



Office of the Inspector General

U.S. Nuclear Regulatory Commission



Tunnel Boring Machine at Yucca Mountain

Semiannual Report

April 1, 2004 — September 30, 2004

Cover photos depicting an aerial view of Yucca Mountain and the tunnel boring machine are courtesy of the U.S. Department of Energy.

MEMORANDUM TO THE CHAIRMAN

I am pleased to present the U.S. Nuclear Regulatory Commission (NRC) Office of the Inspector General (OIG) Semiannual Report to Congress on our activities for the half year beginning April 1, 2004. This report complies with Sections 4 and 5 of the Inspector General (IG) Act of 1978, as amended.

Before summarizing our recent activities, I want to acknowledge the excellence and competence of the auditors, investigators, and support staff who form the foundation of the NRC OIG. Just recently, for the second consecutive year, two of our audit and investigative teams were recognized by the President's Council on Integrity and Efficiency for outstanding performance. Most recently, the Award for Excellence in Audit was received for demonstrated leadership in evaluating the agency's compliance with the Federal Information Security Management Act. The Award for Excellence in Investigations was received for outstanding work in establishing and building a highly specialized investigative capability in the OIG Computer Crimes Unit. I commend these talented men and women for their hard work and dedication to the mission of this office.

During this reporting period, our activities focused on the goals and strategies of our 5-year Strategic Plan and supporting Annual Plan. Our office completed 11 performance audits of NRC programs and operations. In addition, OIG completed 52 investigations and 1 Event Inquiry, and made 28 referrals to NRC management. OIG also analyzed six contract audit reports which identified \$250,940 in questioned costs.

Finally, I would like to express my appreciation for the collaborative work between my staff and agency managers to address OIG findings and implement the many recommendations made by my office. I look forward to continuing this work as we strive to accomplish our common goal of ensuring the effectiveness, efficiency, and integrity of NRC programs and operations.

Sincerely,



Hubert T. Bell

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CONTENTS

Executive Summary	v
The Nuclear Regulatory Commission	1
Mission of NRC	1
The Office of the Inspector General	2
Mission and Strategies of NRC's OIG	2
Management Challenges	4
The Audit Program	5
Audit Summaries	5
Audits in Progress	10
The Investigative Program	15
Investigative Case Summaries	15
Investigative Statistics	19
Other Activities	21
Regulatory Review	21
Training at The Inspectors General Auditor Training Institute by General Counsel	22
Investigative Computer Crimes Unit	23
OIG Summer Program—A Great Success	24
Appendices	26
Audit Listings	26
Contract Audit Reports	27
Audit Resolution Activities	28
Abbreviations	30
Reporting Requirements Index	31



Aerial view of Yucca Mountain.

EXECUTIVE SUMMARY

The following two sections highlight selected audits and investigations completed during this reporting period. More detailed summaries appear in subsequent sections of this report.

AUDITS

■ By statutory provision, NRC has broad authority to establish standards to protect public health and safety—including the prohibition of discrimination against whistleblowers. To fulfill its responsibilities, NRC’s Office of Investigations (OI) investigates allegations of discrimination. The Office of the Inspector General (OIG) conducted a special evaluation of OI’s role in alleged licensee discrimination to determine if its methods and techniques were appropriate for the resolution of discrimination complaints. Credible investigations into allegations of intentional discrimination are essential in ensuring that NRC continues to meet its safety mission through its regulatory process. Stakeholders have raised concerns about OI’s involvement in the process. These stakeholders agree that OI has a role but do not believe that NRC and thereby OI, should investigate all potential discrimination cases. Industry stakeholders assert that the threshold for initiating an OI investigation is too low, whereas whistleblower stakeholders believe it would be detrimental if the threshold were raised. Overall, the stakeholders do not have an issue with OI’s methods and techniques.

NRC is implementing an interim enforcement policy to use Alternative Dispute Resolution in the enforcement program for

discrimination and other wrongdoing cases, and NRC senior officials hope the new process will address some of the stakeholders’ concerns about investigations of alleged discrimination.

OIG found that OI’s methods and techniques are not the root cause of industry and whistleblower concerns. Rather, the concern is the need to use criminal investigations in all discrimination allegations.

■ An accident in 1979 occurred at the Three Mile Island (TMI) Unit 2 commercial nuclear power plant near Harrisburg, Pennsylvania, resulting in damage to the nuclear fuel core. NRC’s response to that incident was marked by poor communication, a lack of defined leadership, and unclear emergency plans. NRC’s careful analysis of the events during those days led to permanent and sweeping changes in how NRC regulates its licensees. NRC is designated as the Lead Federal Agency for emergencies involving NRC-licensed facilities and materials. As such, NRC is responsible for overseeing activities onsite, independently assessing protective action recommendations made by licensees to State and local emergency management organizations, recommending additional offsite protective actions, and coordinating Federal assistance to conduct radiological monitoring and assessment.

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Licensees in turn are responsible for safe operation of their facility and protection of nuclear materials. State and local entities are responsible for implementing measures to protect the public during an emergency. The effectiveness of NRC's incident response program is critical to ensuring that proper actions are taken to protect or minimize harm to public health and safety and the environment during incidents involving NRC-licensed facilities and materials.

OIG found that NRC has improved its incident response program since the TMI accident but more needs to be done. Specifically, the program is implemented inconsistently across regions and from exercise to exercise, is not fully understood by licensees, and does not maintain a well-defined process for demonstrating that staff are qualified and ready to respond. These issues exist because NRC's incident response staff has been engaged in supporting revisions and improvements to Governmentwide incident response plans. Additionally, NRC lacks incident response performance standards and a well-defined agencywide incident response training program.

The current incident response program provides a framework for managing the agency's response to incidents involving NRC-licensed facilities or materials. The program should be strengthened to better inform licensees about NRC's incident response roles and responsibilities, and to better define training and qualifications programs.

- Executive Order 12564 (Drug Free Federal Workplace) made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty. The Department of Health and Human Services (HHS) oversees the Federal program.

Agency drug testing plans must be approved by HHS and must contain specific provisions concerning testing procedures. OIG found that NRC is not in conformance and as a result agency testing procedures are vulnerable to successful legal challenge.

- The Atomic Energy Act of 1954, as amended, assigns to NRC responsibility for licensing imports and/or exports of specified nuclear materials and equipment. Title 10 of the Code of Federal Regulations, Part 110, contains the regulations that prescribe licensing, enforcement, and rulemaking procedures. Import/export licensing helps to combat the inappropriate spread of specified nuclear materials. Improper processing of import/export license applications could lead to security vulnerabilities and could expose the public to potentially harmful consequences. NRC's Office of International Programs (OIP) administers the agency's import/export licensing program. This audit found that OIP approved license applications in a timely manner and effectively coordinated with other Federal agencies. However intra-agency coordination relating to the review and approval of import/export license applications requires improvement to correct documentation weaknesses. Auditors also found that license processing costs were under-recovered by approximately \$600,000 in fiscal year 2003.

INVESTIGATIONS

- An investigation into three allegations centered on the restart of the Davis-Besse Nuclear Power Plant. The first involved concerns raised by an NRC inspector regarding the adequacy of the corrective action program (CAP) at Davis-Besse Nuclear Power Plant. NRC management assessed the

CAP as acceptable; however, an NRC inspector who participated in the assessment maintained that it was minimally acceptable and declined to concur on the inspection report that described Davis-Besse's CAP as acceptable. OIG determined that NRC appropriately dispositioned the technical issues raised in the assessment and followed its process in addressing this concern.

The second allegation purported that excessive overtime by licensee employees could create safety issues at Davis-Besse. OIG learned that an NRC inspection team determined that during the plant outage, some licensee staff were working up to 60 hours per week, but no performance errors associated with fatigue were identified, and the work hour load was reduced prior to restart. OIG found that NRC's handling of this concern was consistent with NRC processes and procedures.

The last allegation resulted from an employee's concern that there is a potential for reactor coolant system (RCS) leakage from the bottom reactor pressure vessel (RPV) head incore monitoring instrumentation nozzles at Davis-Besse. OIG found that NRC conducted a special inspection focusing on RCS leak testing activities, an inspection of the lower RPV head penetration nozzles, and a review of actions taken by the licensee to inspect the lower RPV. OIG determined that NRC appropriately addressed this concern.

- OIG completed an investigation into an allegation that NRC and the Department of Energy (DOE) held a series of closed meetings regarding the proposed Yucca Mountain Repository that violated the NRC Open Meeting Policy and the agreement between DOE and NRC regarding prelicensing interactions.

OIG determined that NRC held three meetings to review the DOE Quality Assurance Program at Yucca Mountain.

