



United States Nuclear Regulatory Commission

Protecting People and the Environment

OFFICE OF INVESTIGATIONS

ANNUAL REPORT

FY 2007

EXECUTIVE SUMMARY

This report provides the Commission with the results of cases completed by the Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI) during fiscal year (FY) 2007 (reference SRM COMJC-89-8, dated June 30, 1989). This is the 19th OI annual report.

As stated in the NRC's Strategic Plan for FY 2004-FY 2009, the NRC's mission is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. The NRC's vision is excellence in regulating the safe and secure use and management of radioactive materials for the public good. The mission and vision provide the framework for the agency's strategies and goals, which in turn guide the allocation of resources across the agency. OI aligns with the agency's regulatory programs and supports its strategic objective to enable the use and management of radioactive materials and nuclear fuels for beneficial civilian purposes in a manner that protects public health and safety and the environment, promotes the security of our Nation, and ensures that regulatory actions are open, effective, efficient, realistic, and timely.

OI conducts investigations of alleged wrongdoing by individuals or organizations that are NRC licensees or certificate holders, applicants for NRC licenses or certificates, or vendors or contractors thereto. Additionally, during the course of an investigation, OI may discover potentially safety-significant issues that are not related to wrongdoing. OI forwards this information to the technical staff in a timely manner for appropriate action. OI also provides assistance to the staff when requested. Generally, "Assists to Staff" are matters of regulatory concern for which the staff has requested OI's investigative expertise but which do not involve a specific allegation of wrongdoing.

OI consists of four regionally based field offices reporting to OI Headquarters. OI reports to the Deputy Executive Director for Materials, Waste, Research, State, Tribal and Compliance Programs and supports the reactor and materials programs. In FY 2007, on the average, there were 33 special agents and 6 operational support staff nationwide. The average experience of an OI special agent in FY 2007 was approximately 18 years in Federal law enforcement.

During FY 2007, NRC received 558 allegations regarding potential violations of its rules, regulations, or requirements. The 558 allegations represent a 9% decrease from the 610 received in FY 2006.

The total number of cases in the OI inventory during FY 2007 was 221, a 2% decrease from 266 in FY 2006. Of the 221 cases, 62 were Assists to Staff. OI closed 156 of the cases, or 71% of the total inventory. The appendix to this report contains a statistical summary of cases opened and closed during FY 2007.

In FY 2007, OI continued to focus on increasing effectiveness, efficiency, and productivity in management, organizational, and process-related activities.

Significant achievements during FY 2007:

- Of the 99 investigations closed by OI, 97% developed sufficient information to reach a conclusion regarding wrongdoing. This exceeded OI's performance goal of 90%
- Of the 96 investigations closed with sufficient information to reach a conclusion regarding wrongdoing, 96% were closed in 10 months or less. This exceeded OI's performance goal of 80% for reactor investigations and 85% for materials investigations.
- Of the 57 Assists to Staff closed, 95% were completed within 90 days, exceeding OI's performance goal of 70%.
- OI processed 53 actions resulting from FOIA requests during FY 2006.
- OI supported Department of Justice's efforts in criminal prosecutions and trials resulting from OI investigations.
- OI participated in various Department of Justice Anti-Terrorism Advisory Councils related to national security concerns and counterterrorism.

