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Volume 19

Office of Investigations Annual Report Fiscal Year 2022

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Office of Investigations Annual Report Fiscal Year 2022

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ABSTRACT

This report provides the U.S. Nuclear Regulatory Commission with an overview of the activities, mission, and purpose of the Office of Investigations (OI), along with the case inventory framework and highlights of significant cases that OI completed during fiscal year 2022 (see staff requirements memorandum COMJC-89-8, dated June 30, 1989). This is the 34th OI annual report.

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DIRECTOR'S MESSAGE

Happy New Year! As we look forward to the joy of prosperity and a season of empowering growth and development, this edition will honor 40 years of the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI). The success of OI would not have occurred without the incredibly talented and highly trained criminal investigators and professional support staff who have made it all possible. As an ode to OI's commemorative year, we will celebrate some of the significant accomplishments and activities in fiscal year 2022.



On April 20, 2022, OI celebrated our commemorative 40th anniversary with the entire NRC, which included guests of honor and keynote speakers Chair Christopher T. Hanson and Executive Director for Operations Daniel H. Dorman. Both shared thought-provoking messages, recognizing OI for the tremendous value we bring to the NRC's mission. Past and present leaders and staff were highlighted as valuable extensions to a legacy established by those who have paved the way. This event celebrated the rich history of OI and acknowledged the profound efforts and resilience of OI's workforce to advance our mission. As we continue to focus on transforming the future of our program, OI remains committed to what we were created to do in 1982, which is to meet the investigative needs of the NRC without compromising thoroughness and quality.

From October 1, 2021, through September 30, 2022, OI concluded 36 investigations and 31 assists to staff. The investigations summarized in this annual report reflect our devotion to promoting the NRC mission to protect public health and safety, promote the common defense and security, and protect the environment. The investigative activities during this period reflect OI's commitment to standards of excellence to produce credible, independent, thorough, and timely investigations of alleged wrongdoing by licensees or their applicants, contractors, or vendors.

OI has endured our share of challenges related to staff attrition across our offices. To strengthen OI in this area, we have focused on our recruitment, hiring, and retention efforts by filling vacancies with highly skilled, qualified, and diverse candidates based on the NRC's prioritization of hiring needs. OI is currently on target to meet our hiring goals before spring 2023. OI has encouraged rotations, temporary promotions, and knowledge management transfers by advancing professional development throughout our offices.

OI has updated our internal policy guidance to align with the revised U.S. Department of Justice (DOJ) use-of-force requirements and Executive Order 14074, "Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety," dated May 25, 2022. OI has maintained efforts to modernize our Case Management System through greater application of technology and data analytics and the elimination of inefficiencies to better serve our partners. OI continues collaborative efforts to ensure efficiencies by standardizing the Allegations Review Board disposition process and providing subject matter expertise in technical working groups and steering committees. OI also collaborated in developing a comprehensive prosecutor's guide to assist DOJ officials and the Federal law enforcement community's awareness of OI's criminal jurisdiction and successful prosecutions over the past 40 years.

I am extremely proud of our OI personnel for their accomplishments, outstanding performance, and dedication to succeeding in our mission in accordance with Commission policies. I'm also grateful to the foundation building and support of past OI directors, stakeholders, staff in the Office of the Executive Director for Operations, our Commissioners, and the Chair, who have built the solid basis on which we stand today, here at the NRC!

A handwritten signature in black ink, appearing to read "Tracy Higgs". The signature is fluid and cursive, written over a light-colored background.