OIG learned that closed meetings to conduct audits are acceptable under the NRC prelicensing agreement with DOE. Also, OIG determined that the NRC Open Meeting Policy does not currently apply to meetings with DOE; however, NRC has voluntarily applied the policy and included it in the interagency agreement with DOE regarding Yucca Mountain. OIG concluded that NRC closed the meetings to the public based on valid exceptions provided under NRC agreements and policies.

- OIG completed an investigation into three separate concerns regarding comments and actions by an NRC Commissioner. The first concern alleged that the Commissioner ordered the NRC staff to produce a critique that undermined a public interest group's technical report identifying risks associated with stored spent nuclear reactor fuel. OIG determined that the Commissioner inappropriately directed the NRC staff to prepare a review of the technical report with the pre-determined outcome that faulted the report; however, OIG developed no evidence that NRC staff acted inappropriately in response to the Commissioner's direction.

The second concern involved an allegation that the Commissioner inappropriately released safeguards information to a senior official of an NRC licensee. OIG found that the Commissioner released preliminary results of an NRC vulnerability study which contained safeguards information to senior officials in the nuclear industry. OIG determined that although the officials were cleared to receive safeguards information,

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the NRC staff was not prepared to release the preliminary test results discussed by the Commissioner.

The third concern involved information provided by a public interest group to the Commissioner concerning a contractor employee's alleged wrongful termination by an NRC licensee for engaging in protected activities. OIG found that the Commissioner's handling of the allegation was inconsistent with NRC policy and resulted in releasing the identity of the alleged to the NRC licensee without first having obtained the individual's permission to do so.

- OIG completed an investigation to determine if NRC staff avoided taking enforcement action against a senior manager of an NRC licensee to protect the manager and his professional record. According to the allegation, the NRC chose not to take enforcement action against the individual manager, who was found to have discriminated against a licensee employee for

engaging in a protected activity. Furthermore, the allegation stated that NRC's inaction allowed the manager to maintain a "clean record" and ultimately ascend to the position of Chief Nuclear Officer for another licensee. OIG determined that the licensee informed NRC that it would be willing to admit guilt in the discrimination matter and proposed a comprehensive remedial training initiative for its company to address discrimination issues. As a condition of its proposal, the licensee stipulated that NRC could not take individual action against the senior manager.

OIG found no evidence that NRC staff attempted to protect this manager. OIG determined that, after careful consideration, NRC staff decided it would be in NRC's best interest to accept the licensee's offer to admit to a violation as a company and engage in a comprehensive training program rather than pursue sanctions against the individual manager.

THE NUCLEAR REGULATORY COMMISSION

MISSION OF NRC

The U.S. Nuclear Regulatory Commission (NRC) mission is to enable the Nation to use radioactive materials for beneficial civilian purposes while ensuring that public health and safety, common defense and security, and the environment are protected.

NRC's scope of responsibility includes regulation of commercial nuclear power plants; research, test, and training reactors; nuclear fuel cycle facilities (also called fuel cycle facilities); medical, academic, and industrial uses of radioactive materials; and the transport, storage, and disposal of radioactive materials and waste. NRC's regulations are designed to protect the public and occupational workers from radiation hazards in those industries using radioactive materials.

NRC is headed by five Commissioners appointed by the President of the United States, with the advice and consent of the U.S. Senate, to serve 5-year terms. NRC issues licenses and oversees licensees for civilian uses of radioactive materials at:

- 104 nuclear power reactors.
- 36 non-power (research and test) reactors.
- 47 uranium recovery sites.
- 9 major fuel cycle facilities.
- Approximately 4,500 medical, industrial, government, and academic materials licensees.

NRC has responsibility for regulatory activities related to radiation protection and nuclear safety for nuclear facilities and for protection of the common defense and security related to uses of radioactive materials. NRC also has a role in overseeing certain international uses of radioactive materials. For example, NRC issues and oversees licenses for the import and export of radioactive materials and participates in multilateral safeguards and security inspections. The agency works closely with its international counterparts in these areas.

In addition, 33 States have signed agreements with NRC under which they assume regulatory responsibility for the use of certain quantities of radioactive materials for civilian purposes in their respective States. These Agreement States implement State regulations that are compatible with NRC regulations for approximately 80 percent of the more than 17,000 radioactive materials licenses in the United States. NRC works closely with Agreement States to ensure a sound and consistent regulatory framework.

NRC, the Agreement States, and those who hold licenses to use radioactive materials share a common responsibility to protect public health and safety and the environment in the United States. Because licensees actually use radioactive materials, they have the ultimate responsibility to handle and use the materials.

THE OFFICE OF THE INSPECTOR GENERAL

MISSION AND STRATEGIES OF NRC'S OIG

To support the agency in carrying out its mission, Congress established the NRC Office of the Inspector General (OIG) through a 1988 amendment to the Inspector General Act. Today, OIG's primary mission is to assist NRC by ensuring integrity, efficiency, and accountability in the agency's programs to regulate the civilian use of byproduct, source, and special nuclear materials in a manner that adequately protects public health and safety and the environment, while promoting the Nation's common defense and security.

OIG is committed to ensuring the integrity of NRC programs and operations. Developing an effective planning strategy is a critical aspect of accomplishing this commitment. Such planning ensures that audit and investigative resources are used effectively. To that end, OIG revised its Strategic Plan for FYs 2003 through 2008, which included a delineation by OIG of the major challenges and critical task areas facing NRC.

The product of that effort identified the priorities of OIG and set out a shared set of expectations regarding the goals OIG expects to achieve and the strategies that will be employed to do so. OIG's Strategic Plan features three goals which generally align with NRC's mission and strategic goals:

1. Advance NRC's efforts to enhance **safety** and protect the environment.
2. Enhance NRC's efforts to increase **security** in response to the current threat environment.

3. Improve the economy, efficiency, and effectiveness of NRC **corporate management**.

The audit strategy involves effective audit planning, which requires current knowledge about the agency's mission and the programs and activities used to carry out that mission. Accordingly, OIG continually monitors specific issue areas to strengthen our internal coordination and overall planning process. Under the Issue Area Monitor (IAM) program, staff are assigned responsibility for keeping abreast of major agency programs and activities. The broad IAM areas address nuclear reactors, nuclear materials, nuclear waste, international programs, safety, security, information management, financial management, and administrative programs.

The audit planning process routinely takes into account the critical safety and security risks and challenges facing NRC concerning nuclear reactor oversight, the regulation of nuclear material, and the handling of nuclear waste. Audit planning is also influenced by (1) mandatory legislative requirements; (2) emphasis by the President, Congress, and NRC Commission; (3) a program's susceptibility to fraud, manipulation, or other irregularities; (4) dollar magnitude, duration, or resources involved in the proposed audit area; (5) newness, changed conditions, or sensitivity of an organization, program, function, or activities; (6) prior audit experience, including the adequacy of internal controls; and (7) availability of audit resources.

OIG investigative strategies and initiatives add value to agency programs and operations by

identifying and investigating allegations of fraud, waste, and abuse leading to criminal, civil, and administrative penalties and recoveries. By focusing on results, OIG has designed specific performance targets with an eye on efficiency. Because NRC's mission is to protect public health and safety, the main investigative concentration involves alleged NRC misconduct that could adversely impact health and safety-related matters. These investigations typically include allegations of:

- Misconduct by high-ranking and other NRC officials, such as managers and inspectors, whose positions directly affect public health and safety.
- Failure by NRC management to ensure that health and safety matters are appropriately addressed.


- Failure by NRC to appropriately transact nuclear regulation publicly and candidly and to openly seek and consider the public's input during the regulatory process.
- Conflicts of interest by NRC employees with NRC contractors and licensees.

OIG has also implemented a series of proactive initiatives designed to identify specific high-risk areas that are most vulnerable to fraud, waste, and abuse. A primary focus is electronic-related fraud in the business environment. OIG is committed to improving the security of this constantly changing electronic business environment by investigating unauthorized intrusions and computer-related fraud, and by conducting computer forensic examinations. Other proactive initiatives focus on determining instances of procurement fraud, theft of property, Government credit card abuse, and fraud in Federal Government programs.

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MANAGEMENT CHALLENGES

Serious management challenges are mission critical areas or programs that have the potential for a perennial weakness or vulnerability that, without substantial management attention, would seriously impact agency operations or strategic goals. In the latest annual assessment on November 5, 2003, the IG identified the following as the most serious management challenges facing NRC:

NRC's Most Serious Management Challenges as of November 5, 2003	
Challenge 1 Protection of nuclear material used for civilian purposes.	Challenge 6 Administration of all aspects of financial management.
Challenge 2 Protection of information.	Challenge 7 Communication with external stakeholders throughout NRC regulatory activities.
Challenge 3 Development and implementation of a risk-informed and performance-based regulatory oversight approach.	Challenge 8 Intra-agency communication (up, down, and across organizational lines).
Challenge 4 Ability to modify regulatory processes to meet changing external demands.	Challenge 9 Managing human capital.
Challenge 5 Acquisition and implementation of information resources.	 The challenges are <i>not</i> ranked in any order of importance.

