage time for TS 3.16, "Emergency Power System," by 5 additional days to restore a diesel generator to operable status or commence a plant shutdown. The emergency diesel generator was declared operable following successful testing within the NOED extended time period.

- NOED 12-4-002. The NRC verbally granted enforcement discretion on August 20, 2012, to Union Electric Company (Callaway Plant), which allowed the licensee to extend the 24-hour completion time for TS 3.8.7, “Inverters – Operating,” Required Actions A.1, by 36 hours to restore inverter NN14 to operable status or commence a plant shutdown. On August 21, 2012, inverter NN14 was declared operable following successful testing.

H. Withdrawn Actions

Licensees can challenge enforcement actions for several reasons (e.g., a licensee might dispute the requirements, the facts of the case, the agency’s application of the Enforcement Policy, or the significance of the violation). Licensees may provide clarifying information that was not available at the time of the inspection and this may affect a finding of noncompliance.

In addition, the staff has established a metric for quality of enforcement actions based on the number of disputed and withdrawn nonescalated enforcement actions. The goal is less than four withdrawn nonescalated enforcement actions in a calendar year per region. This metric does not include violations that are withdrawn on the basis of supplemental information that was not available to an inspector before the assessment of an enforcement sanction. In CY 2012, the agency issued approximately 1,100 nonescalated enforcement actions to reactor, materials, and fuel facility licensees. This is a slight decrease in the number of nonescalated enforcement actions issued annually in the past 2 years. Of these actions, nine nonescalated enforcement actions were disputed. This is a decrease from 10 disputed violations in CY 2011 and 12 in CY 2010. In CY 2012, the NRC withdrew three of these disputed actions. This is a decrease from the four nonescalated enforcement actions withdrawn in CY 2010. The goal for disputed violations was not exceeded in CY 2012, which indicates that NOVs were prepared properly and accurately.

In CY 2012, the agency issued 111 escalated enforcement actions to reactors, materials, and fuel facility licensees, none of which were disputed.

III. Ongoing Activities

A. Enforcement Policy

1. Enforcement Policy Revisions

The NRC Enforcement Policy is a living document that is periodically revised to reflect regulatory changes, experience, and stakeholder input. In the staff requirements memorandum (SRM-SECY-09-0190), "Major Revision to NRC Enforcement Policy," which approved the Policy that became effective on September 30, 2010 (75 Federal Register (FR) 60485), the Commission directed the staff to evaluate specific topics for inclusion in a future policy revision. Those topics included guidance for (1) determining when daily civil penalties are appropriate, (2) providing credit to fuel cycle licensees with effective corrective action programs, and (3) reevaluating the Enforcement Policy related to construction activities, including cases for which discretion may be appropriate.

The staff addressed SRM-SECY-09-0190 with two SECY papers: SECY-11-0155, "Proposed Changes to the Enforcement Policy Associated with Construction Activities", dated November 1, 2011, and SECY-12-0047, "Revisions to the Nuclear Regulatory Commission Enforcement Policy," dated March 28, 2012.

- On April 18, 2012, SRM-SECY-11-0155 (ADAMS Accession No. ML121090184) directed the staff to implement the changes proposed in SECY-11-0155 with minor alterations. On June 7, 2012, the resultant revised Enforcement Policy became effective (77 FR 33786). Changes made to the policy included, but were not limited to: (1) changes to clarify the current Enforcement Policy, (2) revisions to Section 2.3.2, "Noncited Violations," and (3) revisions to the Enforcement Policy sections on enforcement discretion.

- On November 28, 2012, SRM-SECY-12-0047 (ADAMS Accession No. ML12333A301) directed the staff to implement the changes proposed in SECY-12-0047 with minor alterations. On January 28, 2013, the revised Enforcement Policy became effective (78 FR 5838). Some of the significant changes in the 2013 policy included: (1) guidance for the use of discretion when considering imposition of daily civil penalties, (2) clarification that a violation by an NRC licensee or nonlicensee may be dispositioned as a noncited violation provided certain criteria are satisfied and the licensee or nonlicensee has an approved corrective action program, (3) addition of a new section on civil penalties to individuals who release safeguards information, (4) guidance on damaging or disqualifying information about an individual's trustworthiness and reliability, and (5) examples of violations and proposed severity levels for import and export activities.

2. Future Enforcement Policy Revision Activities

On March 21, 2011, SRM-SECY-10-0140, "Options for Revising the Construction Reactor Oversight Process (cROP) Assessment Program," (ADAMS Accession No. ML110800557) directed the staff to develop a construction assessment program for nuclear power plants that includes: (1) a regulatory framework, (2) the use of a construction significance determination process to determine the significance of findings identified during the construction inspection program, and (3) the use of a construction action matrix to determine the appropriate NRC response to findings. On January 1, 2012, the staff initiated a 12-month pilot program for the new cROP. EGM-11-006, "Enforcement Actions Related to the Construction Reactor Oversight Process," dated December 21, 2011, provided enforcement guidance for use during the cROP pilot program. The guidance in this EGM will remain in effect until the results of the pilot program are thoroughly evaluated and the NRC issues a subsequent revision to the Enforcement Policy using the principles contained in this EGM. In addition, the staff plans to develop a construction chapter for inclusion in the Enforcement Manual.

B. Enforcement Guidance Memoranda (EGM)

EGMs are issued to provide guidance on the interpretation of specific provisions of the Enforcement Policy. A link to the full text of all publicly available EGMs appears in Appendix A to the NRC Enforcement Manual. Three EGMs were issued in CY 2012 and are summarized below.

- February 24, 2012, EGM-12-001, "Dispositioning Noncompliances with Administrative Controls Technical Specifications Programmatic Requirements that Extend Test Frequencies and Allow Performance of Missed Tests." The purpose of this EGM is to provide guidance on how to disposition licensee noncompliance with Section 5.0, "Administrative Controls", Technical Specification 5.5, "Program and Manuals," testing requirements.

- December 20, 2012, EGM-11-003 (rev 1), "Dispositioning Boiling Water Reactor Licensee Non-Compliance with Technical Specification Containment Requirements During Operations with a Potential for Draining the Reactor Vessel." The purpose of this EGM is to provide guidance on how to disposition licensee noncompliance with technical specification requirements during operations with a potential for draining the reactor vessel (OPDRV).

- December 20, 2012, EGM-12-002, "Dispositioning Violations of Nuclear Regulatory Commission Requirements Implementing the Decommissioning Planning Rule." This EGM provides guidance for the disposition of violations of NRC requirements for implementing the monitoring and surveillance requirements of the Decommissioning Planning Rule.

C. Knowledge Management

In CY 2012, the staff engaged in several knowledge management activities. Some of the ongoing activities being conducted to maintain an adequate knowledge base included conducting counterpart meetings, supporting training, and completing reviews and self assessments.

Enforcement Counterpart Meetings

In May 2012, regional and headquarters enforcement staff held a counterpart meeting to discuss specific aspects of the enforcement process, interpretation of the Enforcement Policy and guidance documents, and ways to improve the enforcement process and communication among staff. Agenda items generally focused on topics intended to enhance the overall general enforcement-related knowledge of the participants, as well as topics focused on specific aspects of the program, such as financial assurance regulations, reintegration of security into the ROP, and the potential consideration of issuing civil penalties to individuals. In addition, a few action items to improve the program and the program's guidance were identified, many of which were completed after the meeting. The outstanding items are being tracked to completion.

Training

OE supported members of the Leadership Potential Program and the Nuclear Safety Professional Development Program on rotational assignments to the office. The knowledge these staff members gained will improve understanding of the Enforcement Program in the field. In addition, OE staff members participated in rotational assignments in other offices (the Office of Federal and State Materials and Environmental Management Programs (FSME), the Office of Nuclear Reactor Regulation (NRR), and the Office of Nuclear Security and Incident Response (NSIR)).

Headquarters and regional enforcement staff engaged in outreach opportunities to internal and external stakeholders on enforcement and ADR processes during CY 2012. Examples included: (1) a 2-day training session for the Office of International Programs on the NRC enforcement program, (2) program updates and discussions at regional counsel and Office of Investigations counterpart meetings, and (3) a presentation by the staff at the Annual Master Materials Licensees counterpart meeting in June 2012. In addition, multiple informal question and answer sessions with the staff on the revised Enforcement Policy were held.