Tracy Higgs
Director

FOCUSING ON OUR MISSION

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

Since 1982, OI has investigated a broad range of violations. OI continues to focus on criminal violations that undermine the safe and secure use of radioactive materials, the common defense and security of the United States, and the protection of the environment, such as the following:

- criminal violations that pose a particularly significant risk of harm to public health and safety
- criminal conduct, including making material false statements to the NRC during the regulatory process, affecting proper regulatory actions by the NRC
- criminal violations by individuals who discriminate against whistleblowers who raise and pursue certain protected activities regulated by the NRC
- criminal violations in situations where the normal regulatory process may be unable to remedy the problem
- criminal violations by individuals and organizations that attempt to introduce counterfeit, fraudulent, or suspect items into the nuclear supply chain
- proactive investigative partnerships with other Federal, State, local, and international law enforcement agencies

FISCAL YEAR 2022 HIGHLIGHTS

During fiscal year (FY) 2022, the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) maintained a mission-driven, high-performing workforce and continued its commitment to investigative independence, excellence, and adherence to established quality standards. OI personnel include criminal investigators who bring a wide range of experience from across the Federal enterprise and professional support staff who continuously work to exceed the expectations of internal and external stakeholders.

The majority of investigations closed by OI in FY 2022 involved operating reactors, closely followed by closed investigations related to materials. The overall number of closed investigations decreased from that in 2021 and continued the downward trend from 2018. This report discusses the specific numbers in detail and notes the following 2022 highlights:

- In 2022, OI celebrated its 40th anniversary with a virtual commemoration honoring the rich history and the valued work of OI across the entire agency. The celebration included remarks from the NRC Chair, Executive Director for Operations, and other guest speakers who celebrated an array of Federal criminal investigators and administrative and professional staff whose work contributed to the evolution and success of OI. The event highlighted the office's major accomplishments, adherence to Federal mandates, and contributions to the NRC in fulfilling the agency's mission.
- OI directly contributed to the NRC's safety strategic goals by conducting effective and efficient investigations, to ensure that licensees meet the NRC's regulatory requirements. In FY 2022, OI conducted 104 high quality, thorough, and timely cases. OI closed 36 investigations during this reporting period, of which 100% developed sufficient information to reach a conclusion of substantiated or unsubstantiated allegations of willful wrongdoing within 12 months or less, exceeding OI's performance for reactor and materials investigations of 90%.
- Of the 31 Assist to Staff closed, 100% were closed within 90 days, exceeding OI's performance measure of 90%.
- OI conducted and completed 100% of annual field office and OI headquarters assessments and internal reviews to ensure the requirements on organizational effectiveness, and further ensured that OI adhered to all applicable DOJ policies and CIGIE Guidelines
- As part of an agencywide hiring initiative, OI conducted recruitment, hiring, and retention efforts. This generated 14 leadership, staff rotation, and promotion opportunities towards professional growth, skill development and knowledge management exchanges throughout the headquarters and regional offices.
- OI reviewed and updated its investigative policy guidance procedures, including the addition of a prosecutor's guide developed based on historical criminal cases conducted by OI. Additionally, OI revised its use-of-force policy to align with U.S. Department of Justice requirements and Executive Order 14074, "Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety," dated May 25, 2022.

- The OI Credibility Assessment Program (CAP) received certification through the National Center for Credibility Assessment as authorized by DoD Directive 5210.48, “Credibility Assessment Program.” Certification and further collaboration with partners strengthen the OI CAP for use with existing practices and potential technologies designed to determine the credibility of statements.
- OI strengthened partnerships with internal and external stakeholders through an engaged approach. With Federal law enforcement partners in the local area, OI led regional open house sessions along with a site visit to Three Mile Island Nuclear Station. These exchanges provided unique opportunities to collaborate on specific investigative topics that were both shared with and adjacent to the NRC and OI missions.
- OI collaborated with the Intelligence Liaison and Threat Assessment Branch in the NRC Office of Nuclear Security and Incident Response to develop an internal memorandum of agreement to further align their partnerships with the Federal Bureau of Investigation, National Counterintelligence Task Force. They also developed a management directive and associated guidance documents to establish agency specific counterintelligence responsibilities and ensure a coordinated response to counterintelligence issues.