THE AUDIT PROGRAM

To help the agency improve its effectiveness during this period, OIG completed 11 financial and performance audits that resulted in a number of recommendations to NRC management. OIG also analyzed six contract audit reports of which two reports identified \$250,940 in questioned costs.

AUDIT SUMMARIES

NRC's Implementation of Regulations Concerning Nondiscrimination Based on Handicap

OIG STRATEGIC GOAL: CORPORATE MANAGEMENT

In 1992, Congress revised the Rehabilitation Act of 1973 to make the Americans with Disabilities Act employment standards applicable to the Federal Government. Section 504 of the Rehabilitation Act applies to any executive branch agency of the Federal Government, as well as nongovernmental facilities receiving Federal funding. Specifically, Section 504 prohibits discrimination based on disability in programs or activities conducted by any executive branch agency in the Federal Government or its affiliates. As such, Section 504 requires that NRC provide reasonable accommodations to qualified individuals with disabilities; provide effective communication tools for hearing- or vision-impaired people; and maintain accessibility to facilities, programs, and activities. To further prohibit discriminatory practices in Federal programs and activities,



Executive Order 12250 was issued assigning the Department of Justice (DOJ) the oversight role to ensure that Federal agencies report disability-related data regarding recipients of Federal financial assistance. NRC enforces these requirements through the Code of Federal Regulations Title 10, Part 4, Subparts B and E. Subpart E also incorporates the requirements of the Architectural Barriers Act of 1968, as amended, to ensure that buildings and facilities designed, built, or altered with Federal funds, or leased by Federal agencies, are accessible to the physically handicapped.

While all NRC staff are encouraged to do their part in making equal opportunity and managing diversity a reality at the agency, the Office of Administration, the Office of Human Resources, and the Office of Small Business and Civil Rights have lead roles in this area. In particular, these offices have specific roles in ensuring that individuals are not discriminated against due to a handicap.

At an NRC Commissioner's request, OIG reviewed NRC's implementation of Federal regulations concerning nondiscrimination based on handicap. The audit identified that (1) NRC's headquarters facility generally complies
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with the regulations, (2) NRC must improve the administration of the agency's disability program, and (3) NRC must ensure accurate reporting of NRC disability-related data to DOJ. (Addresses Management Challenge #9)

Review of NRC's Drug-Free Workplace

OIG STRATEGIC GOAL: SECURITY

Executive Order 12564, *Drug-Free Federal Workplace* (September 15, 1986), established the goal of a drug-free Federal workplace and made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty. This executive order authorized the Department of Health and Human Services (HHS) to publish guidance for drug-testing programs, required each agency head to develop a plan for achieving a drug-free workplace, and required agencies to conduct their drug-testing programs in accordance with HHS guidelines. In 1987, Congress passed legislation designed to establish uniformity among Federal agency drug-testing plans and centralize oversight of the Federal drug-testing programs. To implement this legislation, HHS convened the Interagency Coordinating Group Executive Committee composed of HHS, DOJ, and the U.S. Office of Personnel Management to certify and oversee Federal agency drug-testing plans. In July 1988, NRC implemented its first drug-testing plan, which HHS approved. In November 1997, NRC's drug-testing plan was superseded by the *NRC Drug-Free Workplace Plan*, which the agency is currently using.

OIG found that NRC's Drug-Testing Program is not in compliance with Federal guidance because it lacks necessary HHS approval and does not contain specific provisions concerning testing procedures. These lapses occurred because NRC management officials implemented the

current plan without obtaining confirmation from HHS that this plan was acceptable. Consequently, without the required approval, the testing procedures contained in the plan are vulnerable to successful legal challenge. (Addresses Management Challenge #2)

Audit of the Licensing Support Network

OIG STRATEGIC GOAL: SECURITY

The Nuclear Waste Policy Act of 1982, as amended, defines U.S. policies governing the permanent disposal of high-level radioactive waste. This act mandates to Department of Energy (DOE) the responsibility for constructing, operating, and permanently closing a high-level nuclear waste storage and disposal facility. This process requires DOE to obtain authorization from NRC to construct such a repository, as NRC is the agency that regulates the civilian use of nuclear materials. Federal regulations that dictate the rules for licensing a high-level waste repository required NRC to develop the Licensing Support Network (LSN), a Web-based search and retrieval system designed to allow parties electronic access to all documents that could be used in the hearing.

The objectives of this audit were to determine if (1) the LSN system meets its required operational capabilities, (2) NRC's communication with parties regarding LSN has been adequate, and (3) the system provides for the confidentiality, availability, and integrity of the data stored in the system. Audit results found that in May 2004 NRC reached a long-sought agreement with DOE concerning LSN document availability. Additionally, Atomic Safety and Licensing Board Panel communications with the parties about LSN and the Yucca Mountain licensing process have been effective. OIG found that to strengthen LSN system security, NRC needs to establish written agreements on security with parties inter-connected with the LSN

and bring the LSN security plan into compliance with Federal regulations. (*Addresses Management Challenges #1 and #2*)



Controls To Prevent Unauthorized Entry Into the NRC Parking Garage

OIG STRATEGIC GOAL: SECURITY

OIG conducted a limited scope review to assess NRC's controls for preventing and mitigating unauthorized vehicle entries into the NRC headquarters parking garage. OIG initiated this inquiry in response to an incident that occurred on April 28, 2004, when a disoriented woman who had no official business with NRC drove into the One White Flint North parking garage without stopping at the guard booth. After a brief period in the garage, the woman walked out of the garage at the Two White Flint North exit, at which time she was stopped and questioned by an NRC contract guard who was unaware that the security breach had occurred.

NRC determined that the security guard response to this incident was unsatisfactory, and reduced the security guard contractor invoice for April because of the poor response. In response to an NRC request to improve future performance, the contractor provided remedial training for its

NRC guard force. In addition, the NRC Director, Division of Facilities and Security, instructed Security Branch staff to develop specific guidance for security officers on how to respond to unauthorized access situations.

OIG found that although NRC responded quickly to address the poor performance demonstrated by the guard force on April 28, the agency should implement emergency drill training requirements contained in the security guard contract and clarify security guard orders to ensure a better security guard response in the future. (*Addresses Management Challenge #2*)

Special Evaluation of the Office of Investigations' Role in Alleged Discrimination Cases

OIG STRATEGIC GOAL: SAFETY

By statutory provision, NRC has broad authority to establish standards to protect public health and safety—including the prohibition of discrimination against whistleblowers. To fulfill its responsibilities, NRC's Office of Investigations (OI) investigates allegations of discrimination.

OIG conducted a special evaluation of OI's role in alleged licensee discrimination to determine if its methods and techniques were appropriate for the resolution of discrimination complaints. Credible investigations into allegations of intentional discrimination are essential in ensuring that NRC continues to meet its safety mission through its regulatory process. Stakeholders have raised concerns about OI's involvement in the process. They agree that OI has a role but do not believe that NRC, and thereby OI, should investigate all potential discrimination cases. Industry stakeholders assert that the threshold for initiating an OI investigation is too low,

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whereas whistleblower stakeholders believe that it would be detrimental if the threshold were raised. Overall, the stakeholders do not have an issue with OI's methods and techniques.

NRC is implementing an interim enforcement policy to use Alternative Dispute Resolution in the enforcement program for discrimination and other wrongdoing cases, and NRC senior officials hope the new process will address some of the stakeholders' concerns about investigations of alleged discrimination.

NRC had planned to hire a contractor to examine OI's procedures and techniques for conducting alleged discrimination investigations. Such an action would have been unnecessary and costly, but the agency could have spent as much as \$330,000 for a product of questionable value.

OIG found that OI's methods and techniques are not the root cause of industry and whistleblower concerns. Rather, the concern is the need to use criminal investigations in all discrimination allegations. (*Addresses Management Challenge #1*)

Audit of NRC's Management of Import/Export Authorizations

OIG STRATEGIC GOAL: SECURITY

Import/export licensing helps to combat the inappropriate spread of specified nuclear materials. Improper processing of import/export license applications could lead to security vulnerabilities and could expose the public to potentially harmful consequences.

The Atomic Energy Act of 1954, as amended, assigns responsibility for licensing imports and/or exports of specified nuclear materials and equipment to NRC. Title 10 of the Code of Federal Regulations, Part 110, contains the regulations that prescribe licensing, enforcement, and rulemaking procedures.

NRC's Office of International Programs (OIP) administers the agency's import/export licensing program. In carrying out this responsibility, NRC coordinates with other executive branch agencies such as the Departments of State and Energy, which review license applications forwarded by OIP. NRC has historically processed approximately 100 import/export license applications per year, but this is expected to increase to about 280 in FY 2005.