Paperwork Reduction Act Statement

This NUREG does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

CASES

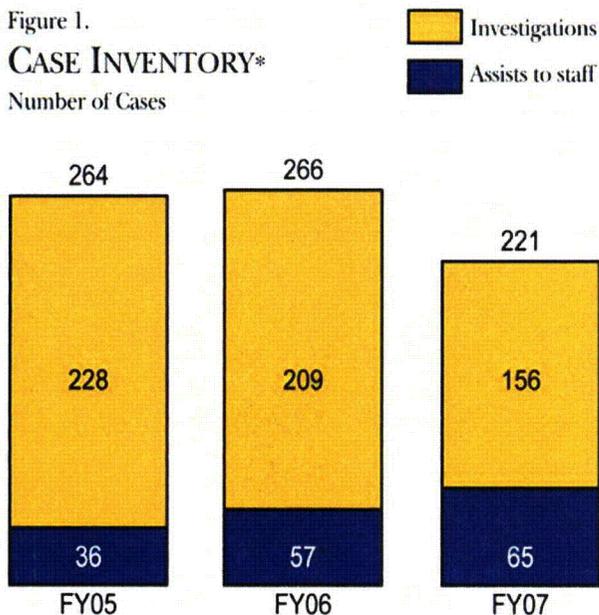
Analysis of Case Inventory

Figure 1 shows the OI case inventory from FY 2005 through FY 2007. The total case inventory in FY 2007 was 221 cases, of which 51 cases were carried over from FY 2006. The inventory included 62 Assists to Staff, 3 carried over from FY 2006. Generally, Assists to Staff are matters of regulatory concern for which the staff has requested OI's investigative expertise but which do not involve a specific allegation of wrongdoing. In FY 2007, OI closed 156 cases, 71% of the cases in the inventory.

Figure 1.

CASE INVENTORY*

Number of Cases



*Cases carried over from previous year, plus cases opened in current year

Analysis of Cases Opened

During FY 2007, NRC received 558 allegations regarding potential violations of its rules, regulations, or requirements. The 558 allegations represent a 9% decrease from the 610 received in FY 2006.

OI opened 170 cases in FY 2007 in the following categories:

Material False Statements	17
Violations of Other NRC Regulatory Requirements	66
Discrimination	25
Assists to Staff	62

Figure 2 shows the number of cases opened from FY 2005 through FY 2007. In FY 2007, there was a 2% increase in cases opened from FY 2006. Violations of other NRC regulatory requirements increased by 38%. There was no change in the number of suspected material false statements. Discrimination investigations decreased by 52% and Assists to Staff increased by 24%.

Figure 2.

CASES OPENED BY CATEGORY

Number of Cases

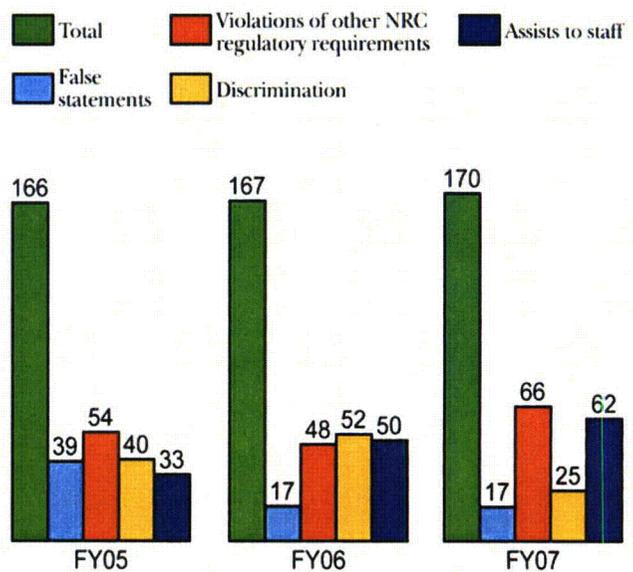
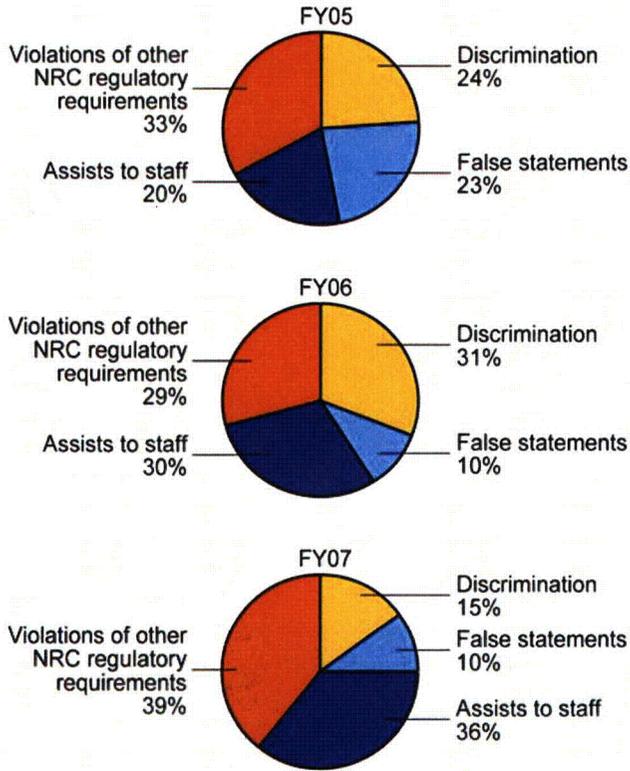


Figure 3 shows the distribution of cases opened from FY 2005 through FY 2007 in the various categories. The FY 2007 distribution shows that 15% of the cases opened were discrimination investigations, 39% were investigations of violations of other NRC regulatory requirements, 10% were material false statement investigations, and 36% were Assists to Staff.