1 INTRODUCTION AND OVERVIEW

HISTORY

In 1982, with the support of U.S. Department of Justice (DOJ) and the U.S. Congress, the U.S. Nuclear Regulatory Commission (NRC) established the Office of Investigations (OI) as part of an agency effort to improve the quality of its investigative work and to support the NRC's overall mission. The Commission announced the formation of OI on April 20, 1982, to improve the NRC's capability "to perform credible, thorough, timely and objective investigations."¹ OI has the responsibility to conduct independent investigations either at the request of specific NRC officials or on its own initiative. OI subsequently hired experienced Federal criminal investigators, a practice it continues today, who probe alleged wrongdoing in accordance with DOJ guidelines and the Quality Standards for Investigations established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

AUTHORITY

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

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

MISSION

As stated in the NRC's Strategic Plan for Fiscal Years 2022–2026,² the agency's mission is to license and regulate the Nation's civilian use of radioactive materials, to provide reasonable assurance of adequate protection of public health and safety, to promote the common defense and security, and to protect the environment. The strategic plan defines the strategic goals to ensure the safe and secure use of radioactive materials, to continue to foster a healthy organization, and to inspire stakeholder confidence in the NRC. The strategic plan also provides an overview of the NRC's responsibilities and lays out how the agency uses data and evidence to inform decision-making to accomplish objectives and strategies to achieve the agency's strategic goals.

OI fully aligns with the agency's regulatory programs and strategic values and goals to provide for the safe, civilian use of radioactive materials and nuclear power. OI's national investigations program consistently operates under the agency's Principles of Good Regulation to support regulatory actions that are effective, realistic, and timely.

¹ U.S. Nuclear Regulatory Commission, Announcement No. 38, "Formation of the New Office of Investigations," dated April 20, 1982.

² NUREG-1614, Volume 8, "Strategic Plan Fiscal Years 2022–2026," issued April 2022.

2 THE OFFICE OF INVESTIGATIONS

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

OI is an independent, national investigations program, which consists of four regionally co-located field offices led by special agents in charge who directly support the regional administrators and report directly to OI headquarters senior staff. The main body of OI personnel consists of Federal criminal investigators and special agents (GG-1811s) as well as professional support and technical staff located in both OI field and headquarters offices.

All NRC OI special agents have extensive backgrounds and experience in Federal criminal investigations. During FY 2022, the professional cadre of OI special agents had an average of 19 years of Federal law enforcement experience. OI special agents have previously served in law enforcement roles at other Federal agencies, including the Secret Service; U.S. Department of Energy; Naval Criminal Investigative Service; U.S. Department of Labor; Air Force Office of Special Investigations; Federal Bureau of Investigation; Bureau of Alcohol, Tobacco, Firearms and Explosives; Coast Guard Investigative Service; Army Criminal Investigative Division; and various offices of Inspectors General.

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

3 QUALITY ASSURANCE REVIEWS

OI quality assurance reviews (QARs) are annual self-assessments of OI's national investigations program. Each year, OI selects a team of senior OI personnel to conduct the QARs of each OI office, including headquarters and field offices. The QARs aim to support the goal of continuous improvement and to assess three major focus areas: operations, management, and administration.

The 2022 QAR reviews were performed in person, which was the first time conducting them in this manner since the onset of the Coronavirus Disease 2019 (COVID-19) pandemic. Previous QARs were conducted virtually based on agency guidance and travel restrictions. The 2022 QAR addressed all the traditional QAR items, including the following:

- internal NRC office stakeholder meetings
- randomly selected case reviews for quality overview
- sensitive equipment verification
- program quality checks
- OI data system review
- OI employee interviews and staff meetings

During the review, the QAR teams checked a random selection of 40 closed cases. The case reviews resulted in no significant findings. A review of OI operational programs found that OI was generally in compliance with all pertinent governing policies and procedures.

The QAR team conducted formal meetings with the Office of the Executive Director for Operations staff, Regional Administrators, Office of the General Counsel, and allegations and enforcement personnel. The discussions with senior staff provided feedback on the OI headquarters and regions' overall performance, collaboration, and input on the delivery of OI work products. The stakeholders reported overall satisfaction with the OI program and provided positive feedback on their interactions with the OI staff, offering credible recommendations and suggestions on OI investigative work products.