The objectives of this audit were to determine whether OIP was (1) properly reviewing and approving import/export authorizations, (2) effectively coordinating this activity with other Federal agencies, and (3) effectively coordinating import/export authorizations internally.

The audit found that OIP approved license applications in a timely manner and effectively coordinated with other Federal agencies. However, intra-agency coordination relating to the review and approval of import/export license applications evidenced documentation weaknesses and licensing costs were under-recovered by approximately \$600,000 in fiscal year 2003. (*Addresses Management Challenge #1*)

Audit of NRC's Incident Response Program

OIG STRATEGIC GOAL: SAFETY

An accident in 1979 at the Three Mile Island (TMI) Unit 2 commercial nuclear power plant near Harrisburg, Pennsylvania, resulted in damage to the nuclear fuel core. NRC's 1979 response to that incident has been described as "... flawed by poor communication, lack of defined leadership, and unclear emergency plans." NRC's careful analysis of the events during those days led to permanent and sweeping changes in how NRC regulates its licensees.



New large screen monitors in the NRC Operations Center.

This audit was conducted to determine whether NRC's incident response program is performed in a timely and effective manner, provides adequate support to licensees, and maintains readiness and qualifications of staff.

Federal Governmentwide guidance provides for the delivery of Federal assistance and resources to assist State and local governments overwhelmed by a major disaster or emergency, an organized and integrated capability for response by Federal agencies to peacetime radiological emergencies, and designates the Lead Federal Agencies for coordinating the Federal response to radiological emergencies. NRC is designated as the Lead Federal Agency for emergencies involving NRC-licensed facilities and materials. As such, NRC is responsible for overseeing activities onsite, independently assessing protective action recommendations made by licensees to State and local emergency management organizations or recommending additional offsite protective actions, and coordinating Federal assistance to conduct radiological monitoring and assessment.

Licensees in turn are responsible for safe operation of their facility and protection of nuclear materials. State and local entities are responsible for implementing measures to

protect the public during an emergency. The effectiveness of NRC's incident response program is critical to ensuring that proper actions are taken to protect or minimize harm to public health and safety and the environment during an incident involving NRC-licensed facilities and materials.

OIG found that NRC has improved its incident response program since the TMI accident but more needs to be done.

Specifically, the program is performed inconsistently across regions and from exercise to exercise, is not fully understood by licensees, and does not maintain a well-defined process for demonstrating that staff are qualified and ready to respond. These issues exist because NRC's incident response staff has been engaged in supporting revisions and improvements to Governmentwide incident response plans. Additionally, NRC lacks incident response performance standards, an objective mechanism for evaluating performance during exercises, and a well-defined agencywide incident response training program.

In light of the current threat environment, additional management focus is warranted to improve the effectiveness of NRC's incident response program. The current incident response program provides a framework for managing the agency's response to incidents involving NRC-licensed facilities or materials, but the program should be strengthened to better inform licensees about NRC's incident response roles and responsibilities and to better define training and qualifications programs. This will improve the overall effectiveness and efficiency of the incident response program and provide assurance that all aspects of the program are coordinated. (*Addresses Management Challenges #1, 3, 7, 8, and 9*)

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*Independent Evaluations of
NRC's Implementation of the Federal
Information Security Management Act
For Fiscal Year 2004*

OIG STRATEGIC GOAL: SECURITY

An independent contractor, on behalf of OIG, completed an independent evaluation of NRC's information security program (1) to test the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems and (2) to assess compliance with the Federal Information Security Management Act (FISMA) and related information security policies, procedures, standards, and guidelines. The contractor provided OIG with an Independent Evaluation Report and the NRC 2004 Office of Management and Budget (OMB) FISMA Report, which is included as an appendix to the report.

The independent contractor reported that over the past year, NRC continued to improve its security program. For example, NRC (1) completed a majority of program and system level corrective actions identified in the FY 2003 FISMA review, and additional corrective actions identified throughout FY 2004 (approximately 83 percent); (2) completed a risk assessment, security plan, and business continuity plan and certified and accredited one of the new major applications under development; (3) completed annual business continuity plan testing for 16 of the 17 major applications and general support systems at NRC; (4) developed a process for updating the NRC system inventory on a semiannual basis; and (5) developed procedures for implementing security configurations on NRC servers.

The Independent Evaluation Report identified some security weaknesses. However,

none of the identified weaknesses are considered to be significant deficiencies or reportable conditions as defined in OMB guidance. In addition to the required FISMA report, the independent contractor performed separate system evaluations and provided separate reports on the management, operational, and technical controls for NRC's Agencywide Documents Access and Management System, General License Tracking System, and Fee Systems. (*Addresses Management Challenge #2*)

AUDITS IN PROGRESS

Audit of NRC's Budget Formulation Process

**OIG STRATEGIC GOAL:
CORPORATE MANAGEMENT**

The Government Performance and Results Act (GPRA) of 1993 was enacted to establish strategic planning and performance measurement in the Federal Government and for other purposes. Under GPRA, agencies are required to submit to the Congress annual performance plans that link resources to performance goals.

In 1998, NRC established the Planning, Budgeting, and Performance Management (PBPM) process to link resources with strategic goals and performance. To this end, the budget formulation process must have in place and effectively implement policies and procedures. Each year the Chief Financial Officer issues *Instructions for Information Required for the PBPM Budget Review* to office directors and regional administrators. All offices are expected to develop budget requests which support the strategic direction for the mission-related program areas, to the extent possible. Resource requests must be consistent with program goals, guidance, and planning assumptions and must consider current financial status.

OIG is assessing whether the budget formulation portion of the PBPM process is (1) efficiently and effectively coordinated with program offices and (2) effectively used to develop and collect data to align resources with strategic goals. (*Addresses Management Challenge #6*)

Audit of NRC's Drug Testing Program

OIG STRATEGIC GOAL: SECURITY

NRC's Drug Testing Program, one facet of the NRC Drug-Free Workplace Plan, is administered by the Security Branch, Division of Facilities and Security, Office of Administration, and includes random, applicant, reasonable suspicion, post-accident, voluntary, and followup testing. This audit will focus on the random drug testing component of the program.

All NRC positions are sensitive and therefore potentially subject to drug testing. However, the NRC Commission determined that NRC employees in the following categories are subject to random testing: employees with unescorted access to vital or protected areas of nuclear plants, Category 1 fuel cycle facilities, and uranium enrichment facilities; employees who have assigned responsibilities or are on-call for regional or headquarters incident response centers; employees with access to Sensitive Compartmented Information and/or Foreign Intelligence Information, or who require access more than once or twice a year to classified information; and employees who are motor vehicle operators whose principal duties or back-up duties include the driving of Government vehicles to transport passengers.

The overall objective of this audit is to assess how effectively NRC is implementing its drug testing program. The specific objectives to measure effective program implementation are

to determine whether the (1) categories of positions selected for random testing are appropriate and are based on their level of security risk, (2) drug testing procedure is valid and reliable, and (3) cost of random drug testing provides the level of confidence that NRC requires for achieving a drug-free workplace. (*Addresses Management Challenge #2*)

Audit of the Baseline Inspection Program

OIG STRATEGIC GOAL: SAFETY

Beginning in FY 2001, the Reactor Inspection Program and the Reactor Performance Assessment program were combined into a single program for commercial power reactors. The combined program implements the revised reactor oversight process, which includes risk-informed baseline inspections, use of performance indicator data, and a revised reactor assessment process. The program is designed to ensure, through selective examinations, that the licensee identifies and resolves safety issues before they affect safe plant operations.

Baseline inspections provide for increased focus on aspects of performance that have the greatest impact on safe plant operation and ensure that the level of plant-specific inspection performed at each site is commensurate with that site's performance. The baseline inspection program is integral to supporting the goals and objectives of NRC's reactor oversight process and provides a mechanism for NRC to remain alert to plant status and conditions at all licensed reactors.

This audit is assessing whether the baseline inspection program is: (1) based on a sound methodology, (2) being completed at all commercial power plants, and (3) carried out by sufficient qualified staff. (*Addresses Management Challenges #1, 3, 7, 8, and 9*)
(continued on next page)

Audit of the Reactor Program System

OIG STRATEGIC GOAL: CORPORATE MANAGEMENT

NRC's Reactor Program System (RPS) provides the capability for planning, scheduling, conducting, reporting, and analyzing inspection activities at nuclear power reactor facilities. It is used as a tool for implementing the policy and inspection guidance for programs assigned to the NRC regional offices and assesses the effectiveness and uniformity of the NRC regional offices' implementation of those programs. It is also used to plan and schedule licensing and other reactor regulatory activities in the Office of Nuclear Reactor Regulation. The RPS database includes inspection and licensing information, plant performance indicators, inspection followup items, safety issue data, NRC staff data, facility characteristics, and security and other reactor regulatory data.