Figure 3.

PERCENTAGE OF CASES OPENED BY CATEGORY

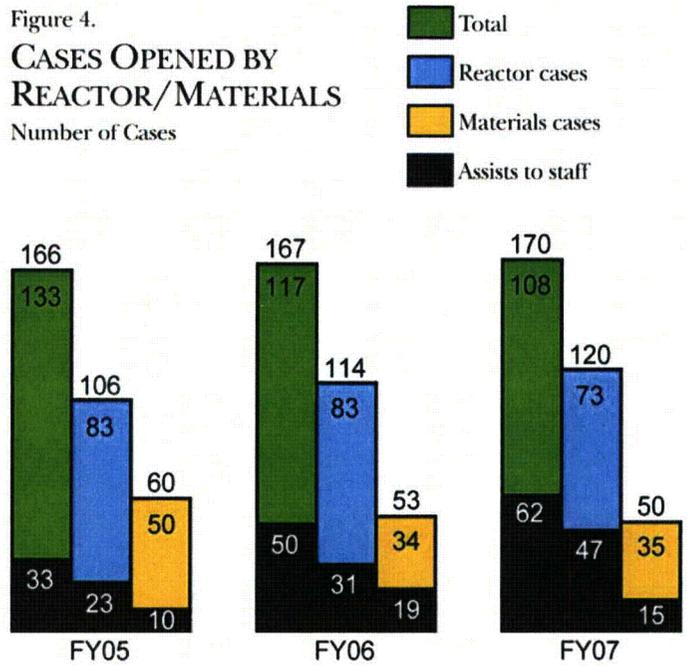


The graph in Figure 4 shows the distribution of cases opened from FY 2005 through FY 2007 between the reactor and the materials programs. From FY 2006 to FY 2007, overall reactor-related cases increased 5% with a 12% decrease in reactor investigations and a 52% increase in reactor Assists to Staff. Materials-related cases decreased overall by 6% with a 3% increase in materials investigations and a 21% decrease in materials Assists to Staff.

Figure 4.

CASES OPENED BY REACTOR/MATERIALS

Number of Cases



Analysis of Cases Closed

Figure 5 shows the number of cases closed from FY 2005 through FY 2007. The 156 cases closed during FY 2007 represent a 27% decrease from the number closed in FY 2006. The cases are categorized as follows:

Material False Statements	10
Violations of Other NRC Regulatory Requirements	59
Discrimination	30
Assists to Staff	57