Reviews and Self Assessments

In CY 2012, OE completed two regional enforcement assessments. In March 2012, an assessment was completed in Region II and in August 2012, an assessment was completed in Region I. A team of enforcement specialists from OE and one of the other regions performed the assessments. The primary purpose of these assessments was to ensure that the enforcement program is being consistently implemented in the regions. The assessments also provided the opportunity to share "best practices" between the regions and to enhance knowledge management of the enforcement process. The assessments involved the review of nonescalated enforcement actions and processes, which do not normally involve headquarters. The teams concluded that both Region II and Region I maintain strong regional enforcement programs and are effectively implementing the NRC Enforcement Policy largely because of the efficient and effective collaboration among inspectors, enforcement and allegation coordination staff, and regional and division management. The Region I assessment completed the initial assessments of all four regions. A review of the assessment program will be conducted in CY 2013 and program modifications, if necessary, will be incorporated during future assessments.

D. Regional Accomplishments

In CY 2012, the regions conducted both routine and focused self assessments of the enforcement area to ensure effective performance and to identify opportunities for continuous improvement. The self-assessments encompassed both the reactor and materials arenas, considered performance associated with development and issuance of nonescalated and escalated enforcement actions, and included activities that required a high degree of coordination with other NRC stakeholders.

Overall, the self-assessments showed that the regions were effectively implementing the Enforcement Program. Recommendations were made for any deficiency identified.

In addition to assessments, the enforcement staff trained regional technical staff, in part, on the revised Enforcement Policy, recent EGMs, and proper enforcement documentation requirements for inspectors and participated on inspector qualification review boards as necessary.

Regional enforcement representatives supported agency enforcement initiatives and activities in the following manner:

- participated on the Escalated Enforcement Working Group
- provided substantive input on various enforcement program documents including proposed revisions to the Enforcement Policy and Enforcement Manual; draft EGMs, and enforcement SECY papers
- participated in Office of the Inspector General audits of CALs and orders

Table 3: CY 2012—Escalated Enforcement Actions by Region and Program Office

Program Office	Escalated NOVs (w/o Civil Penalty)	Civil Penalties[1]	Orders[2]	Orders Imposing Civil Penalty	TOTAL
Region I	14	3	4	0	21
Region II	10	2	2	0	14
Region III	22	4	4	0	30
Region IV	26	6	4	0	36
OIP	4	0	0	0	4
NSIR	3	0	0	0	3
FSME	0	1	0	0	1
NRR	0	0	1	0	1
OE	0	0	1	0	1
TOTAL	79	16	16	0	111

[1] Includes Orders with Civil Penalties (2 for Region IV)
[2] Does not include 2 Orders with Civil Penalties

Table 4: CY 2012—Escalated Enforcement Actions by Type of Licensee, Nonlicensee, or Individual

Type of Licensee	Escalated NOVs (w/o Civil Penalty)	Civil Penalty[1]	Orders[2]	Orders Imposing Civil Penalty	TOTAL
Operating Reactor	32	2	7	0	41
Gauge User	8	3	0	0	11
Radiographer	4	7	0	0	11
Hospital	8	1	0	0	9
Materials Distributor	8	1	0	0	9
Unlicensed Individual (Materials)	3	0	5	0	8
Licensed Individual (Reactor)	6	0	1	0	7
Fuel Facility	3	1	1	0	5
Unlicensed Individual (Reactor)	2	0	1	0	3
Irradiator	2	0	0	0	2
Nonlicensee	0	0	1	0	1
Well Logger	0	0	0	0	0
Unlicensed Individual (Fuel Facility)	0	0	0	0	0
Physician	0	0	0	0	0
Pharmacy	0	0	0	0	0
Academic	0	0	0	0	0
UF Conversion Facility	0	0	0	0	0
Research Reactor	0	0	0	0	0
Mill	0	0	0	0	0
Radiographer Fabricator	0	0	0	0	0
Waste Disposal	0	0	0	0	0
Other	3	1	0	0	4
TOTAL	79	16	16	0	111

[1] Includes Orders with Civil Penalties (2 for Radiographer)
[2] Does not include 2 Orders with Civil Penalties

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Appendix A: Summary of Cases Involving Civil Penalties*

Civil Penalties Issued To Reactor Licensees

Entergy Nuclear Operations, Inc. (River Bend Station) EA-11-159

On January 5, 2012, an NOV and Proposed Imposition of a Civil Penalty in the amount of $140,000 was issued to Entergy Operations, Inc. (Entergy) for a SLIII violation identified as a result of an NRC investigation at the River Bend Station. The investigation determined that on multiple occasions multiple reactor operators willfully failed to follow an Entergy procedure that prohibited internet access in the "At-the-Controls" area of the control room, except as specifically authorized by the Operations Manager. These reactor operators put Entergy in violation of the River Bend Station Technical Specifications.

Florida Power and Light Company (Turkey Point Plant) EA-12-001

On April 9, 2012, an NOV associated with a White Significance Determination Process (SDP) finding and a separate SL III violation with a Proposed Imposition of a Civil Penalty in the amount of $140,000 was issued to Florida Power and Light Company (FPL) as a result of an inspection at the Turkey Point Plant. The violation associated with the White SDP finding involved the failure to maintain the effectiveness of the Turkey Point emergency plan as required by 10 CFR 50.54(q) and 10 CFR 50.47(b). The SLIII violation and Proposed Civil Penalty involved the failure to make an eight hour report as required by 10 CFR 50.72(b)(3)(xiii). Specifically, from December 4, 2010, to July 13, 2011, and from October 10 to October 28, 2011, Turkey Point personnel failed to follow and maintain the effectiveness of its emergency plan when portions of the Technical Support Center ventilation system were removed from service for maintenance, without compensatory measures. FPL failed to report this condition as required from December 4, 2010, to July 13, 2011.

Civil Penalties Issued To Material Licensees

Avera McKennan Hospital EA-12-090
Sioux Falls, SD

On October 3, 2012, an NOV and Proposed Imposition of a Civil Penalty in the amount of $11,200 was issued to Avera McKennan Hospital for a SL II violation involving the failure to maintain written procedures to provide high confidence that each treatment is performed in accordance with the physician's written directive as required by 10 CFR 35.41. Specifically, on January 16 and 17, 2012, procedures related to high dose-rate remote afterloader treatments failed to 1) verify a brachytherapy treatment was in accordance with the treatment plan and written directive as required by 10 CFR 35.41(b)(2); 2) check both manual and computer-generated dose calculations as required by 10 CFR 35.41(b)(3); and 3) verify that any computer-generated dose calculations were correctly transferred into the consoles of therapeutic medical units as required by 10 CFR 35.41(b)(4). This violation was a repeat violation resulting in radiation underexposures to the intended treatment site and

* *Please note that cases involving security-related issues are not included*

exposures to an unintended site on two consecutive days. As a result of the licensee's particular poor performance, the NRC used enforcement discretion in accordance with Section 3.6 of the Enforcement Policy to double the base civil penalty for a SLII violation.

DBI, Inc. EA-12-058
Casper, WY

On October 11, 2012, a Confirmatory Order (Effective Immediately) was issued to DBI, Inc. to formalize commitments made as a result of an ADR mediation session held on September 6, 2012. The commitments were made as part of a settlement agreement regarding apparent violations identified during an inspection and investigation involving the failure to: (1) conduct a survey when approaching the radiography camera and guide tube; (2) have at least one other qualified individual present while performing radiography; (3) supervise the assistant radiographer; and (4) provide complete and accurate information to the Commission. DBI, Inc. agreed to a number of corrective actions, including paying a civil penalty of $3,500, making improvements to operating and emergency procedures, and conducting employee training on the importance of complying with NRC regulations including the elements of willfulness (careless disregard and deliberate misconduct).

JANX Integrity Group, Inc. EA-12-008
Parma, MI

On June 25, 2012, an NOV and Proposed Imposition of Civil Penalties in the total amount of $49,000 was issued to JANX Integrity Group, Inc. for two SLIII safety-related violations ($28,000) and two SLIII security-related violations ($21,000). The first SLIII safety violation involved the failure to ensure that whenever radiography was performed at a location other than a permanent radiographic installation the radiographer is accompanied by at least one other qualified radiographer as required by 10 CFR 34.41(a). Specifically, on July 27, 2011, radiographic operations were performed at a temporary job site (a location other than a permanent radiographic installation) located on Spy Island, Alaska with only one qualified radiographer present. The second SLIII safety violation involved the failure to afford the NRC at all reasonable times an opportunity to inspect byproduct material and the premises and facilities wherein byproduct material is used or stored as required by 10 CFR 30.52(a). Specifically, the radiography crew left the immediate work site and did not return for approximately two hours once the NRC inspector announced himself. Normally, the two safety-related SLIII violations would result in civil penalties of $14,000. However, based on JANX's particularly poor performance, the NRC used enforcement discretion in accordance with Section 3.6 of the Enforcement Policy to double the base amount for each violation. The two security-related violations are not publically available and are not discussed in this report.