RPS was designed to fit within NRC's information technology infrastructure and is accessible via agency-standard personal computer workstations using commercial-off-the-shelf software for greater flexibility and ease of maintenance.

Information obtained during OIG's audit work on the Significance Determination Process and the Baseline Inspection Program indicates that RPS data is not sufficiently reliable and that difficulties with the program have caused various NRC offices to develop their own local applications to perform tasks RPS was intended to perform.

This audit is determining if the system meets its required operational capabilities and provides for the security, availability, and integrity of the system data. (*Addresses Management Challenges #4 and #5*)

Audit of NRC's Telecommunications

OIG STRATEGIC GOAL: SECURITY

With a FY 2004 budget of \$5,390,000 and 6 FTE, NRC's headquarters telecommunications staff support agency long distance and headquarters local telecommunications services to meet current business needs and the related services to implement and maintain the telecommunications services. Services provided include: Internet provider, telephone calling cards, telephone operators, cellular phones and pagers, maintenance for common carriers, and other specialized services.

OIG is reviewing NRC's controls over the security of its telecommunication systems and the use of the telecommunication services. (*Addresses Management Challenges #2 and #5*)

Audit of NRC's High-Level Waste Program

OIG STRATEGIC GOAL: SAFETY

Under the Nuclear Waste Policy Act of 1982, the Nuclear Waste Policy Amendments Act of 1987, and the Energy Policy Act of 1992, NRC is responsible for the licensing of a high-level waste storage and disposal facility which the Department of Energy (DOE) will construct, operate, and permanently close. Under current legislation, DOE studied the Yucca Mountain site in Nevada and determined it to be suitable as a repository site. DOE is scheduled to tender a license application for the Yucca Mountain site in December 2004.

The Office of Nuclear Material Safety and Safeguards manages the agency's high-level waste (HLW) program and receives support from the Office of Nuclear Regulatory Research. NRC established the Advisory Committee on Nuclear Waste to report to and advise NRC on nuclear waste management. Additionally, NRC established the Center for



NRC OIG audit staff members (left to right) Matthew Dennis, Cheryl Mioila, William Kemper, and Steven Zane at the Yucca Mountain Site.

Nuclear Waste Regulatory Analyses, a Federally-Funded Research and Development Center, to provide technical assistance and conduct research for the HLW program.

This audit is determining the status of NRC's HLW program in relation to DOE's projected date for tendering its license application to the agency for initiating construction of the proposed HLW repository at Yucca Mountain. (*Addresses Management Challenges #1, 4, 7, and 8*)

Audit of NRC's Follow-Through on Generic Communications

OIG STRATEGIC GOAL: SAFETY

NRC's primary means of communicating concerns or issues to licensees is through generic communications. These communications allow NRC to communicate and share industry experiences with applicable groups of licensees and other interested stakeholders. The information is relayed in writing to licensees in the form of Generic Letters, NRC Bulletins, Information Notices, and other documents. Some generic communications are intended solely to transmit information, while others impose mandatory requirements or action on the licensee and require a response.

The purpose of this audit is to assess the effectiveness of the agency's follow-through on generic communications it issues requiring long- and short-term action on the part of licensees. (*Addresses Management Challenges #1, 4, and 7*)

Audit of NRC's FY 2004 Financial Statements

OIG STRATEGIC GOAL: CORPORATE MANAGEMENT

Under the Chief Financial Officers Act and the Government Management and Reform Act, OIG is required to annually audit NRC's financial statements. OIG will audit NRC's financial statements in accordance with applicable auditing standards. The audit will express an opinion on the agency's financial statements, evaluate internal controls, review compliance with applicable laws and regulations, review the performance measures included in the financial statements for compliance with OMB guidance, and review the controls in the NRC's computer systems that are significant to the financial statements. In addition, OIG will be measuring the agency's improvements by assessing corrective action taken on the prior year's audit findings. (*Addresses Management Challenge #6*)

Special Evaluation of NRC's Most Serious Management Challenges (FY 2005)

OIG STRATEGIC GOAL: CORPORATE MANAGEMENT

In January 2000, Congress enacted the *Reports Consolidation Act of 2000* to provide financial and performance management information in a more meaningful and useful format for Congress, the President, and the public. Included in the act is the requirement that each Federal agency Inspector General annually summarize what he or she considers to
(continued on next page)

be the most serious management and performance challenges facing his or her respective agency and assess the agency's progress in addressing those challenges. This special evaluation satisfies the congressional requirement.

The overall objectives for this evaluation are to assess the agency's efforts to address the management challenges and to identify any related agency programs that have had questionable success in achieving results. This evaluation will also serve to update the Inspector General's assessment of NRC's most serious management challenges. (*Addresses All Management Challenges*)

Audit of NRC's Contract Closeout Process

OIG STRATEGIC GOAL: CORPORATE MANAGEMENT

NRC has specific procedures established to close out expired contracts. Although these procedures place a high priority on deobligation of excess funds, a portion of the funds is retained until completion of closeout. Currently, there are 175 contracts awaiting closeout, including 42 fixed price actions. The expiration dates vary, but some contracts expired more than 5 years ago.

The objectives of this audit are to determine (1) whether relevant NRC policies and procedures adhere to applicable regulations, (2) the adequacy of management controls associated with NRC's contract closeout procedures, including desk review procedures, and (3) NRC's compliance with its own closeout procedures, with an emphasis on timeliness. (*Addresses Management Challenge #6*)

THE INVESTIGATIVE PROGRAM

During this reporting period, the OIG received 139 allegations, initiated 46 investigations, and closed 52 cases. In addition, the OIG made 28 referrals to NRC management.

INVESTIGATIVE CASE SUMMARIES

Adequacy of Region III's Handling of Davis-Besse Restart Issues

OIG STRATEGIC GOAL: SAFETY

OIG completed an investigation into three allegations related to the restart of the Davis-Besse Nuclear Power Plant. One allegation was the result of concerns raised by an NRC inspector on the Corrective Action Team Inspection (CATI) regarding the adequacy of the corrective action program (CAP) at Davis-Besse. NRC management assessed the CAP as acceptable; however, the NRC inspector maintained that it was only minimally acceptable. Because of the NRC inspector's differing professional opinion, the inspector declined to concur on the CATI inspection report. OIG determined that NRC appropriately dispositioned the CATI technical issues and followed its process when it addressed the CATI findings.

OIG also investigated an allegation that excessive overtime by licensee employees could create safety issues at Davis-Besse. OIG learned that NRC's Management and Human Performance Inspection team found that during the plant outage, some licensee staff were working up to 60 hours per week. However, the team did not find any performance errors or problems associated with fatigue. OIG also



learned that the team conducted a followup inspection and found that Davis-Besse had reduced the work hour load prior to restart. OIG found that Title 10 of the Code of Federal Regulations, Part 26, Fitness for Duty, does not provide limitations on overtime hours for the licensee staff. OIG determined that NRC appropriately addressed and followed its process in addressing overtime issues at Davis Besse.

OIG completed an investigation based on a concern from an NRC employee that there is a potential for reactor coolant system (RCS) leakage from the bottom reactor pressure vessel (RPV) head incore monitoring instrumentation (IMI) nozzles at Davis-Besse. OIG found that NRC conducted a special inspection focusing on RCS leak testing activities and an inspection of the lower RPV head penetration nozzles. Additionally, NRC reviewed actions taken by the licensee, which included a bare metal remote
(continued on next page)

visual examination of the lower RPV. NRC concluded that there was insufficient evidence to conclude that boric acid residue in the vicinity of the IMI nozzles was RCS pressure boundary leakage through the nozzles. Additionally, NRC reported that the licensee committed to actions during a midcycle outage which included an IMI nozzle inspection. OIG determined that NRC appropriately addressed and followed its process in addressing this potential concern. (*Addresses Management Challenge #1*)

Alleged Closed Meetings Between NRC and DOE in Violation of Agency Agreements and Policy

OIG STRATEGIC GOAL: CORPORATE MANAGEMENT

OIG completed an investigation into an allegation that NRC and DOE held a series of closed meetings regarding the proposed Yucca Mountain Repository that violated the NRC Open Meeting Policy and the agreement between DOE and NRC regarding precicensing interactions. OIG learned that NRC held a series of meetings to review the DOE Quality Assurance (QA) Program at Yucca Mountain. The technical meetings consisted of a series of three closed 1-week sessions conducted at DOE facilities in Las Vegas.