Figure 5.
CASES CLOSED BY CATEGORY
 Number of Cases

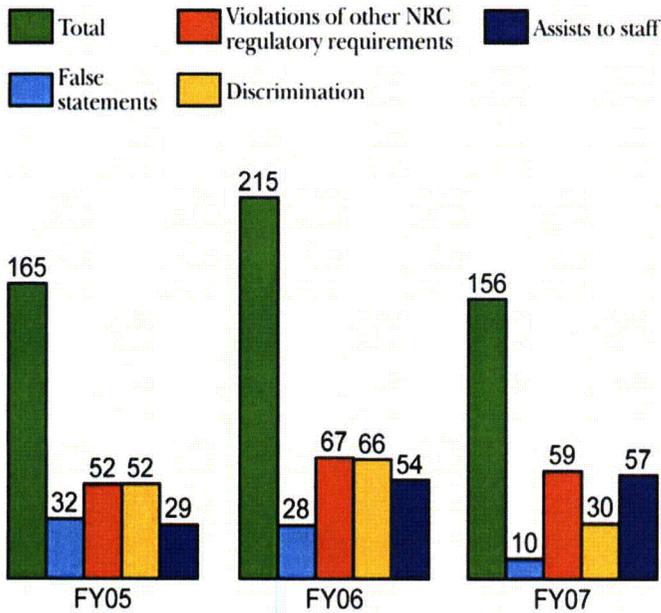
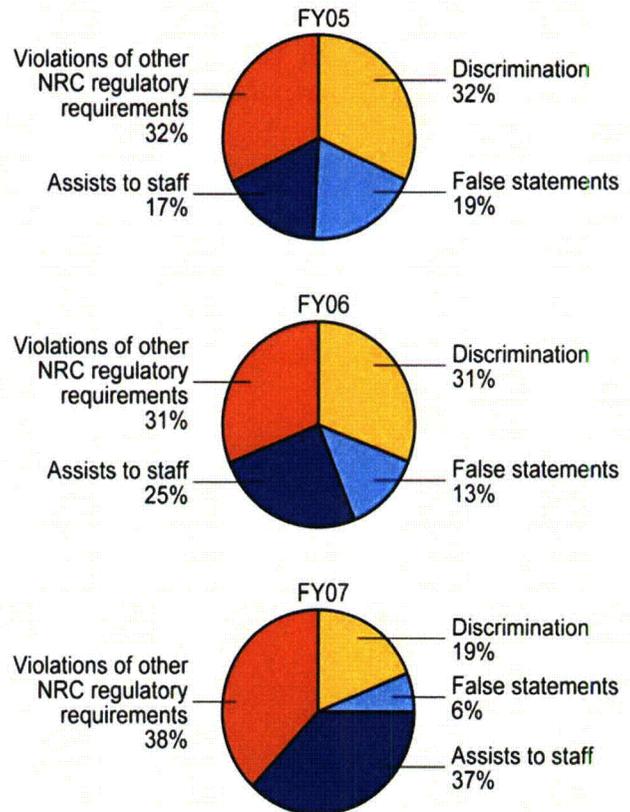


Figure 6 is a comparison of the percentages of cases closed, by category, from FY 2006 through FY 2007. Material false statement investigations made up 6% of the closed cases in FY 2007, discrimination investigations 19% investigations involving other violations of NRC regulatory requirements 38 %, and Assists to Staff 37%.

Figure 6.
PERCENTAGE OF CASES CLOSED BY CATEGORY

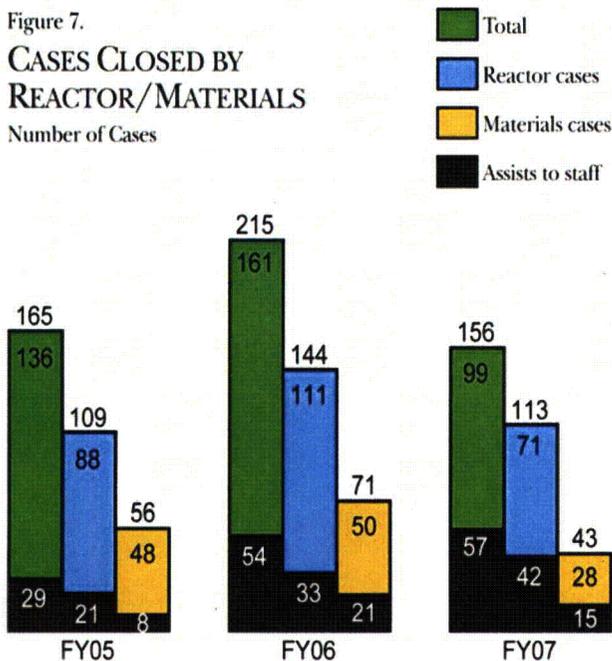


The graph in Figure 7 shows the distribution of cases closed from FY 2005 through FY 2007 between the reactor and the materials programs. From FY 2006 to FY 2007, overall reactor-related cases decreased 51%, with a 36% decrease in reactor investigations and a 27% increase in reactor Assists to Staff. Materials-related cases decreased 39% overall, with a 44% decrease in materials investigations and a 29% decrease in materials Assists to Staff during the same period.

Figure 7.