Quality Inspection & Testing EA-11-124
New Iberia, LA

On August 10, 2012, a Confirmatory Order (Effective Immediately) was issued to Quality Inspection & Testing (QIT) to formalize commitments made as a result of an ADR mediation session held on June 27, 2012. The commitments were made as part of a settlement agreement regarding apparent violations identified during an inspection and investigation involving the failure to: 1) maintain control and constant surveillance of licensee material that is not in storage as required by 10 CFR 20.1802; 2) wear a direct reading dosimeter, alarm ratemeter, and personnel dosimeter while conducting radiographic operations as required by

10 CFR 34.47; and 3) maintain records and documents as required by 10 CFR 34.89. QIT agreed to a number of additional corrective actions beyond actions already taken, including: (1) payment of a civil penalty in the amount of $3,500; (2) issuance of a policy statement addressing each of the areas of violation; (3) issuance of a letter from the QIT president regarding compliance and communicating concerns to management; (4) enhancing their training program; (5) submitting a number of procedures for NRC review and approval, such as management oversight and reporting concerns; and (6) presenting a paper at a professional society meeting.

S&R Engineering S.E, EA-11-098
San Juan, PR

On January 13, 2012, an NOV and Proposed Imposition of a Civil Penalty in the amount of $14,000 was issued to S&R Engineering (S&R) for a SL III problem involving two violations and two additional separate SLIII violations. The violations associated with the SL III problem involved: 1) the failure to comply with or respond to an NRC Order, as required by 10 CFR 2.202(b); and 2) the failure to provided information to the NRC that was complete and accurate in all material respects as required by 10 CFR 30.9(a). Specifically, prior to January 13, 2012, S&R had not submitted an answer to the order (which was required by November 28, 2009), had not paid the license fee, and had not disposed of or transferred its licensed nuclear material to an authorized recipient. On August 3, 2010, the S&R president informed the NRC that S&R had transferred its portable moisture density gauge containing radioactive sources to another NRC licensee when S&R still possessed the gauge. The two additional SL III violations involved 1) the failure by S&R to afford the NRC an opportunity to inspect materials, activities, and records under the regulations as required by 10 CFR 19.14(a); and 2) the failure to use a minimum of two independent controls that form tangible barriers to secure portable gauge from unauthorized removal, when the portable gauge was not under S&R's direct control and constant surveillance as required by 10 CFR 30.34(i). Specifically, on August 3, 2010, S&R provided the NRC inaccurate information about the location of its licensed material, thereby preventing inspection of S&R's licensed activities. In addition, the gauge was stored inside of its shipping case, which was located in an unlocked closet of the locked S&R office, thereby providing only one barrier contrary to the requirements of 10 CFR 30.34(i). On May 17, 2012, the NRC notified S&R that it would not impose the civil penalty in this case because it had appropriately transferred its gauge to an authorized recipient and completed all other decommissioning requirements specified in 10 CFR 30.36. The May 17th letter also informed S&R that its NRC licensee had been terminated and all facilities previously used for licensed activities were released for unrestricted use.

Texas Gamma Ray, LLC EA-10-102
Pasadena, TX

On May 15, 2012, a Confirmatory Order (Effective Immediately) was issued to Texas Gamma Ray, LLC (TGR) to formalize commitments made as a result of an ADR mediation session held on April 23, 2012. The commitments were made as part of a settlement agreement regarding apparent violations during an inspection and investigation involving the failure to: (1) meet two NRC security requirements; and (2) store radioactive material only at a location authorized by its license. Specifically, radioactive material was stored at a facility in Rock Springs, Wyoming, which was not an approved storage location. TGR agreed to a number of corrective actions, including paying a civil penalty of $7,000, retrieving the

licensed material from Wyoming and transferring it to a site in Texas authorized for storage, revising internal procedures, requiring the RSO's approval for storing licensed material, and training all radiographers on the new procedures.

United States Air Force (Wright Patterson Medical Center) EA-12-031
Dayton, OH

On June 29, 2012, an NOV and Proposed Imposition of a Civil Penalty in the amount of $8,500 was issued to the United States Air Force (USAF) for a SL III problem involving two violations. The first violation involved the failure to conduct a semiannual physical inventory of all sealed sources in their possession, as required by 10 CFR 35.67(g). The second violation involved the failure to secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas, as required by 10 CFR 20.1801. Specifically, between November 2, 2004 and September 30, 2011, the USAF did not include a sealed source, which was believed to be in storage, in its semiannual physical inventory. The USAF believed the source was located in the low-level radioactive waste storage room, which is a controlled area. However, sometime between November 2, 2004, when the last physical inventory occurred, and September 30th 2011, the source was lost.

Universal Products Concepts, Inc. EA-11-222
Chino, CA

On January 9, 2012, an NOV and Proposed Imposition of a Civil Penalty in the amount of $7,000.00, was issued to Universal Product Concepts, Inc. (UPC) for a SL III problem involving two violations. The first violation involved the willful transfer of smoke detectors containing byproduct material (americium-241) to unlicensed persons without obtaining an NRC license as required by 10 CFR 30.3(a). The second violation involved the import of material into the United States without having the required license for possession of the material as required by 10 CFR 110.5. Specifically, from May to July 2010, UPC imported and transferred for sale or distribution approximately 19,423 smoke detectors containing byproduct material without the required NRC licenses authorizing such imports and transfers.

Civil Penalties Issued To Fuel Cycle Licensees

NONE

Orders Imposing a Civil Penalty

NONE

Appendix B: Summary of Escalated Notices of Violation Without Civil Penalties*

Notices Issued To Power Reactor Licensees

Carolina Power and Light Company EA-12-132
Shearon Harris Nuclear Power Plant

On October 3, 2012, an NOV associated with a White Significance Determination Process (SDP) finding and a separate SLIII violation was issued to Carolina Power and Light Company (CP&L) as a result of an inspection at the Shearon Harris Nuclear Power Plant. The violation associated with the White finding involved the failure to maintain adequate facilities and equipment to support emergency response, as required by 10 CFR 50.54(q) and 10 CFR 50.47(b)(8). The SLIII violation involved the failure to make an eight hour report of the occurrence of a major loss of emergency assessment capability, as required by 10 CFR 50.72(b)(3)(xiii). Specifically, between August 4, 2009, and November 9, 2011, the licensee's Emergency Operations Facility normal and emergency ventilation system was in a degraded condition, and/or removed from service, for extended periods of time. CP&L failed to report this condition between August 4, 2009, and November 9, 2011.

Duke Energy Carolinas, LLC EA-12-153
Catawba Nuclear Station

On October 11, 2012, an NOV associated with a White SDP finding was issued to Duke Energy Carolinas, LLC (DEC) as a result of an inspection at the Catawba Nuclear Station for a violation involving the failure to maintain two qualified circuits between the offsite transmission network and the Onsite Essential Auxiliary Power System operable when operating in MODES 1, 2, 3 or 4 as required by Technical Specification (TS) 3.8.1, "AC Sources - Operating. Specifically, from July 23, 2011, until November 11, 2011, when operating in MODE 1, one qualified circuit between the offsite transmission network and the Onsite Essential Auxiliary Power System was inoperable, and from November 11, 2011, until April 4, 2012, when operating in MODES 1, 2, 3, or 4, two qualified circuits between the offsite transmission network and the Onsite Essential Auxiliary Power System were inoperable.

Energy Northwest EA-12-092
Columbia Generating Station

On October 24, 2012, an NOV was issued to Energy Northwest for two violations associated with two separate White SDP findings and a separate SLIII violation as a result of an inspection at the Columbia Generating Station. The first violation associated with a White SDP finding involved the failure to maintain a standard emergency action level scheme as required by 10 CFR 50.47(b)(4). The second violation associated with a White SDP finding involved the failure to maintain adequate methods for assessing

* *Please note that cases involving security-related issues are not included*

and monitoring actual or potential offsite consequences of a radiological emergency condition as required by 10 CFR 50.47(b)(9). The separate SLIII violation involved the failure to recognize that their identified inaccuracies in the dose projection system was a major loss of emergency assessment capability and did not report it to the NRC as required by 10 CFR 50.72(b)(3)(xiii).