OIG determined that the NRC staff meeting notices for the technical reviews contained several inconsistent statements. One NRC staff notice indicated that the technical review included a public entry and exit meeting, while another meeting notice indicated that the technical review would be closed to the public. OIG also determined that NRC initially titled the review process as an “evaluation” but later identified the review process as an “audit.” OIG learned that closed meetings to conduct audits are acceptable under the NRC precicensing

agreement with DOE. Also, OIG determined that the NRC Open Meeting Policy does not currently apply to meetings with DOE; however, NRC has voluntarily applied the policy and included it in the interagency agreement with DOE regarding Yucca Mountain. OIG found that NRC staff changes in the title used to describe the review of the DOE QA program and inconsistencies in the content of the NRC staff notices may have contributed to the public’s perception of improper closed meetings. Nevertheless, OIG concluded that NRC closed the meetings to the public based upon valid exceptions provided under NRC agreements and policies. (*Addresses Management Challenge #7*)

Improper Communications by NRC Commissioner to NRC Staff and Licensees

OIG STRATEGIC GOAL: CORPORATE MANAGEMENT

OIG completed an investigation into three separate concerns regarding comments and actions by an NRC Commissioner. The first concern alleged that the Commissioner ordered the NRC staff to produce a critique that undermined a public interest group’s technical report identifying risks associated with stored spent nuclear reactor fuel. OIG determined that the Commissioner inappropriately directed the NRC staff to prepare a review of the technical report with the pre-determined outcome that faulted the report; however, OIG developed no evidence that NRC staff acted inappropriately in response to the Commissioner’s direction.

The second concern involved an allegation that the Commissioner inappropriately released safeguards information to a senior official of an NRC licensee. OIG found that the Commissioner released preliminary results of an NRC vulnerability study which contained safeguards information to senior officials in the nuclear

industry. OIG determined that although the officials were cleared to receive safeguards information, the NRC staff was not prepared to release the preliminary test results discussed by the Commissioner.

The third concern involved information provided by a public interest group to the Commissioner concerning a contractor employee's alleged wrongful termination by an NRC licensee for engaging in protected activities. OIG found that the Commissioner's handling of the allegation was inconsistent with NRC policy and resulted in releasing the identity of the alleged to the NRC licensee without first having obtained the individual's permission to do so. (*Addresses Management Challenges #7 and 8*)



Improper Use of NRC Information Technology by a Region IV Employee

OIG STRATEGIC GOAL: SECURITY

OIG conducted an investigation based on information that an NRC information technology (IT) specialist inappropriately accessed the personal computer drives of NRC managers. The IT specialist suspected that the managers were deleting information from NRC computer hard drives that might have been helpful to the employee's attorney in his litigation against NRC.

OIG determined that the IT specialist, without authorization, accessed the personal computer drives of NRC managers to determine if any of the information contained in the managers computer files had been deleted. OIG also determined that the IT specialist, without authorization, removed and retained in his possession two hard drives containing files from an NRC regional office's backup server. The IT specialist was the only NRC employee with access to the hard drives once he removed them from the NRC regional office's computer server. The IT specialist had previously removed and kept in his possession two additional hard drives which contained data from the NRC staff, including NRC managers. The IT specialist's rationale for accessing and seizing the managers' computer drives was that he wanted to check for deleted files and to protect other files from being deleted. The employee wanted to use the files in his personal litigation against NRC. NRC allowed the IT specialist to resign from NRC. (*Addresses Management Challenge #2*)

Inappropriate Enforcement Action by NRC Staff

OIG STRATEGIC GOAL: SAFETY

OIG completed an investigation to determine if NRC staff avoided taking enforcement action against a senior manager of an NRC licensee who was found to have violated Title 10 of the Code of Federal Regulations, Part 50.7, Employee Protection, and Part 50.5, Deliberate Misconduct, when he discriminated against a licensee employee for engaging in a protected activity. According to the allegation, NRC chose not to take enforcement action against the individual manager which allowed the manager to maintain a "clean record" and to ultimately ascend to the position of Chief Nuclear Officer for another licensee. OIG determined that NRC originally

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initiated enforcement action against the licensee and the individual manager as a result of the discrimination findings, whereupon the licensee approached NRC and proposed a non-traditional remedy in place of the standard enforcement actions contemplated by NRC. The licensee indicated that it would be willing to admit guilt in the discrimination matter and proposed a comprehensive remedial training initiative for its company to address discrimination issues. However, the licensee, as a condition of its proposal, stipulated that NRC could not take individual action against the senior manager.

OIG interviews of key NRC staff members involved in the enforcement action determined that after careful consideration of the matter, NRC staff decided that it would be in the best interest of NRC to accept the licensee's offer to admit to a violation as a company and to engage in a comprehensive training program rather than to pursue sanctions against the individual manager. OIG found no evidence that the NRC staff attempted to protect this manager or his professional record. (*Addresses Management Challenge #7*)

False Claim of Small Business Entity Status by NRC Licensee

OIG STRATEGIC GOAL: CORPORATE MANAGEMENT

OIG completed an investigation into an allegation that between 1997 and 2003, an NRC

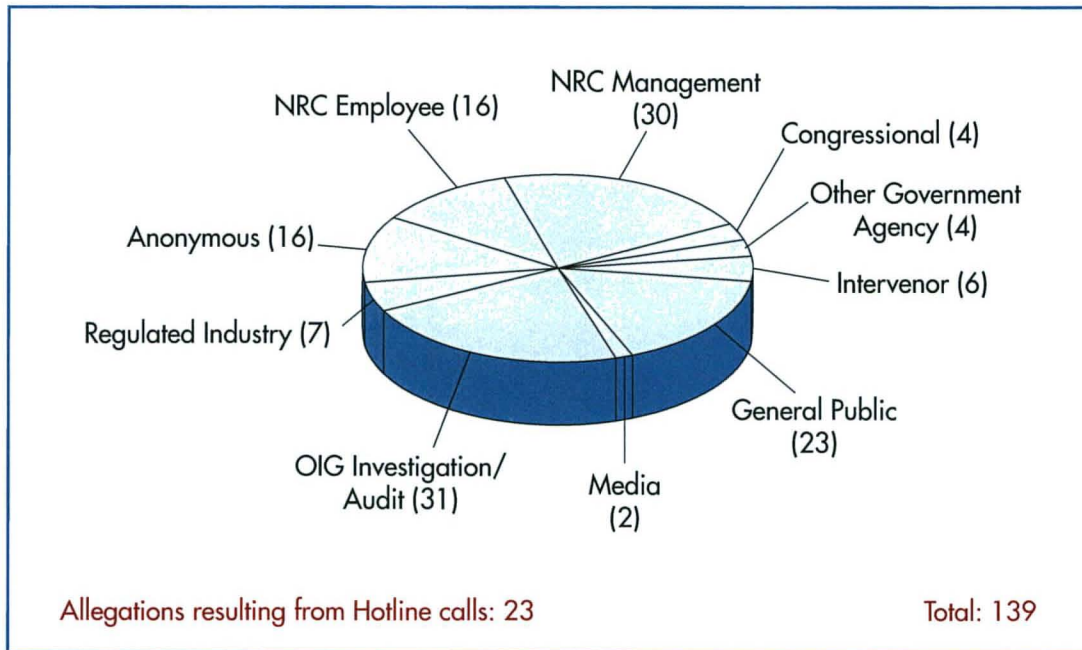
materials licensee who claimed small business entity status was affiliated with a company owned by his father. OIG had developed information that indicated that the combined annual gross receipts of the two companies exceeded \$350,000. If true, the licensee was ineligible to qualify for small business entity status. In accordance with NRC requirements in Title 10 of the Code of Federal Regulations, Part 171.16, if the total annual gross receipts of a licensee do not exceed \$350,000, the licensee is entitled to claim small business entity status and is eligible to pay reduced license fees.

OIG determined that there was a close business affiliation between the NRC licensee and his father's company to include a shared address and a shared telephone number. OIG examined banking and tax records of the licensee and determined that the annual gross receipts did not exceed \$200,000 for any year between 1997 and 2003. Additionally, OIG determined that the licensee's father declared bankruptcy in 1989; that his company had its materials license revoked by NRC in 1992; and that the company has been inactive since 1992. Additionally, the licensee's father retired in 1992, and his company has had no income since that time.