CASES CLOSED BY REACTOR/MATERIALS

Number of Cases



Of the 156 cases closed in FY 2007—

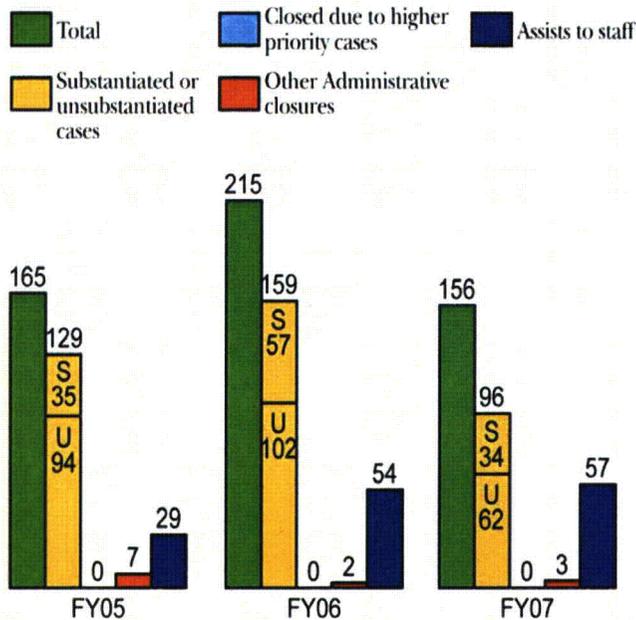
- 34 investigations were closed after substantiating one or more of the allegations of wrongdoing.
- 62 investigations were closed after wrongdoing was not substantiated
- 3 investigations were closed for administrative reasons.
- 57 of the total number of cases were Assists to Staff.

Figure 8 shows the closures by category. Substantiated and unsubstantiated investigations are combined.

Figure 8.

CASES CLOSED BY TYPE OF CLOSURE

Number of Cases



OI's effectiveness in supporting the NRC's regulatory mission is measured by the number of investigations that develop sufficient information to reach a conclusion regarding wrongdoing. The technical, legal, and enforcement staffs use the substantive information developed during these investigations as the basis for enforcement and other regulatory decisions. Additionally, if an investigation substantiates wrongdoing, it is referred to the Department of Justice for prosecutorial review. Two of OI's performance goals are that 90% of investigations closed will develop sufficient information to reach a conclusion regarding wrongdoing and that 80% of reactor investigations and 85% of materials investigations are closed with sufficient information to reach a conclusion regarding wrongdoing will be completed within 10 months.

Figure 9 shows the disposition of investigations closed from FY 2005 through FY 2007. In FY 2007, 97% of the investigations developed sufficient information to reach a conclusion regarding wrongdoing, exceeding the OI performance goal of 90%.

Figure 9.
PERCENTAGE OF INVESTIGATIONS CLOSED AS SUBSTANTIATED AND UNSUBSTANTIATED

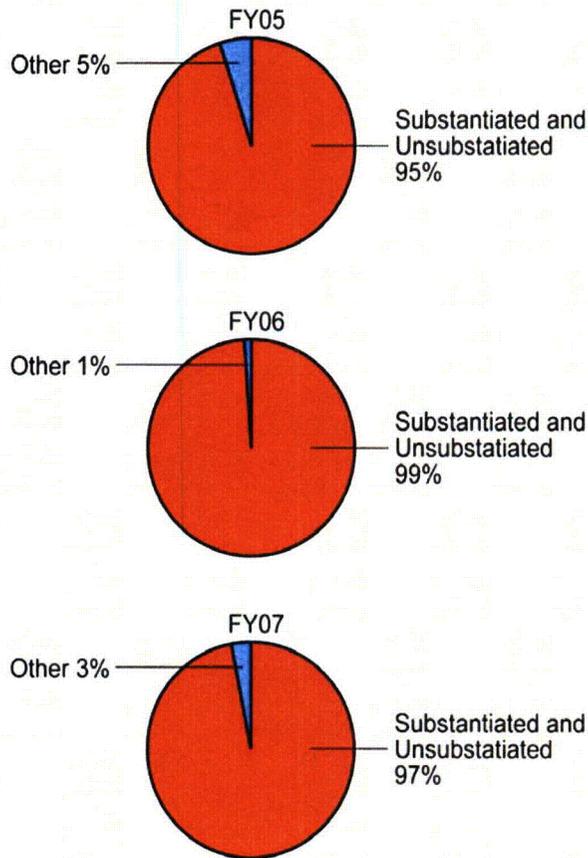
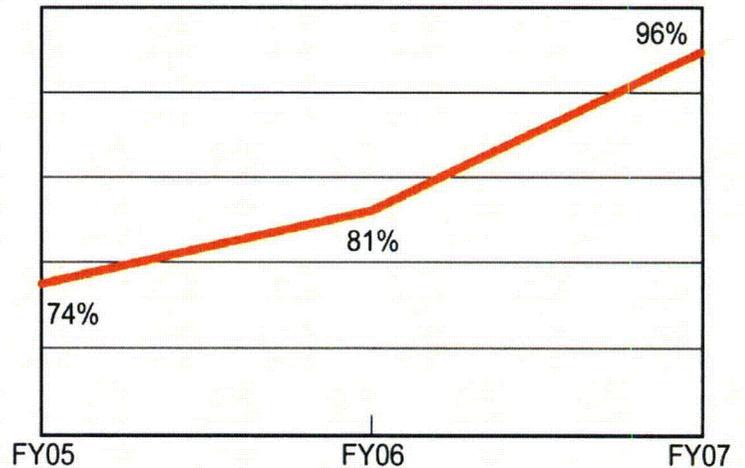