Entergy Nuclear Operations, Inc. EA-11-227
Palisades Nuclear Power Plant

On January 3, 2012, an NOV associated with a White SDP finding was issued to Entergy Nuclear Operations, Inc. as a result of an inspection at the Palisades Nuclear Power Plant for a violation involving: 1) the failure to prescribe maintenance on the safety-related turbine driven auxiliary feedwater pump, an activity affecting quality, by documented instructions of a type appropriate to the circumstances; and, 2) the failure to accomplish the maintenance in accordance with their procedure as required by 10 CFR 50, Appendix B, Criterion V, "Instructions, Procedures, and Drawings." Specifically, on October 17, 2010, procedure FWS-M-6, "Auxiliary Feedwater Turbine Maintenance," failed to prescribe inspections of wear conditions on the knife edge and latch plate, or to replace the trip spring, although these inspections and replacements had been identified as necessary by the turbine vendor. Palisades' personnel also failed to perform a step in the surveillance procedure which required lubricating a pin and instead greased the knife edge of the mechanical overspeed/manual trip mechanism. These deficiencies resulted in the turbine driven auxiliary feedwater pump being inoperable from October 29, 2010 to May 11, 2011.

Entergy Nuclear Operations, Inc. EA-11-241
Palisades Nuclear Power Plant

On February 14, 2012, an NOV associated with a White SDP finding was issued to Entergy Nuclear Operations, Inc. as a result of an inspection at the Palisades Nuclear Power Plant for violations of 10 CFR 50, Appendix B, Criterion III "Design Control" and Criterion XVI "Corrective Action". Specifically, in December 2007, the licensee failed to verify the adequacy of the safety related service water pump (SWP) coupling design to confirm that the coupling material was adequate for the environment and working conditions for which it would be subjected. As a result, the licensee failed to identify and evaluate a new failure mechanism which was introduced into the system in the form of intergranular stress corrosion cracking (IGSCC). In addition, on August 9, 2011, the licensee failed to preclude repetition of a significant condition adverse to quality when a coupling on a SWP failed due to IGSCC.

Entergy Nuclear Operations, Inc. EA-11-243
Palisades Nuclear Power Plant

On February 14, 2012, an NOV associated with a Yellow SDP finding was issued to Entergy Nuclear Operations, Inc as a result of an inspection at the Palisades Nuclear Power Plant for a violation involving the failure to ensure that the work performed on Electrical Bus D11-2 was prescribed by documented instructions or procedures of a type appropriate to the circumstances and accomplished in accordance with the instructions or procedures as required by 10 CFR 50, Appendix B, Criterion V "Instructions, Procedures, and Drawings." Specifically, on September 25, 2011, the work order instructions did not provide critical steps and lacked proper step progression. The work

order instructions also included action steps which were not implemented. In addition, workers attempted to remove a positive horizontal bus bar in Bus D11-2, which was not a prescribed step in the work order instructions. As a result, these performance deficiencies caused an electrical fault which caused the loss of the left train 125-Volt DC safety-related system and loss of both preferred AC sources associated with the left train DC system.

NextEra Energy Point Beach, LLC EA-12-106
Point Beach Nuclear Power Plant

On July 24, 2012, an NOV associated with a White SDP finding was issued to NextEra Energy Point Beach, LLC as a result of an inspection at the Point Beach Nuclear Power Plant for a violation involving the failure to develop and have in place guidelines for the choice of protective actions during an emergency that were consistent with Federal guidance as required by 10 CFR 50.47(b)(10). Specifically, an apparent logic error in a Point Beach emergency planning implementing procedure required the emergency director to revisit the question of impediments to evacuation after a prior decision to evacuate affected downwind sectors had been implemented by local authorities, resulting in a contradictory recommendation for sheltering being given during an exercise.

NextEra Energy Seabrook, LLC EA-12-093
Seabrook Nuclear Power Plant

On August 7, 2012, an NOV associated with a White SDP finding was issued to NextEra Energy Seabrook, LLC as a result of an inspection at the Seabrook Nuclear Power Plant for a violation involving the failure to identify a performance weakness during the post-exercise critique as required by 10 CFR 50.54(q)(2). Specifically, the licensee did not identify as a weakness that an incorrect initial Protective Action Recommendation (PAR) had been developed and communicated to the state response organizations. The initial PAR was incorrect for the exercise actual condition (i.e., no release in progress).

Omaha Public Power District EA-12-023
Fort Calhoun Station

On April 10, 2012, an NOV associated with a Red SDP finding was issued to Omaha Public Power District for three violations identified as a result of inspections at the Fort Calhoun Station. The Red finding was based on deficient modification and maintenance of the safety-related 480 Vac electrical distribution system that resulted in a catastrophic switchgear fire. The violations associated with the Red finding involved 1) the failure to ensure design changes and modifications to safety-related breakers were controlled as required by 10 CFR 50, Appendix B, Criterion III, “Design Control”; 2) the failure to implement adequate corrective actions following the loss of electrical bus 1B3A in 2008, a significant condition adverse to quality, to prevent the loss of electrical bus 1B4A in 2011 as required by 10 CFR 50, Appendix B, Criterion XVI, “Corrective Action” and (3) the failure to implement and maintain all provisions associated with train separation of the approved Fire Protection Program as required by License Condition 3.D.

Pacific Gas and Electric Company EA-12-075
Diablo Canyon Power Plant

On May 4, 2012, an NOV was issued to Pacific Gas and Electric Company (PG&E) as a result of an inspection at the Diablo Canyon Power Plant for a SLIII violation involving the failure to provide complete and accurate information to the Commission as required by 10 CFR 50.9, "Completeness and Accuracy of Information." Specifically, in its response to NRC Generic Letter 2003-01 dated April 22, 2005, PG&E stated that: (1) test results confirmed that no unfiltered control room in-leakage existed; and (2) tracer gas in-leakage testing was performed in the alignment that results in the greatest consequence to the control room operator. This information was inaccurate because control room ventilation testing conducted prior to PG&E's response to Generic Letter 2003-01 indicated that the unfiltered in-leakage was greater than the value assumed in the design basis radiological analyses, and the system test was not performed in an alignment that resulted in the greatest consequence to the control room operator.

Tennessee Valley Authority EA-12-133
Browns Ferry Nuclear Plant

On August 13, 2012, an NOV associated with a White SDP finding was issued to the Tennessee Valley Authority (TVA) as a result of an inspection at the Browns Ferry Nuclear Plant for a violation involving the failure to implement the requirements of a plant procedure as required by 10 CFR 50, Appendix B, Criterion V, "Instructions, Procedures, and Drawings". Plant procedure NPG-SPP-09.3 "Plant Modifications and Engineering Change Control," required completion of an evaluation of training needs to support implementation of procedures developed in response to design changes. Specifically, on September 13, 2011, TVA issued several Safe Shutdown Instructions in support of Design Change Notice 69957, which installed a new three-hour fire barrier in the Intake Tunnel Structure, without performing an evaluation of training needs. As a result, the Safe Shutdown Instructions could not be satisfactorily performed by plant operators and staff.

Tennessee Valley Authority EA-11-252
Browns Ferry Nuclear Plant

On January 23, 2012, an NOV was issued to TVA as a result of an inspection at the Browns Ferry Nuclear Plant for a SLIII violation involving the failure to provide complete and accurate information to the Commission as required by 10 CFR 50.9, "Completeness and Accuracy of Information". Specifically, in its response to NRC Generic Letter 89-10, "Safety-Related Motor-Operated Valve Testing and Surveillance" testing program dated January 6, 1997, TVA stated that "Closure of valves FCV-74-52 and FCV-74-66 is not required by plant procedures to operate the residual heat removal (RHR) system in the suppression pool cooling mode. Therefore, these valves have no 'redundant' safety function and will not be included in the GL 89-10 program." In a letter dated May 5, 2004, TVA stated that valves FCV-74-52 and FCV-74-66, "are not in the GL 89-10 program, since the valves are normally in their safety position." This information was inaccurate because the FCV-74-52 and FCV-74-66 valves do have a safety function to shut to operate the RHR system in the suppression pool cooling mode and should therefore have been included in Browns Ferry's GL 89-10 MOV monitoring program.

Virginia Electric and Power Company EA-12-033
North Anna Power Station

On May 10, 2012, an NOV associated with a White SDP finding was issued to Virginia Electric and Power Company as a result of an inspection at the North Anna Power Station for a violation involving the failure to establish and maintain maintenance procedures appropriate to the circumstances for the safety-related emergency diesel generators (EDGs) as required by Technical Specification 5.4.1.a, "Procedures." Specifically, maintenance procedure 0-MCM-0701-27 did not provide adequate guidance for installation of the jacket water cooling inlet jumper gasket, which resulted in a faulty gasket installation on the Unit 2 "H" (2H) EDG in May 2010. As a result, the 2H EDG failed to perform its safety function when called upon on August 23, 2011.