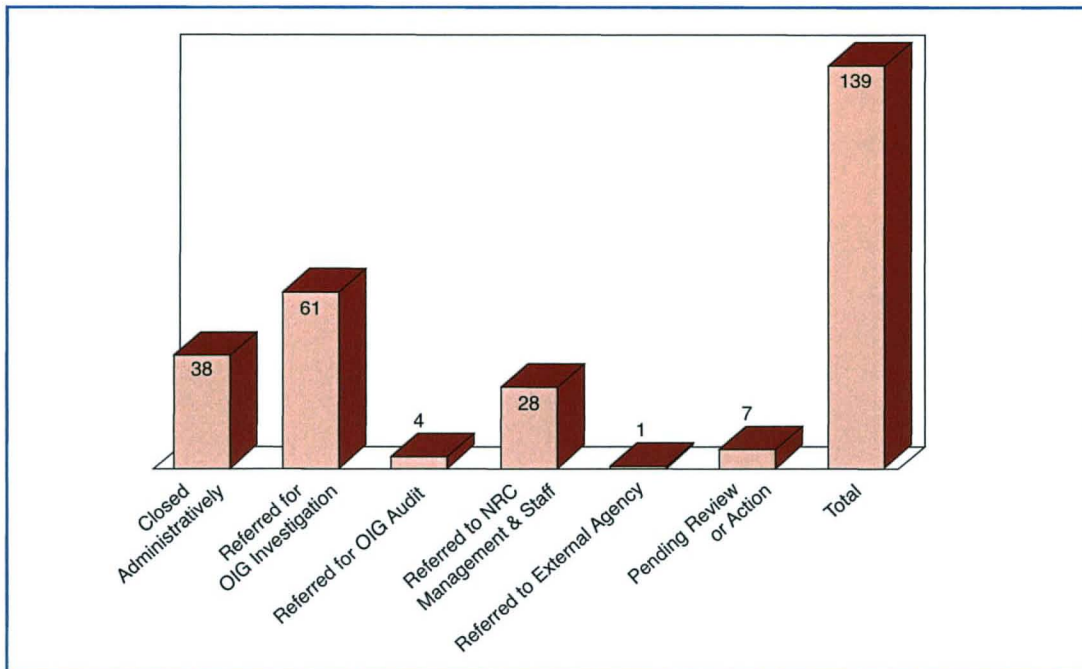
OIG determined that the NRC licensee did qualify for small business entity status and was eligible to pay reduced license fees. (*Addresses Management Challenge #6*)

INVESTIGATIVE STATISTICS

Source of Allegations — April 1, 2004, through September 30, 2004



Disposition of Allegations — April 1, 2004, through September 30, 2004



Status of Investigations

DOJ Referrals	29
State Referrals	1
DOJ Declinations	28
Indictments and Arrests	1
NRC Administrative Actions:	
Terminations and Resignations	2
Suspensions and Demotions	3
Counseling	1

Summary of Investigations

<i>Classification of Investigations</i>	<i>Carryover</i>	<i>Opened Cases</i>	<i>Closed Cases</i>	<i>Cases In Progress</i>
A - Conflict of Interest	2	1	1	2
B - Internal Fraud	1	1	2	0
C - External Fraud	8	5	3	10
D - False Statements	0	4	1	3
E - Theft	1	1	1	1
F - Misuse of Government Property	9	23	25	7
G - Employee Misconduct	1	1	1	1
H - Management Misconduct	4	3	4	3
I - Technical Allegations — Other	12	7	14	5
J - Whistleblower Reprisal	0	0	0	0
Total Investigations	<u>38</u>	<u>46</u>	<u>52</u>	<u>32</u>
S - Event Inquiries	1	1	1	1

OTHER ACTIVITIES

REGULATORY REVIEW

Pursuant to the Inspector General Act, 5 U.S.C. App. 3, Section 4(a)(2), OIG reviews existing and proposed legislation, regulations, implementing Management Directives (MD), and policy issues and makes recommendations as appropriate concerning their impact on the economy and efficiency of agency programs and operations. NRC agency directives requiring submission of all draft legislation, regulations, and policies to OIG facilitates this statutory review.

The regulatory review program's main objective is to examine agency actions to assist in the elimination of fraud, waste, and abuse within the agency. In addition, the review program will ensure, if appropriate, that issues related to preserving OIG's independence under the office's statutory precept are addressed. Comments are made through formal memoranda as well as during meetings and discussions.

From April 1, 2004, through September 30, 2004, OIG reviewed about 230 agency documents, including approximately 100 Commission papers (SECYs) and 130 Federal Register Notices, regulatory actions, and statutes.

In order to more effectively track agency response to regulatory review comments, OIG requests written replies within 90 days, with either a substantive reply or status of issues raised by OIG.

The most significant commentaries are summarized below.

- The Executive Director for Operations Task Force Report on Sensitive Unclassified Information Materials Management addressed a critical and timely issue. The complexity of the scope of this matter made this review organizationally difficult. OIG focused on the topics surrounding the definition and treatment of "law enforcement sensitive" materials and assurance that revised directions for handling this information were compliant with the Privacy Act. In addition, OIG related its concern that elimination of the cover sheets for protected information may impede proper handling.
- OIG commented on three agency documents reflecting policy and goals in the Equal Employment Opportunity (EEO) arena. In April, the agency drafted a revised policy on "Anti-Harassment," which broadened protected categories and provided more direction for employees on alternatives for addressing perceived harassment. OIG suggested that the guidance in this policy should be included in the agency's EEO directive (MD 10.161). In addition, this office clarified the description of matters which should properly be referred to OIG for investigation. In May, the agency drafted a policy to implement the "No Fear" Act. The OIG comments on this document related the need to clarify that whistleblower complaints could be made anonymously to the IG. In July, the agency identified agency EEO and Diversity Goals and Measures. OIG comments on this document related to the need for additional clarification as to the inclusion of women within protected status.

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- Comments on draft MD 9.7, “Organization and Functions, Office of the General Counsel,” revisited a longstanding OIG concern related to Office of the General Counsel (OGC) policy for review of contract and procurement actions. The NRC OGC generally reviews procurement actions only in response to a request from the program office or contracting officer. OIG has expressed concerns with this policy in the past, and in comments on this directive again stated its recommendation for a system which would involve OGC review as an integral part of the procurement process. The OGC responded with its conclusion that the current practice was considered adequate and in compliance with applicable statutes and regulations.
- Another comment involving OGC was related to the Office of State and Tribal Programs (STP) after review of its draft MD 5.8, “Proposed 274B Agreements with States.” In this case, OIG suggested the enumeration of OGC functions as they are related to these programs. Other comments addressed to STP reflected OIG’s assessment of two other draft MDs. Management Directive 9.15, “Office of State and Tribal Programs,” appeared to require reformatting or a rationale provided supporting the format of the current version. MD 5.7, “Technical Assistance to Agreement States,” needed additional clarification as to cognizance over specified activities in cases where more than one office is involved in an action.

TRAINING AT THE INSPECTORS GENERAL AUDIT INSTITUTE BY GENERAL COUNSEL

On August 24, 2004, Maryann L. Grodin, the General Counsel to the NRC Inspector General, and Elizabeth M. Dean, the Counsel to the Farm Credit Administration Inspector General, taught at the Inspectors General Auditor Training Institute (IGATI) in Rosslyn, VA. This class represented the 10th Anniversary presentation of the Fraud in Auditing course at IGATI by inspector general community attorneys. The class was part of a week-long curriculum for Federal inspectors general auditors. In addition to presenting the text syllabus for the course, Ms. Grodin and Ms. Dean led the class in discussion and exercise problems. The course topics included major Federal fraud statutes, criminal and civil prosecution processes, legal definitions, and jurisdiction. The presentation focused on aspects of these legal areas most relevant to the functions of inspectors general. Case examples were used to illustrate points including sensitive matters of wrongdoing by public officials and cooperation among different agencies. The exercise problems provided an opportunity for seminar attendees to apply legal concepts to factual situations and present their analysis and conclusions.



Attendees at the NRC OIG roundtable meeting on data mining.

INVESTIGATIVE COMPUTER CRIMES UNIT

In April 2004, the Computer Crime Unit serving under the NRC OIG Assistant Inspector General for Investigations hosted a roundtable meeting that focused on the emerging area of data mining within the investigative community. Close to 50 participants representing 22 offices



*William F. Stumme,
NRC OIG
Senior Special
Agent, addresses
the roundtable
meeting.*

of inspector general attended this first-of-its-kind meeting.

The meeting focused on the unique aspects of data mining and how it can support both ongoing investigations and proactive investigative operations. The focal point of the roundtable was a presentation that highlighted the best practices throughout the community, as well as many lessons learned through practical experience. Among the topics addressed were the computer hardware and software needed for data mining, personnel training and experience requirements, legal requirements and considerations, and specific case and operational examples.

The meeting was well received by attendees and provided an excellent forum for all agencies, regardless of their experience in this field. It also provided an excellent networking opportunity for criminal investigators, auditors, and analysts involved in addressing computer fraud.

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NRC OIG audit staff including summer interns at the Yucca Mountain site.

OIG SUMMER PROGRAM - A GREAT SUCCESS

This year, NRC OIG completed an extremely successful summer intern program. Early in the year, the Assistant Inspector General for Audits recognized a need to acquire additional assistance to support the audit staff on several audits and reviews. Subsequently, a plan was initiated to recruit four summer interns with engineering, computer science, writing, and analytical backgrounds who could assist the office with its work while providing the college students with valuable work experience.