Figure 10 shows the percentage of investigations closed in 10 months or less with sufficient information to reach a conclusion regarding wrongdoing. In FY 2007, 96% of reactor investigations were completed within 10 months, exceeding the OI performance goal of 80%, and 96% of materials investigations were completed within 10 months, exceeding the OI performance goal of 85%.

Figure 10.
PERCENTAGE OF SUBSTANTIATED OR UNSUBSTANTIATED INVESTIGATIONS CLOSED WITHIN 10 MONTHS



During FY 2007, OI completed 95% of Assists to Staff in 90 days or less exceeding the OI performance goal of 70%.

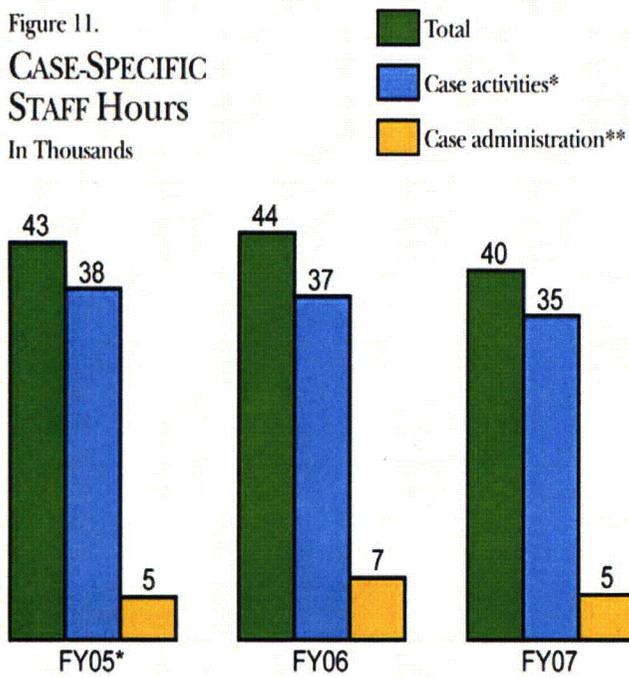
Management of Cases

The case-specific staff hours in Figure 11 show a decrease from FY 2006 to FY 2007 (from 44,000 to 40,000 investigative hours). The FY 2007 ratio of case activities related to planning, field work, and analyzing information to case administration (FOIA and other miscellaneous activities) is 87:13.

Figure 11.

CASE-SPECIFIC STAFF HOURS

In Thousands



Criminal Referrals

In FY 2007, OI referred 34 cases to the Department of Justice for prosecutorial review.

SIGNIFICANT CASES

UNIVERSITY OF PITTSBURGH MEDICAL CENTER

An OI investigation determined that a neurosurgeon, authorized medical physicist (AMP) and an authorized user (AU) were not physically present throughout multiple Gamma Stereotactic Radiosurgery (GSR) treatments as required by regulation(s). The OI investigation revealed the licensee's authorized medical physicist left the treatment monitoring console and entered the gamma knife treatment planning area located approximately a hundred feet away in a separate room. Although this was apparently the licensee's standard practice, regulations required the authorized medical physicist to be physically present throughout all patient treatments with the gamma knife unit. The investigation concluded that deliberate actions to conduct simultaneous treatments were undertaken by multiple individuals which placed the licensee in violation of NRC regulations. On July 23, 2007, a Notice of Violation and Confirmatory Order (Effective Immediately) were issued to the licensee for a Severity Level III violation. As a result of an Alternative Dispute Resolution (ADR) mediation, the NRC and the licensee agreed to a Confirmatory Order which contained a single violation of 10 CFR 35.24.(b) as well as the licensee's commitment to various corrective actions discussed in the Order.