This year's QAR included one-on-one interviews with all OI employees. OI employees provided their feedback through answers to structured questions about their overall work environment, leadership, and OI mission-related items. Collectively, the staff expressed a desire for additional professional growth opportunities and training and improvements to the investigative process.

At the conclusion of each QAR, exit briefings were conducted with OI's leadership to address the noted findings and recommendations, which included an emphasis on continued adherence to OI and agency policies and procedures.

4 CASES

Figure 1 shows the OI case inventory, which includes all investigations³ and assists to staff⁴ conducted from FY 2018 through FY 2022. The total case inventory in FY 2022 was 104, which was a 20 percent decrease from 130 in FY 2021. This includes 68 investigations, 26 of which were carried over from FY 2021. Also included are 36 assists to staff, 8 of which were carried over from FY 2021.

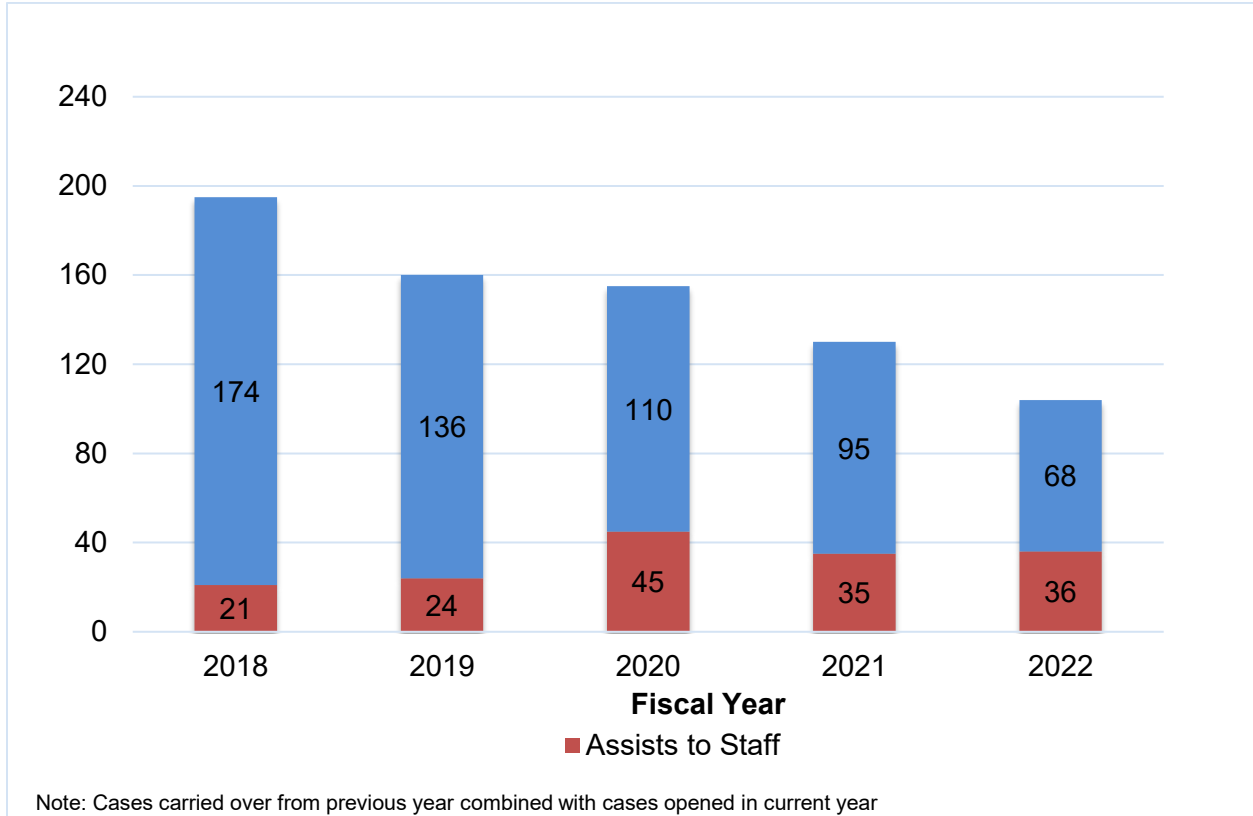


Figure 1 Case Inventory

^{2.} An investigation is the detailed and systematic collection, development, and examination of evidence and other relevant information to uncover the facts and circumstances or to establish the truth concerning potential wrongdoing within the jurisdiction of the NRC.

^{4.} Assists to staff are cases that are brief and focused inquiries not involving a specific allegation of wrongdoing. OI does not evaluate the concerns addressed in assists to staff for substantiation. Assists to staff serve to provide the NRC staff with clarifying information about concerns to better inform the decision-making process, allowing the agency to pursue the most appropriate course of action.

5 CASES OPENED

Table 1 shows the number of cases opened by category from FY 2018 through FY 2022. OI opened 70 cases in FY 2022 in the categories listed below; this represents an 8 percent increase in total cases opened from FY 2021. The number of investigations of suspected material false statements increased by 117 percent, and violations of other NRC regulatory requirements decreased by 10 percent. In FY 2022, the number of discrimination investigations decreased by 9 percent, and the number of assists to staff increased by 4 percent.

Table 1 Cases Opened by Category

Category	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Total	101	80	90	65	70
Material False Statements	16	15	18	6	13
Violations of Other NRC Regulatory Requirements	27	20	22	21	19
Discrimination	40	22	10	11	10
Assists to Staff	18	23	40	27	28

Figure 2 shows the distribution of cases opened during FY 2018 through FY 2022 for the reactor and materials programs. From FY 2021 to FY 2022, the overall number of reactor cases increased by 44 percent. Reactor investigations increased by 62 percent, and reactor-related assists to staff increased by 20 percent.

The number of materials cases decreased by 40 percent, with a decrease of 53 percent in the number of materials investigations. The number of materials-related assists to staff decreased by 17 percent.