Wolf Creek Nuclear Operating Corporation EA-12-152
Wolf Creek Nuclear Power Plant

On September 21, 2012, an NOV associated with a Yellow SDP finding was issued to the Wolf Creek Nuclear Operating Corporation as a result of an inspection at the Wolf Creek Nuclear Power Plant for a violation involving the failure to implement maintenance on safety-related equipment in accordance with written procedures as required by TS 5.4.1(a) and Regulatory Guide 1.33, Appendix A, Section 9.a. Specifically, although required by a work order, the licensee failed to install insulating sleeves on two splices associated with a startup transformer protective relay circuit. The startup transformer subsequently experienced a trip and lockout. The protective lockout caused prolonged loss of offsite power to all Train B equipment and all non-safety related buses.

Notices Issued To Material Licensees

Advanced Material Services EA-11-276
Auburn, AL

On April 17, 2012, an NOV was issued to Advanced Material Services, LLC (AMS) for a SLIII violation involving the failure to file NRC Form 241 "Report of Proposed Activities in Non-Agreement States," at least three days prior to engaging in licensed activities within NRC jurisdiction, as required by 10 CFR 150.20(b). Specifically, between May 12 and June 26, 2008, AMS, a licensee of Alabama (an Agreement state), used a portable nuclear gauge at temporary jobsites in Connecticut (a non-Agreement state) without obtaining a specific license issued by the NRC or filing a Form-241 with the NRC at least three days before engaging in such activity.

American Radiolabeled Chemicals EA-12-077
St. Louis, MO

On June 25, 2012, an NOV was issued to American Radiolabeled Chemicals for a SLIII violation involving the failure to implement 10 CFR 20.1801. Specifically, on April 2, 2012 the licensee failed to secure from unauthorized removal or limit access to licensed material stored in a controlled area.

Cambridge Isotope Laboratories, Inc. EA-12-177
Andover, MA

On October 31, 2012, an NOV was issued to Cambridge Isotope Laboratories (CIL) for a SLIII violation involving the failure to file an application for a specific export license as required by 10 CFR 10.20 when the general export criteria described in 10 CFR 110.21 through 110.127 did not apply. Specifically, between 2007 and 2011, CIL failed to file an application with the NRC for specific export licenses to export deuterium, a material subject to NRC licensing jurisdiction as required by 10 CFR 110.9 when exporting this material in excess of the quantities covered by the general license requirements of 10 CFR 110.24. During this time, CIL exported deuterium (1) in excess of the 200 kilogram (kg)/year limit set by 10 CFR 110.24(a) to China and Japan in the years 2010 and 2011, and (2) in excess of the 5 kg/year limit set by 10 CFR 110.24(b) to restricted destinations per 10 CFR 110.29, India and Israel, in the years 2007-2011, without applying for and obtaining NRC specific licenses.

The Christ Hospital . EA-12-142
Cincinnati, OH

On August 28, 2012, an NOV was issued to The Christ Hospital, for a SLIII violation involving the failure to file NRC Form 241 “Report of Proposed Activities in Non-Agreement States,” at least three days prior to engaging in licensed activities within NRC jurisdiction, as required by 10 CFR 150.20 (b). Specifically, on multiple occasions between January 2009 and March 8, 2012, The Christ Hospital - Mobile, a licensee of Ohio (an Agreement State), possessed and used syringes containing technetium-99m at a temporary job site in Indiana (a non-Agreement State) without obtaining a specific license issued by the NRC or filing a Form-241 with the NRC at least three days before engaging in such activity.

Dakota Panel . EA-11-233
Rapid City, SD

On February 7, 2012, an NOV was issued to Dakota Panel for a SLIII violation involving the failure to identifying an individual as the Radiation Safety Officer (RSO) on its license, as required by License Condition 12. Specifically, from January 2010 until September 23, 2011, the licensee failed to have an individual named on its license in the RSO position or any qualified individual as RSO.

Department of the Army . EA-12-014
Redstone Arsenal, AL

On April 5, 2012, an NOV was issued to the Department of the Army (Army), for a SLIII violation involving the failure to provide a radiation monitor that was equipped with personnel access door locks to prevent access to the radiation room of the panoramic irradiator at the Redstone Arsenal facility, when radiation levels were high, as required by 10 CFR 36.23(c). Specifically, from September 24, 1996 to February 17, 2012, the Army’s radiation room personnel access door was not integrated with the radiation monitor to prevent the door from opening when radiation levels were high.

Detector Electronics Corporation. EA-12-181
Minneapolis, MN

On October 19, 2012, an NOV was issued to Detector Electronics Corporation for a SLIII violation involving the failure to obtain a specific authorization to export byproduct material to Iraq, an embargoed country, as required by CFR 110.5. Specifically, on April 20, 2007, September 25, 2009, December 21, 2010, and June 24, 2011, the licensee exported flame detectors with electron tubes containing krypton-85 to Iraq, an embargoed destination and did not have a required specific authorization to export byproduct material to Iraq.

Flowserve Corporation. EA-12-060
Chesapeake, VA

On April 30, 2012, an NOV was issued to Flowserve Corporation for a SLIII violation involving the failure to obtain a specific license for export of reactor components, as required by 10 CFR 110.20. Specifically, in March 2010, Flowserve exported two reactor recirculation pump seal-repair kits, components subject to NRC licensing jurisdiction, to Mexico without obtaining an NRC specific license.

Gamma Irradiator Services. EA-12-088
Benton, PA

On July 11, 2012, an NOV was issued to Gamma Irradiator Services (GIS) for a SLIII violation involving the failure to limit licensed activities to Category 1 self-shielded irradiators, as required by Condition 9 of GIS's NRC license No. 37-30850-01. Specifically, on May 2, 2003, February 25, 2005, June 15, 2007, and May 19, 2009, GIS performed maintenance activities on a JL Shepherd Model 81-22 irradiator, which is not a self-shielded (Category I) irradiator but, rather, a panoramic (Category II) irradiator.

Humboldt Scientific, Inc. EA-11-138
Raleigh, NC

On March 8, 2012, an NOV was issued to Humboldt Scientific, Inc. (HSI) as a result of an NRC investigation at its Raleigh, NC facility for a SLIII problem associated with two violations. The first violation involved the failure to obtain the appropriate license authorization to export byproduct materials to embargoed destinations as required by 10 CFR 110.5. Specifically, on May 6, 2005, May 7, 2008, June 26, 2008, and July 31, 2008, HSI exported americium-241 and cesium-137 byproduct materials subject to NRC licensing jurisdiction to the embargoed destinations of Iraq and Sudan respectively without a specific license. The second violation involved the failure to submit annual reports of americium exports as required by 10 CFR 110.54(b). Specifically, HSI failed to make annual reports of americium exports for calendar years 2000-2009, during which years americium exports were performed.

InstroTek/CPN International, Inc. EA-11-242
Raleigh, NC

On March 30, 2012, an NOV was issued to InstroTek/CPN International (CPN), Inc. as a result of an NRC investigation at its Raleigh, NC facility for a SLIII problem associated with two violations. The first violation involved the failure to obtain the appropriate license authorization to export byproduct materials to embargoed destinations as required by 10 CFR 110.5. Specifically, on November 20, 2008, and May 5, 2010, CPN exported americium-241 and cesium-137, byproduct materials subject to NRC licensing jurisdiction, to the embargoed destinations of Iraq and Sudan without a specific license. The second violation involved the failure to submit annual reports of americium exports as required by 10 CFR 110.54(b). Specifically, CPN failed to make annual reports of americium exports for calendar years 2000-2009, during which years americium exports were performed.

Lakeland Medical Center EA-12-202
Saint Joseph, MI

On December 6, 2012, an NOV was issued to Lakeland Medical Center for a SLIII violation involving the failure to ensure that a written directive to administer I-131 sodium iodide greater than 30 microcuries was signed by an authorized user as required by 10 CFR 35.40(a). Specifically, on three separate occasions, one each on February 28, February 29, and March 20, 2012, 2-milicurie diagnostic dosages of I-131 sodium iodide were administered and the individual who signed the written directives was not listed as an authorized.

L. E. Gregg Associates EA-12-108
Lexington, KY

On July 27, 2012, an NOV was issued to L.E. Gregg Associates for a SLIII violation involving the failure to file NRC Form 241 “Report of Proposed Activities in Non-Agreement States,” at least three days prior to engaging in licensed activities within NRC jurisdiction, as required by 10 CFR 150.20(b). Specifically, on December 12-16, 2011, January 5-7, 2012, and February 21-24, 2012, L.E. Gregg Associates, a licensee of Kentucky (an Agreement State) used and stored a portable nuclear gauge at temporary jobsites in West Virginia (a non-Agreement State) without obtaining a specific license issued by the NRC or filing NRC Form-241 with the NRC at least three days before engaging in such activity.

neo-pet, LLC EA-12-068
Cleveland, OH

On June 13, 2012, an NOV was issued to neo-pet, LLC, for a SLIII violation involving the failure to file NRC Form 241 "Report of Proposed Activities in Non-Agreement States," at least three days prior to engaging in licensed activities within NRC jurisdiction, as required by 10 CFR 150.20(b). Specifically, on multiple occasions between April 6, 2010, and March 6, 2012, neo-pet, LLC, a licensee of Ohio (an Agreement State) possessed and used doses of fluorine-18 in Indiana (a non-Agreement State) without obtaining a specific license issued by the NRC or filing NRC Form-241 with the NRC at least three days before engaging in such activity.