ENGLEWOOD HOSPITAL & MEDICAL CENTER

OI initiated this investigation to determine if an unauthorized medical physicist was providing high dose rate (HDR) brachytherapy treatments to patients at Englewood Hospital & Medical Center (EH) located in Englewood, NJ. Although this particular allegation was unfounded, OI uncovered an additional violation during the course of its investigation. The OI investigation determined that EH submitted a fraudulent license amendment request to the NRC in an effort to place an additional medical physicist onto its license. Investigation revealed that the medical physicist and consultant supervisory senior medical physicist exaggerated the amount of clinical experience the medical physicist possessed, so that individual would have the necessary qualifications to be placed on the EH license as an authorized medical physicist. As a

result of the investigation, the licensee, the medical physicist, and the consultant supervisory senior medical physicist were issued Severity Level III Notices of Violation (NOV) and EH paid a civil penalty in the amount of \$3,250 based upon the deliberate actions.

LIMERICK GENERATING STATION

This OI investigation determined that on July 26, 2006, a security supervisor was asleep in an assigned guard station without body armor. During the OI investigation the security supervisor admitted awareness of Watch Standing Practices, the Fatigue Rule, and the responsibility to remain attentive. The security supervisor admitted to being inattentive to duty but denied being asleep. The OI investigation concluded that the security supervisor deliberately became inattentive, removed body armor and weapon, engaged in an unauthorized activity by talking on a personal telephone, and lay down which led to falling asleep. The licensee was issued a Severity Level III Notice of Violation (NOV) as a result of the security supervisor's deliberate actions and the individual was issued a close-out letter delineating the deliberate inattentiveness.

DIGIRAD IMAGING SOLUTIONS, INC.

This OI investigation determined that Digirad Imaging Solutions Inc. (DIS), located in Bemus Point, NY, failed to provide complete and accurate information to the NRC in the license amendment request to add an authorized user (AU) of radioactive material to its license. The violation occurred when an independent physician, acting as a preceptor for another physician, provided inaccurate and incomplete information, with respect to oversight and experience levels, which was submitted to the NRC by DIS. The submittal of the false information to the NRC by DIS occurred following its previous participation in the NRC Alternative Dispute Resolution (ADR) program for a similar violation. The OI investigation also found DIS was storing regulated materials at three client sites in the form of waste and sealed sources, which violated its license and was not in compliance with an NRC-issued Confirmatory Action Letter. The licensee requested ADR but that request was denied by the NRC. Enforcement action is pending.

TOME & UBINAS RADIO-ONCOLOGY CENTER

This OI investigation determined that multiple high dose rate (HDR) brachytherapy oncology treatments were provided to patients at Tome & Ubinas Radio-Oncology Center (TUROC) located in Puerto Rico, in willful violation of regulations that required the physical presence of both the authorized user (AU) and authorized medical physicist (AMP) within audible range throughout the entire treatment. This situation occurred over a three month period in 2006. As a result of the OI investigation, the licensee was issued a Severity Level III Notice of Violation (NOV) by the NRC.

TURKEY POINT NUCLEAR PLANT

This investigation was initiated by OI to determine whether in April 2004, a security officer employed with The Wackenhut Corp. (Wackenhut) at the Turkey Point Nuclear Plant (Turkey Point) willfully removed firing pins from two response weapons, rendering them inoperable. In addition, the OI investigation sought to find out whether on two separate occasions, in October 2004 and August 2005, firing pins were willfully damaged. The OI investigation also sought to determine whether a security manager and Wackenhut project manager willfully provided incomplete and inaccurate information to the NRC in several condition reports (CRs) that included information about the above incidents.

Evidence developed during the OI investigation substantiated that a Wackenhut security officer deliberately removed firing pins from two response weapons in April 2004. OI substantiated a second Wackenhut security officer deliberately provided a false official statement by denying knowledge about the fellow security officer who removed the firing pins. In addition, OI substantiated that a third Wackenhut security officer deliberately broke a firing pin in August 2005, and then deliberately submitted a false and inaccurate security incident report. Furthermore, the OI investigation concluded the Turkey Point security manager and the Wackenhut project manager willfully provided inaccurate information. In September 2007, the Wackenhut security officer who removed the firing pins was indicted in the Southern District of Florida for providing false statements during the NRC investigation.

As a result of the OI investigation, the licensee was issued a Severity Level II violation and a \$208,000 Civil Penalty.