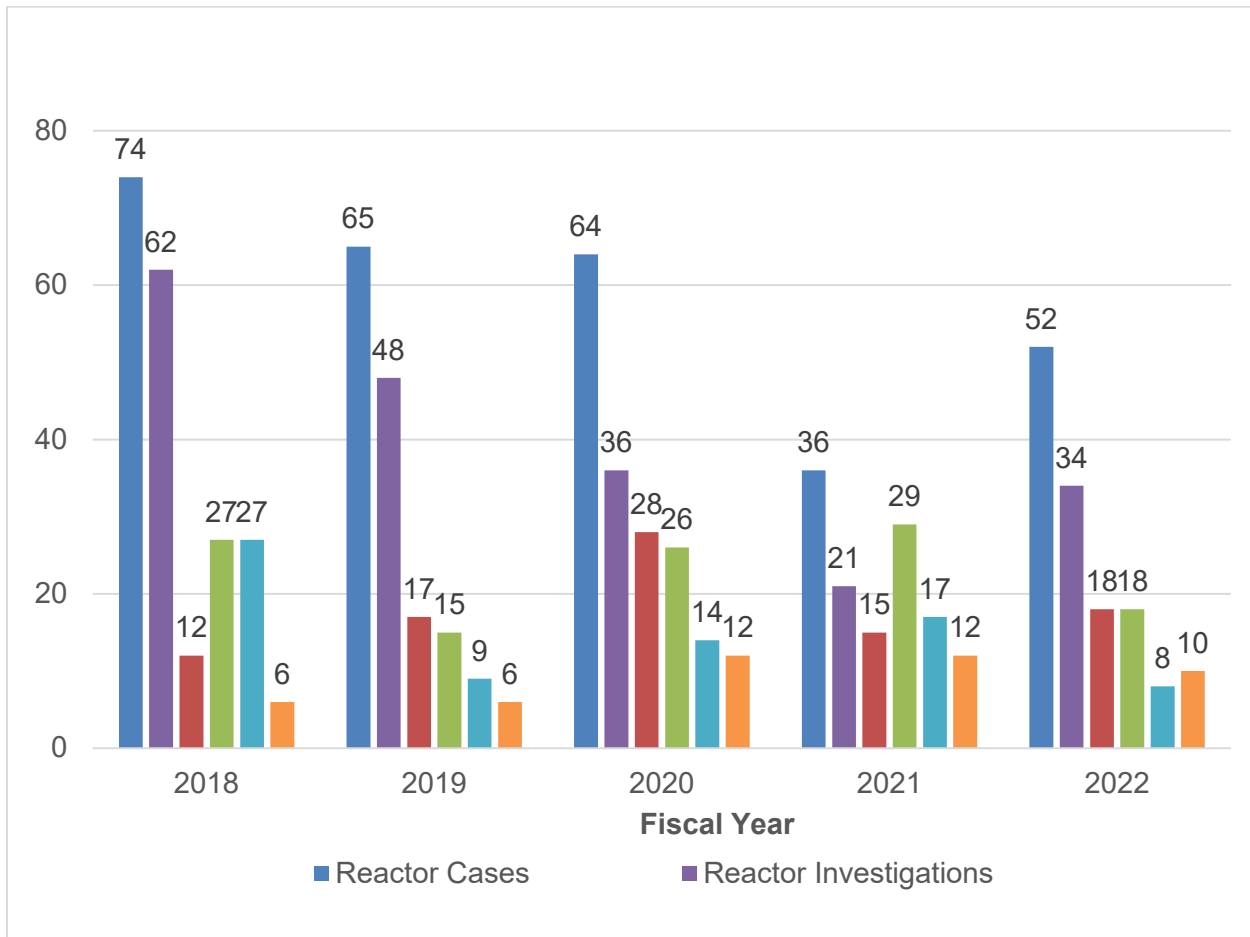


Figure 2 Reactors and Materials Cases Opened

Reactor cases: 52
Reactor investigations: 34
Reactor assists to staff: 18

Materials cases: 18
Materials investigations: 8
Materials assists to staff: 10

6 CASES CLOSED

Table 2 shows the number of cases closed by category from FY 2018 through FY 2022. OI closed 67 cases in FY 2022 in the categories listed below; this represents a 30 percent decrease from the number closed in FY 2021. Investigations of material false statements decreased by 80 percent, while investigations involving violations of other NRC regulatory requirements decreased by 45 percent. Discrimination investigations decreased by 25 percent, and assists to staff increased by 15 percent.

Table 2 Cases Closed by Category

Category	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Total	115	95	90	96	67
Material False Statements	22	18	12	15	3
Violations of Other NRC Regulatory Requirements	32	28	18	38	21
Discrimination	41	30	23	16	12
Assists to Staff	20	19	37	27	31

Figure 3 shows the cases closed from FY 2018 through FY 2022 for the reactor and materials programs. OI closed 67 cases in FY 2022, which included 36 investigations and 31 assists to staff. From FY 2021 to FY 2022, the overall number of reactor cases decreased by 42 percent. Reactor investigations decreased by 59 percent, and reactor-related assists to staff increased by 13 percent.

The overall number of materials cases decreased by 6 percent for the same period. Materials investigations decreased by 20 percent, and the number of materials-related assists to staff increased by 18 percent.