One of the engineering summer interns summarized effectively in stating, “I have been to the mountain and back.” He and another nuclear engineering student who came to work with OIG for the summer, visited the Yucca Mountain geologic repository site in Nevada while assisting in an audit of NRC’s High Level Waste Program. Both students assisted in audit survey work that examined NRC programs, in interviews of NRC officials involved with the high-level waste program, and in research of basic regulatory requirements. Additionally, both interns attended meetings concerning the

Yucca Mountain Project and a hearing about DOE’s license application for the Nevada site.

A third intern—an electrical engineering and computer science student—worked with the audit staff on efforts concerning NRC’s drug testing program and the Reactor Program System. He conducted extensive research on both programs, prepared related work papers, conducted a cost and pricing analysis, created a detailed flow chart, and accompanied audit staff on interviews of senior agency officials. As part of the audit team, he traveled to two NRC Regional Offices, and visited a nuclear power plant to gain additional insight on the nuclear reactor program.

The fourth intern, an English major, provided valuable assistance in writing and editing several audit products. Her mastery of grammar and sentence structure proved a great asset to auditors when developing work papers



NRC OIG audit staff and summer interns touring the Yucca Mountain site.

and audit reports. She also conducted research and analysis pertaining to audits of NRC's budget formulation process, import/export authorizations, and to the annual report on NRC's management challenges.

Each of the interns found the projects that they worked on this past summer challenging and a great learning experience. OIG

management and staff concurred that the summer interns were knowledgeable, capable, enthusiastic, and hard-working individuals who provided valuable assistance to OIG.

In an unplanned outcome of the summer intern program, one of the engineering interns applied for and accepted a full-time entry-level position with OIG.

APPENDICES

AUDIT LISTINGS

Internal Program Audit and Special Evaluation Reports

Date	Title	Audit Number
05/24/04	NRC's Implementation of Regulations Concerning Nondiscrimination Based on Handicap	OIG-04-A-14
05/24/04	Review of NRC's Drug-Free Workplace Plan	OIG-04-A-15
08/12/04	Audit of the Licensing Support Network	OIG-04-A-16
08/20/04	Controls to Prevent Unauthorized Entry Into the NRC Parking Garage	OIG-04-A-17
08/26/04	Special Evaluation of the Office of Investigations' Role in Alleged Discrimination Cases	OIG-04-A-18
09/13/04	Audit of NRC's Management of Import/Export Authorizations	OIG-04-A-19
09/16/04	Audit of NRC's Incident Response Program	OIG-04-A-20
09/30/04	System Evaluation of the Agencywide Documents Access and Management System (ADAMS)	OIG-04-A-21
09/30/04	Independent Evaluation of NRC's Implementation of the Federal Information Security Management Act (FISMA)	OIG-04-A-22
09/30/04	System Evaluation of the Fee Systems	OIG-04-A-23
09/30/04	System Evaluation of the General License Tracking System (GLTS)	OIG-04-A-24

Contract Audit Reports

OIG Issue Date	Contractor/ Contract Number	Questioned Costs	Unsupported Costs
06/14/04	Athey Consulting, Inc. NRC-26-98-262	0	0
06/23/04	Ruland Associates, Inc. NRC-33-98-180	0	0
06/30/04	Hummer Whole Health Management, Inc. NRC-38-00-290	\$52,743	0
06/30/04	Hummer Whole Health Management, Inc. NRC-38-00-290	\$198,197	0
09/24/04	Southwest Research Institute NRC-02-01-005	0	0
	NRC-02-02-003	0	0
	NRC-02-97-001	0	0
	NRC-02-98-002	0	0
	NRC-02-98-007	0	0
09/29/04	Engineering Mechanics Corp. NRC-04-02-062	0	0
	NRC-04-03-074	0	0

AUDIT RESOLUTION ACTIVITIES

TABLE I

OIG Reports Containing Questioned Costs¹ **April 1, 2004 – September 30, 2004**

Reports	Number of Reports	Questioned Costs (Dollars)	Unsupported Costs (Dollars)
A. For which no management decision had been made by the commencement of the reporting period	1	\$38,433 ²	\$3,606,365 ²
B. Which were issued during the reporting period	2	\$250,940	0
<i>Subtotal (A + B)</i>	3	\$289,373	\$3,606,365
C. For which a management decision was made during the reporting period:			
(i) dollar value of disallowed costs	0	0	0
(ii) dollar value of costs not disallowed	0	0	0
D. For which no management decision had been made by the end of the reporting period	3	\$289,373	\$3,606,365
E. For which no management decision was made within 6 months of issuance	1	\$38,433	\$3,606,365

¹Questioned costs are costs that are questioned by the OIG because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; a finding that, at the time of the audit, such costs are not supported by adequate documentation; or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

²The General Services Administration (GSA) is responsible for the management decision on these questioned and unsupported costs. GSA has advised that the decision will be made sometime in early 2006.

AUDIT RESOLUTION ACTIVITIES TABLE II

OIG Reports Issued with Recommendations That Funds Be Put to Better Use³ April 1, 2004 – September 30, 2004

Reports	Number of Reports	Dollar Value of Funds
A. For which no management decision had been made by the commencement of the reporting period	0	0
B. Which were issued during the reporting period	0 0	0 0
C. For which a management decision was made during the reporting period:	0	0
(i) dollar value of recommendations that were agreed to by management	0	0
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision had been made by the end of the reporting period	0	0
E. For which no management decision was made within 6 months of issuance	0	0

³A “recommendation that funds be put to better use” is a recommendation by the OIG that funds could be used more efficiently if NRC management took actions to implement and complete the recommendation, including: reductions in outlays; deobligation of funds from programs or operations; withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds; costs not incurred by implementing recommended improvements related to the operations of NRC, a contractor, or a grantee; avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or any other savings which are specifically identified.

ABBREVIATIONS

ADM	Office of Administration (NRC)
CAP	corrective action program
CATI	Corrective Action Team Inspection
DOE	U.S. Department of Energy
DOJ	U.S. Department of Justice
EEO	Equal Employment Opportunity
FISMA	Federal Information Security Management Act
FY	Fiscal Year
GPRA	Government Performance and Results Act
HHS	U.S. Department of Health and Human Services
HLW	high-level waste
HR	Office of Human Resources (NRC)
IAM	Issue Area Monitor
IG	Inspector General
IGATI	Inspectors General Auditor Training Institute
IMI	incore monitoring instrumentation
IT	information technology
LSN	Licensing Support Network
MD	Management Directive
NRC	U.S. Nuclear Regulatory Commission
OGC	Office of the General Counsel (NRC)
OI	Office of Investigations (NRC)
OIG	Office of the Inspector General (NRC)
OIP	Office of International Programs (NRC)
OMB	U.S. Office of Management and Budget
PBPM	Planning, Budgeting, and Performance Management
QA	Quality Assurance
RCS	reactor coolant system
RPS	Reactor Program System
RPV	reactor pressure vessel
STP	Office of State and Tribal Programs (NRC)
TMI	Three Mile Island

REPORTING REQUIREMENTS INDEX

The Inspector General Act of 1978, as amended (1988), specifies reporting requirements for semiannual reports. This index cross-references those requirements to the applicable pages where they are fulfilled in this report.

CITATION	REPORTING REQUIREMENTS	PAGE
Section 4(a)(2)	Review of Legislation and Regulations	21
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies.....	5-10, 15-18
Section 5(a)(2)	Recommendations for Corrective Action	5-10
Section 5(a)(3)	Prior Significant Recommendations Not Yet Completed.....	None
Section 5(a)(4)	Matters Referred to Prosecutive Authorities	20
Section 5(a)(5)	Information or Assistance Refused	None
Section 5(a)(6)	Listing of Audit Reports	26
Section 5(a)(7)	Summary of Significant Reports	5-10, 15-18
Section 5(a)(8)	Audit Reports — Questioned Costs	28
Section 5(a)(9)	Audit Reports — Funds Put to Better Use	29
Section 5(a)(10)	Audit Reports Issued Before Commencement of the Reporting Period for Which No Management Decision Has Been Made	28
Section 5(a)(11)	Significant Revised Management Decisions	None
Section 5(a)(12)	Significant Management Decisions With Which the OIG Disagreed	None

THE NRC OIG HOTLINE

The Office of the Inspector General at NRC established the Hotline Program to provide NRC employees, other Government employees, licensee/utility employees, contractors and the public with a confidential means of reporting suspicious activity to the OIG concerning fraud, waste, abuse, employee or management misconduct. Mismanagement of agency programs or danger to public health and safety may also be reported through the Hotline.

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- Misconduct
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- Time and Attendance Abuse
- Misuse of Information Technology Resources
- Program Mismanagement

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Click on OIG Hotline phone symbol

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Hotline Program
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