Morpho Detection, Inc. EA-11-270
Newark, CA

On April 10, 2012, an NOV was issued to Morpho Detection, Inc. (MDI), for a SLIII problem associated with two violations. The first violation involved the failure to file NRC Form 241, "Report of Proposed Activities in Non-Agreement States," at least three days prior to engaging in licensed activities within NRC jurisdiction as required by 10 CFR 150.20(b). Specifically, between 2007 and 2011 on multiple occasions, MDI, a licensee of Massachusetts (an Agreement State), engaged in activities in Connecticut, Indiana, Missouri and Washington, D.C. (all non-agreement states) without obtaining a specific license issued by the NRC. The second violation involved the failure to store and use byproduct material under the requirements of an Agreement State license for a period of less than 180 days in a calendar year, as required by 10 CFR 150.20(b)(4). Specifically, MDI stored and used byproduct material in Connecticut, Indiana, Missouri and Washington, D.C. (all non-agreement states) for periods greater than 180 days in a calendar year.

Regents of the University of Michigan EA-11-228
Ann Arbor, MI

On January 6, 2012, an NOV was issued to the Regents of the University of Michigan for a SLIII violation involving the failure to develop, implement, and maintain written procedures to provide high confidence that each administration was in accordance with the written directive as required by 10 CFR 35.41(a). In accordance with 10 CFR 35.41(b)(2), the procedures required by 10 CFR 35.41(a) must address verifying that the administration is in accordance with the treatment plan, if applicable, and the written directive. Specifically, on March 9, 2011, the licensee administered a yttrium-90 TheraSphere™ liver treatment, but the licensee's procedures did not require verifying that the administration of byproduct material was in accordance with the applicable treatment plan and written directive.

Roxar Flow Measurements, Inc. EA-09-328
Houston, TX

On February 2, 2012, an NOV was issued to Roxar Flow Measurement, Inc., for a SLIII violation involving the failure to only transfer byproduct material to persons authorized to receive such byproduct material as required by 10 CFR 30.41(a) and (b)(5). Specifically, on numerous occasions between September 2003 and August 2007, the licensee transferred fixed gauges containing byproduct material to persons not authorized to receive byproduct material under the terms of a specific license or a general license issued by the NRC or an Agreement State.

St. John Macomb-Oakland Hospital EA-12-172
Warren, MI

On October 16, 2012, an NOV was issued to St. John Macomb-Oakland Hospital for a SLIII violation involving the failure to have written procedures in place that would provide high confidence that each high dose-rate remote afterloader (HDR) brachytherapy administration was in accordance with the written directive as required by 10 CFR Part 35.41(a). Specifically, on July 9, 2012, the licensee's written procedures failed to ensure that the patient's endobronchial catheters were directly connected to the HDR unit such that the brachytherapy administration would occur in accordance with the written directive.

Notices Issued To Fuel Cycle Licensees

Global Nuclear Fuels – Americas, LLC EA-12-013
Wilmington, NC

On April 23, 2012, an NOV was issued to Global Nuclear Fuels – Americas, LLC for a SLIII violation involving a significant delay in the Criticality Warning System (CWS) activation process which resulted in the failure of the CWS to be able to initiate an immediate evacuation of the facility, had an evacuation been required while special nuclear material operations were being conducted, as required by Safety Condition S-1 of its license. Specifically, between May 3 and July 17, 2011, the CWS exhibited a three minute delay before the alarm horns would sound. No actual consequences resulted from this violation because there were no incidents requiring an evacuation during this time period.

Appendix C: Summary of Orders*

Orders Issued To Reactor Licensees

Entergy Nuclear Operations, Inc. EA-10-090 and EA-10-248
James A. FitzPatrick Nuclear Power Plant

On January 26, 2012, a Confirmatory Order (Effective Immediately) was issued to Entergy Nuclear Operations, Inc. (Entergy) to confirm commitments made as a result of an Alternative Dispute Resolution (ADR) mediation session held on November 9, 2011. During three investigations at the James A. FitzPatrick Nuclear Power Plant the NRC discovered information associated with violations, the majority of which were willful, related to the adherence to site procedures related to radiation protection (RP). Specifically, technicians willfully failed to (1) test required individuals for respirator fit, as required by 10 CFR 20.1703; (2) maintain accurate documentation of completed respirator fit tests, as required by 10 CFR 50.9; (3) perform and/or accurately document independent verification of Drywell Continuous Atmospheric Monitoring System valve positions after the valves were manipulated, as required by technical specifications (TS) and 10 CFR 50.9; (4) document a personal contamination event as required by TS; (5) perform a contamination survey prior to removing an item from a radiological controlled area, as required by TS; and (6) perform daily radiological surveys of the reactor building 326 foot elevation airlock, as required by 10 CFR 20.1501(a).

Entergy completed a number of corrective actions and agreed to implement additional corrective actions and enhancements. In consideration of Entergy's proposed extensive corrective actions, and the corrective actions already completed, the NRC issued an NOV, associated with the violations discussed above, with no civil penalty assessed.

Entergy Nuclear Operations, Inc. EA-11-214
Palisades Nuclear Power Plant

On January 25, 2012, a Confirmatory Order (Effective Immediately) was issued to Entergy to confirm commitments made as a result of an ADR mediation session held on December 12, 2011. This enforcement action involved an apparent violation of a technical specification requirement at the Palisades Nuclear Power Plant. Specifically, an at-the-controls reactor operator left the at-the-controls area of the Control Room without providing a turnover to a qualified individual and without obtaining permission from the Control Room Supervisor. Although the operator left the Control Room, another qualified individual assumed the at-the-controls responsibility.

Entergy completed a number of corrective actions and agreed to implement additional corrective actions and enhancements. In consideration of these commitments, and the other corrective actions already completed by Entergy, the NRC agreed to refrain from proposing a civil penalty and issuing an NOV in this matter.

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* *Please note that cases involving security-related issues are not included*

Indiana Michigan Power Company EA-12-005
D. C. Cook Nuclear Power Plant

On June 28, 2012, a Confirmatory Order (Effective Immediately) was issued to the Indiana Michigan Power Company to confirm commitments made as a result of an ADR mediation session held on May 23, 2012. This enforcement action involved two D. C. Cook supervisors failing to ensure that an individual, who was offsite when selected for fitness-for-duty testing, was tested at the earliest reasonable and practical opportunity when both the donor and collectors were available as required by 10 CFR 26.4(b) and Section 31(d)(2)(v) of the Fitness-for-Duty program. Indiana Michigan Power Company completed a number of corrective actions and agreed to implement additional corrective actions and enhancements.

In consideration of these commitments, and the corrective actions already completed by Indiana Michigan Power Company, the NRC agreed to refrain from proposing a civil penalty and issuing a NOV in this matter.

Tennessee Valley Authority EA-12-071
Browns Ferry Nuclear Plant

On May 18, 2012, a Confirmatory Order (Effective Immediately) was issued to the Tennessee Valley Authority (TVA), confirming TVA's commitment to submit a license amendment request to transition the three units at the Browns Ferry plant to the National Fire Protection Association Standard 805 (NFPA 805). TVA had originally planned to submit its application to transition Browns Ferry on March 4, 2012. However, TVA requested a delay to ensure it could submit a high-quality application. Based on TVA's commitment to maintain acceptable compensatory measures, and a review of TVA's status and planned key activities, including the intended NFPA 805 modifications, the NRC determined that TVA provided adequate justification for its commitment to submit a license application by March 29, 2013. The NRC has therefore extended TVA's enforcement discretion until March 29, 2013.

Tennessee Valley Authority EA-12-021
Watts Bar Nuclear Plant

On June 18, 2012, a Confirmatory Order (Effective Immediately) was issued to TVA to confirm commitments made as a result of an ADR mediation session held on May 21, 2012. This enforcement action is based on an apparent violation identified during an NRC investigation and involved two subcontractor employees at Watts Bar Unit 2 who deliberately falsified work order packages for primary containment penetrations which caused TVA to be in apparent violation of 10 CFR 50, Appendix B, Criterion V, "Instructions, Procedures and Drawings", and 10 CFR 50.9, "Completeness and Accuracy of Information." TVA agreed to a number of corrective actions as part of this Confirmatory Order. In consideration of these corrective actions and commitments, the NRC agreed to refrain from proposing a civil penalty and issuing an NOV in this matter.