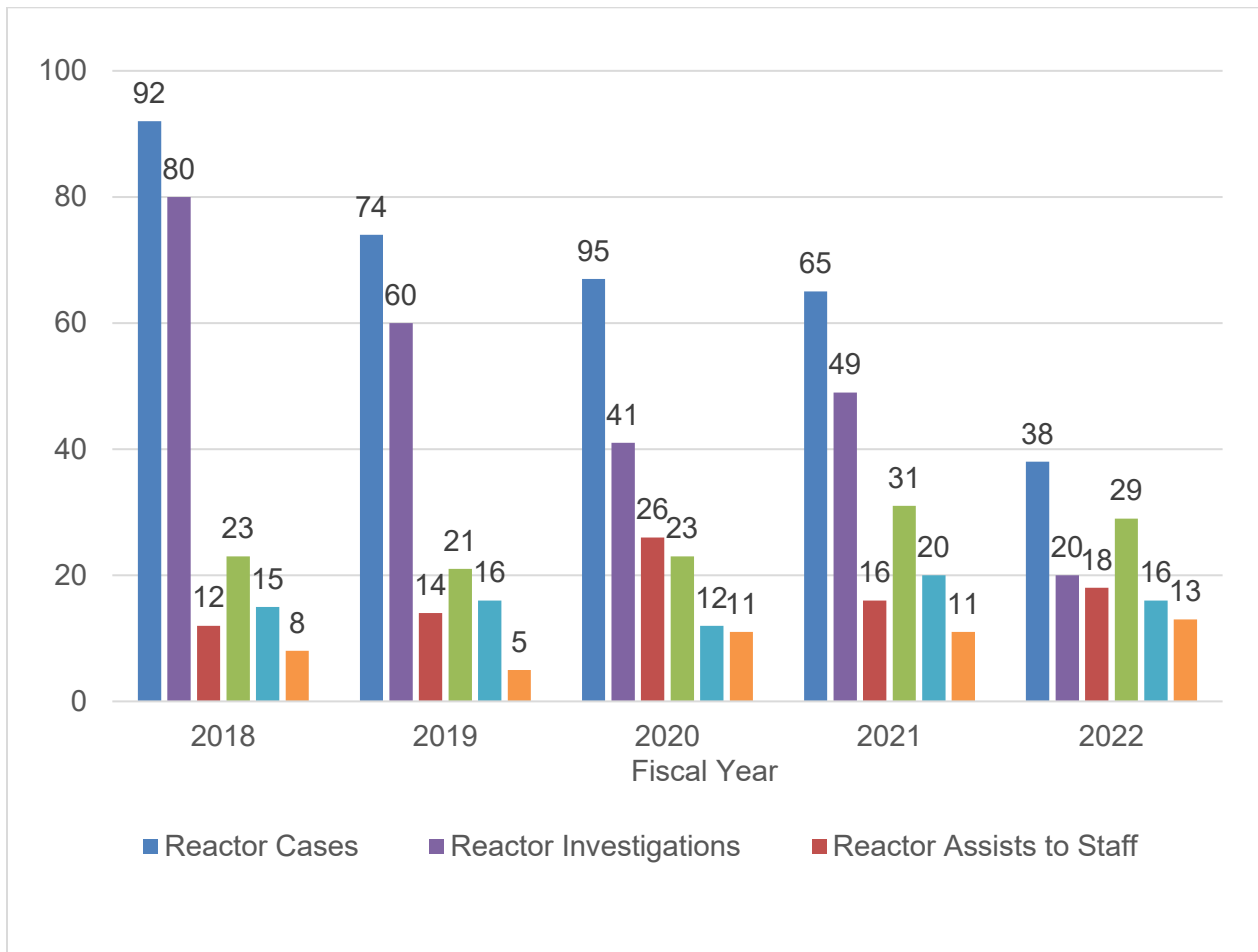


Figure 3 Reactors and Materials Cases Closed

Reactor cases: 38
Reactor investigations: 20
Reactor assists to staff: 18

Materials cases: 29
Materials investigations: 16
Materials assists to staff: 13

7 SIGNIFICANT INVESTIGATIONS

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

NUCLEAR MATERIALS LICENSEE

OI initiated an investigation to determine whether a manager of a materials licensee willfully violated NRC regulations concerning the completeness and accuracy of information provided to the NRC. On August 22, 2019, the NRC issued an order suspending the license of APINDE Inc., based on the evidence developed by OI. Additionally, the manager was indicted in the U.S. District of Hawaii (CR21-00135) and charged with a 18 U.S.C. §1001 False Statement, 18 U.S.C. § 1505 Obstruction of a Proceeding, 42 U.S.C. § 2273(a) Violation of the Atomic Energy Act, and 18 U.S.C. §1344 Bank Fraud. The case is pending finalization.