Orders Issued To Material Licensees

Three Orders involving civil penalties were issued to material licensees during 2012 and are discussed in Appendix A.

Orders Issued To Fuel Cycle Licensees

Honeywell International, Inc. EA-12-157
Metropolis, IL

On October 10, 2012, a Confirmatory Order was issued to Honeywell International, Inc. to formalize the corrective actions committed to in the Confirmatory Action Letter (CAL) issued on July 13, 2012 (ML12198A109). In addition to the actions in the CAL, Honeywell committed to: (1) complete an evaluation of external events and their safety bases; (2) document the design bases for the proposed modifications; (3) develop, implement, and have available for inspection quality assurance measures for the modifications; (4) implement the modifications before seeking to resume NRC-licensed operations; (5) demonstrate the adequacy of the revised emergency response plan by conducting an onsite exercise; and, (6) submit a revised Integrated Safety Analysis (ISA) Summary no later than six months after resuming licensed operations. This enforcement action was issued in lieu of a notice of violation for violations identified during an inspection at the Honeywell Metropolis Works facility involving: (1) the failure to identify all relevant accident sequences related to credible seismic events and tornadoes, that could result in large UF6 releases for which protective actions may be needed as required by 10 CFR 40.31(j)(3); and (2) the failure to provide complete and accurate information related to Honeywell Metropolis Work's Emergency Response Plan as required by 10 CFR 40.9(a). The NRC concluded that formalizing the actions proposed by Honeywell Metropolis Works necessitated the issuance of this Confirmatory Order, consistent with Section 3.7 of the NRC's Enforcement Policy. This Confirmatory Order supersedes the CAL issued on July 13, 2012.

Orders Issued To Individuals

James Chaisson IA-12-009

On September 10, 2012, a Confirmatory Order (Effective Immediately) was issued to Mr. James Chaisson to formalize commitments made as a result of an ADR mediation session held on July 26, 2012. The commitments were made as part of a settlement agreement between the Mr. Chaisson and the NRC regarding apparent deliberate violations involving his failure to: (1) meet two NRC security requirements; and (2) store radioactive material only at a location authorized by its license. Mr. Chaisson agreed to a number of corrective actions, including: 1) refraining from engaging in NRC-licensed activities for an eighteen-month period from the date of this Order; 2) notifying the NRC of any employment with an NRC licensee for a 4-year period after the eighteen-month ban has expired; 3) providing, for a 5 1/2-year period from the date of this Confirmatory Order and at least 3 days prior to starting work, a copy of this Order to employers who are NRC licensees; and

4) taking additional training. On May 15, 2012, an Order prohibiting Mr. Chaisson, a radiographer employed by Texas Gamma Ray (TGR), from working in NRC jurisdiction for a period of 3 years was issued. The May 15th Order was the result of the radiographer's lack of credibility and his deliberate actions which caused TGR, an NRC licensee, to be violation of NRC requirements. Specifically, Mr. Chaisson deliberately failed to comply with NRC regulations and TGR's license when he stored a radiographic exposure device at a location not authorized by the license from December 2009 to April 30, 2010. Subsequent to being issued the May 15th prohibition Order, Mr. Chaisson requested alternative dispute resolution. The prohibition order is superseded by the September 10th Confirmatory Order.

Timothy M. Goold IA-12-014

On October 10, 2012, a Confirmatory Order (Effective Immediately) was issued to Mr. Timothy M. Goold, former radiographer at JANX Integrity Group (JANX), Inc., to formalize commitments made as a result of an ADR mediation session held on August 24, 2012. The commitments were made as part of a settlement agreement between the Mr. Goold and the NRC regarding apparent deliberate violations involving Mr. Goold: 1) performing radiography without a second qualified radiographer present as required by 10 CFR 34.41(a); and 2) avoiding an NRC inspector when the inspector tried to question him regarding the whereabouts of the second qualified radiographer as required by 10 CFR 30.52(a). Mr. Goold agreed to a number of corrective actions, including: (1) refraining from engaging in NRC-licensed industrial radiographic operations without direct supervision and working in any type of supervisory position while in NRC jurisdiction; (2) notifying the NRC within 15 days of accepting employment with an NRC or Agreement State licensee and, on a weekly basis, where he will be performing radiography; and (3) taking additional training. On June 25, 2012, an Order prohibiting Mr. Goold from working in NRC jurisdiction for a period of 1 year was issued. The June 25th Order was in response to the above identified violations. Subsequent to being issued the June 25th prohibition Order, Mr. Goold requested alternative dispute resolution. The prohibition order is superseded by the October 10th Confirmatory Order.

Francis Guilbeau IA-11-032

On January 5, 2012, a Confirmatory Order (Effective Immediately) was issued to Mr. Francis Guilbeau prohibiting involvement in NRC-licensed activities for a period of one year. As a former radiographer employed by Accurate NDE & Inspection, LLC (Accurate NDE), working in NRC jurisdiction, Mr. Guilbeau engaged in deliberate misconduct while performing radiographic operations on March 14 and March 15, 2010. Specifically, he deliberately failed to follow Accurate NDE operating procedures by attempting to retrieve a disconnected source without first contacting and obtaining authorization from the Radiation Safety Officer that, in turn, placed Accurate NDE in violation of its Louisiana State license and 10 CFR 150.20(b)(5). Additionally, Mr. Guilbeau deliberately provided inaccurate information on a daily radiation report involving a dose exposure for another radiographer. These actions constituted two separate violations of NRC's rule prohibiting deliberate misconduct 10 CFR 30.10.

Edward G. Johnson IA-11-061

On January 25, 2012, a Confirmatory Order (Effective Immediately) was issued to Mr. Edward G. Johnson, to confirm commitments made as a result of an ADR mediation session held on December 20, 2011. The commitments were made as part of a settlement agreement between Mr. Johnson and the NRC regarding an apparent violation of a Technical Specification requirement at the Palisades Nuclear Power Plant when he, as the at-the-controls reactor operator, left the at-the-controls area of the Control Room without providing a turnover to a qualified individual and without obtaining permission from the Control Room Supervisor. As part of the ADR agreement, Mr. Johnson agreed to: 1) participate in the Entergy Remediation Plan specifically designed for him, in which he will be required to (a) develop a presentation and provide it to senior Palisades leadership and operations personnel on the event, (b) interview with senior Entergy management to assess his eligibility and readiness to resume licensed duties, (c) successfully complete 40 hours of "under instruction" watches on each shift, and, (d) participate in a simulator scenario and associated training that include handling stressful situations and conflict management; and, 2) author an article in which he will discuss the incident and lessons learned, and submit it to the Communicator (the publication for the Professional Reactor Operator Society). In consideration of these commitments, the NRC agreed not to pursue additional enforcement action against Mr. Johnson.

Brandon D. Neff IA-12-044

On November 6, 2012, a Confirmatory Order (Effective Immediately) was issued to Mr. Brandon D. Neff prohibiting involvement in NRC-licensed activities for a period of three years. As a former contract supervisor at Energy Northwest's Columbia Generating Station (Licensee), Mr. Neff engaged in deliberate misconduct by deliberately providing incomplete or inaccurate information to the licensee. Specifically, on June 2, 2011, while employed at Columbia Generating Station he failed to comply with NRC regulations by attempting to subvert a Fitness-For-Duty drug test and by signing the Licensee's Federal Drug Testing Custody and Control Form attesting that the specimen submitted for the drug test was not adulterated in any manner.

Joseph Quintanilla IA-12-029

On August 10, 2012, an Order prohibiting involvement in NRC-licensed activities for a period of one year was issued Mr. Joseph Quintanilla, a former radiographer employed by Quality Inspection and Testing, Inc. Mr. Quintanilla engaged in deliberate misconduct in violation of 10 CFR 30.10. Specifically, on October 27, 2010, while performing radiographic operations he deliberately failed to (1) maintain control and constant surveillance of licensed material that is not in storage as required by 10 CFR 20.1802, and (2) wear, on the trunk of his body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter, as required by 10 CFR 34.47(a).

Jamie Sanchez IA-11-036

On May 17, 2012, a Severity Level III NOV and an Order prohibiting involvement in NRC-licensed activities for a period of five years was issued to Mr. Jaime Sánchez, President, S&R Engineering, S.E. (S&R). This enforcement action is based on Mr. Sánchez's deliberate violation of 10 CFR 30.10(a)(2) when he provided information to the NRC that he knew was inaccurate in some respect material to the NRC. Specifically, on August 3, 2010, Mr. Sánchez stated to the NRC that S&R's licensed portable nuclear gauge had been transferred to another licensee and that S&R no longer possessed licensed material, when in fact, S&R still possessed the gauge. In addition, as the President of S&R, he failed to respond to NRC correspondence and communication attempts, and failed to address or correct the misinformation that he provided on August 3, 2010. The Order also requires Mr. Sánchez to notify the NRC following completion of the five year prohibition of his first employment involving NRC-licensed activities. (See related enforcement action issued to S&R Engineering discussed in Appendix B).

Appendix D: Summary of Escalated Enforcement Actions against Individuals*

Orders

Seven Orders were issued to individuals during 2012 and are discussed in Appendix C.

Notices of Violation

Jay T. Barnes IA-12-003

On April 12, 2012, an NOV was issued to Mr. Jay T. Barnes, formerly a security shift supervisor at Northern States Power Company's Prairie Island Nuclear Generating Plant (Prairie Island), for a violation of 10 CFR 50.5(a)(2) associated with a SLIII violation involving his deliberate submittal of information to a licensee that he knew to be incomplete or inaccurate in some respect material to the NRC. Specifically, while employed as a security shift supervisor at Prairie Island, Mr. Barnes deliberately submitted a urine sample to Northern States Power Company that he knew was not his own taken at the time of testing during a random drug screen on July 23, 2010. The accuracy of fitness-for-duty test results is material to the NRC.

Bradley Berg IA-12-028

On August 10, 2012, an NOV was issued to Mr. Bradley Berg, a radiographer's assistant, for a SL III violation involving 10 CFR 30.10, Deliberate misconduct while performing radiographic operations for Quality Inspection and Testing, Inc. Specifically, on October 27, 2010, Mr. Berg deliberately failed to (1) maintain control and constant surveillance of licensed material that is not in storage, as required by 10 CFR 20.1802, and (2) wear, on the trunk of his body, a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter, as required by 10 CFR 34.47(a).

Jeffery W. Coykendall IA-12-039

On January 5, 2012, an NOV was issued to Mr. Jeffery W. Coykendall, a licensed operator at the River Bend Station for a SLIII violation involving 10 CFR 50.5, Deliberate misconduct. Mr. Coykendall deliberately violated an Entergy Nuclear Fleet Procedure which prohibits internet access in the At-the-Controls area of the Control Room, except as specifically authorized by the Operations Manager and caused the River Bend Station to be in violation of Technical Specifications. Specifically, Mr. Coykendall accessed the internet, for non-work-related purposes, while standing watch as the reactor operator "At-the-Controls" in the "At-the-Controls" area of the control room.

* *Please note that cases involving security-related issues are not included*

Rodger T. Devlin IA-12-043

On September 20, 2012, an NOV was issued to Mr. Rodger T Devlin, formerly a licensed reactor operator at the Limerick Generating Station, for a SLIII violation of 10 CFR 55.53(j). On July 14, 2012, Mr. Devlin participated in the Exelon Generation Company random fitness for duty testing program and subsequently tested positive for alcohol while working on shift as a reactor operator.

Brian Kemp IA-12-036

On October 10, 2012, an NOV was issued to Mr. Brian Kemp, formerly a Manager of Design Engineering at the Palisades Nuclear Plant, for a SLIII violation involving the failure to promptly report a legal action taken by a law enforcement authority or court of law to which the individual has been subject that could result in incarceration or a court order or that requires a court appearance, including but not limited to an arrest, an indictment, the filing of charges, or a conviction as required by 10 CFR 73.56(g). Specifically, on January 14, 2011, Mr. Kemp failed to promptly report to his supervisor that he was arrested by the Grand Rapids Michigan Police Department.

Anthony K. Linton IA-12-040

On January 5, 2012, an NOV was issued to Mr. Anthony K. Linton, a licensed operator at the River Bend Station for a SLIII violation involving 10 CFR 50.5, Deliberate misconduct. Mr. Linton deliberately violated an Entergy Nuclear Fleet Procedure which prohibits internet access in the At-the-Controls area of the Control Room, except as specifically authorized by the Operations Manager and caused the River Bend Station to be in violation of Technical Specifications. Specifically, Mr. Linton accessed the internet, a significant number of times for non-work-related purposes, while standing watch as the reactor operator “At-the-Controls” in the “At-the-Controls” area of the control room.

Peter E. Reynolds IA-12-037

On September 11, 2012, an NOV was issued to Mr. Peter E. Reynolds, a licensed reactor operator at the Browns Ferry Nuclear Plant, for a SLIII violation involving 10 CFR 55.53(j) which prohibits the licensee from performing activities authorized by a license issued under 10 CFR 55 while under the influence of alcohol. On May 17, 2012, Mr. Reynolds participated in the Tennessee Valley Authority’s random fitness for duty testing program and subsequently tested positive for alcohol. Specifically, Mr. Reynolds’ breath test sample met or exceeded the TVA administrative level of 0.02 percent and was in work status more than 2 hours prior to the time the initial test was concluded.

Christopher Rhoads IA-12-033

On October 11, 2012, an NOV was issued to Mr. Christopher Rhoads, a radiographer’s assistant formerly employed by DBI incorporated, for a SL III violation involving 10 CFR 30.10, Deliberate misconduct. Specifically, on July 1, 2011, while performing radiographic operations Mr. Rhoads deliberately failed to (1) have at least one other individual present who is a qualified radiographer, as required by 10 CFR 34.41 and (2) assure that he was supervised during his conduct of radiographic operations, as required by 10 CFR 34.46.

Gerald Rinehart IA-12-055

On January 6, 2012, an NOV was issued to Mr. Gerald Rinehart, formerly a licensed Senior Reactor Operator at Susquehanna Steam Electric Station, for a Severity Level III violation involving 10 CFR 73.56(g) which requires, in part, that any individual who is maintaining unescorted access under this section shall promptly report to his or her supervisor any legal action(s) taken by a law enforcement authority or court of law to which the individual has been subject that could result in incarceration or a court order or that requires a court appearance, including but not limited to an arrest, an indictment, the filing of charges, or a conviction. Specifically, Mr. Rinehart failed to report to his supervisor that legal action had been taken against him on July 10, 2010. Mr. Rinehart did not report the legal action until July 21, 2010, even though his first day back to work following the legal action was on July 18, 2010.

Eric L. Stone IA-12-041

On January 5, 2012, an NOV was issued to Mr. Eric L. Stone, a licensed operator at the River Bend Station for a SLIII violation involving 10 CFR 50.5, Deliberate misconduct. Mr. Stone deliberately violated an Entergy Nuclear Fleet Procedure which prohibits internet access in the At-the-Controls area of the Control Room, except as specifically authorized by the Operations Manager and caused the River Bend Station to be in violation of Technical Specifications. Specifically, Mr. Stone accessed the internet, a significant number of times for non-work-related purposes, while standing watch as the reactor operator “At-the-Controls” in the “At-the-Controls” area of the control room.

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

Confirmatory Order

ABSG Consulting, Inc. EA-11-254

On April 17, 2012, a Confirmatory Order (Immediately Effective) was issued to ABSG Consulting Inc. (ABSG) to formalize commitments made as a result of an ADR mediation session held on March 12, 2012. The commitments were made as part of a settlement agreement regarding an apparent violation identified during an NRC investigation involving the circumstances leading to the termination of employment of an individual contrary to the requirements of 10 CFR 50.7, "Employee Protection." Specifically, a former ABSG employee was terminated, in part, for participating in a Commission proceeding before the NRC Atomic Safety and Licensing Board Panel prior to his employment with ABSG.

ABSG conducted its own internal investigation of the circumstances leading to the termination of the employment of the individual. The NRC recognizes that although ABSG did not admit to any apparent retaliation, ABSG nonetheless took several actions to reinforce its anti-retaliation policies. In addition, as part of the ADR settlement agreement, ABSG agreed to take several corrective actions involving increased management oversight and individual accountability including, but not limited to: (1) reinforcing through a written communication from the President ABSG the Company's policy regarding employees' right to raise concerns; (2) developing anti-retaliation training for all ABSG U.S. Nuclear Utilities Market Sector employees which shall include those items identified in 10 CFR 50.7, define key terms, and provide examples of discriminatory practices; (3) publishing, as part of its on-line newsletter, an article concerning the protections afforded by 10 CFR 50.7; and (4) establishing a process to conduct a secondary review of all proposed adverse actions (including written reprimand or above, but excluding reductions-in-force and other ordinary layoffs) for any of its U.S. Nuclear Utilities Market Sector employees who have engaged in protected activities. In consideration of these commitments, and other corrective actions already completed by ABSG, the NRC agreed to refrain from proposing a civil penalty and issuing an NOV in this matter.

* *Please note that cases involving security-related issues are not included*