OYSTER CREEK

OI substantiated that a security training manager at Oyster Creek Nuclear Generating Station falsified weapons testing and maintenance records. On January 26, 2022, after engaging in the alternative dispute resolution process, the NRC issued the licensee a confirmatory order with a \$50,000 civil penalty for the security-related violations. A severity level III notice of violation was issued to the subject of the OI investigation.

STEEL CITY GAMMA

OI substantiated that the former owner of Steel City Gamma, LLC (SCG), engaged in deliberate misconduct in conjunction with two violations of NRC requirements: SCG's failure to file for reciprocity before performing work within NRC jurisdiction, and SCG's conduct of unlicensed industrial radiography activities within NRC jurisdiction. On March 2, 2022, after participating in a predecisional enforcement conference, the NRC issued a severity level II notice of violation to SCG with a proposed \$25,600 civil penalty. On October 11, 2022, the NRC issued an order imposing the \$25,600 civil penalty. Additionally, on March 2, 2022, the NRC issued an order banning the former owner of SCG from NRC-licensed activities for 5 years.

8 FUTURE INITIATIVES

OI's strategic plan and identified initiatives will focus specifically on its people, reinforcing leadership and staff professional development, ensuring accountability, increasing stakeholder confidence, and striving to improve its organizational health. This includes strategic values and goals related to strengthening investigative priorities, developing and implementing executive branch requirements and operating procedures, increasing awareness, and broadening professional development of its employees.

People: Increase Investigative Priorities

To enhance knowledge, skills, and abilities, OI will conduct refresher training and knowledge management sessions focused on investigative basics and nuclear industry-related updates supporting investigations. OI will introduce opportunities to expand its internal case presentation process to promote collaboration and awareness across each of its field elements.

Additionally, through the modernizing of OI's technological capabilities, the program will continue to advance its existing investigative features and functions, as well as reporting mechanisms for the delivery of products such as its annual report. Preparation of future annual reports will further rely on digital distribution and an increased efficiency of reporting information.

Accountability: Advance Guidance on Executive Branch Priorities and Quality Assurance

OI will continue to adhere to requirements under Presidential Executive Order 14074, "Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety," dated May 25, 2022. This initiative allows OI to further advance its use-of-force practices as a modern Federal law enforcement organization by ensuring accountability, respect, dignity, and the rights of all citizens. It also adheres to OI's fundamental obligation to ensure fair and impartial investigations.

The OI QAR process will also be assessed and revised in accordance with updates to OI's existing policies and the CIGIE Quality Standards for Investigations. This assessment and process revision will consider past QAR findings and practices.

Engagement: Organizational Health

OI will continue to focus on recruitment, hiring, and retention efforts in FY 2023 by using various methods, including social media ads and recruitment booths at professional law enforcement conferences. OI will continue staff discussions to encourage skill advancement, leadership development, attendance at diversity and inclusion training conferences, and participation in such organizations.

Additionally, by enhancing professional relationships at various levels with other Federal law enforcement agencies, OI will use this initiative to strengthen public safety and the bonds of trust between law enforcement and the community and reinforce a criminal justice agency that respects dignity and equality as it conducts its mission.

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10. SUPPLEMENTARY NOTES

11. ABSTRACT (200 words or less)

This report describes Office of Investigations case activities during fiscal year 2022.

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

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13. AVAILABILITY STATEMENT

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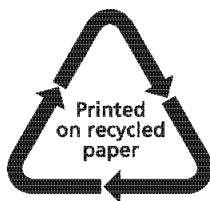
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