SHEARON HARRIS NUCLEAR POWER PLANT

This investigation was initiated by OI to determine whether nuclear security officers (NSOs) at the Shearon Harris Nuclear Power Plant (Shearon Harris) were provided answers by supervisors during the administration of the annual written examination and computer testing. Evidence developed during the OI investigation substantiated that three contract supervisors at Shearon Harris deliberately provided answers to NSOs during the administration of the annual written and computer certification testing. In addition, OI substantiated that a contract supervisor provided answer keys to NSOs during their certification testing. Based upon a Severity Level III violation, a civil penalty of \$65,000 was proposed.

POINT BEACH

OI substantiated an allegation that a senior reactor operator (SRO) at Point Beach was the subject of discrimination by management because the SRO raised numerous safety concerns during steam generator tube rupture training. In addition, the SRO was allegedly directed by management to reword Corrective Action Program (CAP) documents and directed to submit inaccurate Performance Indicator Information from June through December 2004 in response to the NRC's Confirmatory Action Letter. The OI investigation determined the SRO raised safety concerns in the form of CAPs and/or in discussions with management. Management contended the performance rating was lowered because the SRO was unprofessional and cited a generic communication issue. The OI investigation determined the SRO's final rating was lowered and had been based, in part, by the manner in which the SRO had been raising and pursuing safety issues. As a result of Alternative Dispute Resolution (ADR) mediation, the NRC and the licensee agreed to a Confirmatory Order which contained several licensee commitments.

FORT CALHOUN STATION

This investigation determined a security officer employed at the Fort Calhoun Station (FCS) deliberately

violated the licensee's radiation work permit. This investigation disclosed a security officer failed to activate electric alarming dosimetry (EAD) on three separate occasions while being posted at locations requiring the use of EAD. In addition, the OI investigation revealed two other security officers returned the security officer's EAD on two separate occasions but failed to report the violation to the licensee. Evidence developed during the investigation revealed that the security officer operated an outside business and may have violated the licensee's requirements to save time at the end of the shift. The security officer who failed to activate the EAD was terminated while the two other security guards each received a 5-day suspension without pay from the licensee. Based on OI's investigation, the NRC issued close-out letters to the three security officers.

R&M ENGINEERING, INC.

A nuclear gauge user employed by R&M Engineering, Inc. located in Juneau, Alaska, an NRC materials licensee, was determined to have deliberately transported a portable nuclear density gauge in the cab of a pickup truck in August 2006. The R&M nuclear gauge user admitted to awareness of the NRC requirement to "block and brace" the gauge for transport, but chose to place the gauge on the floorboard to use the truck's heater to de-fog the gauge's dial. The R&M gauge user then drove to a restaurant for lunch while the gauge remained unsecured on the floorboard of the pickup truck. The OI investigation disclosed the R&M gauge user elected to transport the nuclear density gauge in this way for "field expediency" and reasoned the gauge's dial needed to be dried to continue using it at the job site. The NRC issued the licensee a Severity Level III Notice of Violation (NOV) and proposed a civil penalty of \$3,250.

SAN ONOFRE NUCLEAR GENERATING STATION

An OI investigation substantiated a contract firewatch employee at San Onofre Nuclear Generating Station (SONGS) deliberately failed to conduct required fire protection surveillances and falsified firewatch logs. The OI investigation revealed the contract firewatch employee falsified approximately 55 firewatch inspection records from May 2001 through December 2006. The contract employee declined to provide explanations for those actions, but the employee's

seniority and tenure ruled out a potential lack of training. In addition, the OI investigation concluded the contract firewatch employee deliberately failed to provide complete and accurate information to the NRC through the submission of falsified inspection certification sheets. The contract employee was terminated by the licensee. As a result of Alternative Dispute Resolution (ADR) mediation, the NRC and the licensee agreed to a Confirmatory Order which contained several licensee commitments.

ALASKA INDUSTRIAL X-RAY, INC.

This investigation determined that all Alaska Industrial X-Ray, Inc. (AIX) radiographers, including its radiation safety officer (RSO) and assistants violated NRC licensing requirements by performing industrial radiographic operations at a job site with only one qualified individual present during operations. The OI investigation disclosed these activities which occurred on numerous occasions, for a period of up to three years, posed a potential threat to public health and safety. The use of two qualified persons observing radiographic operations provides a high level of assurance that members of the public will be prevented from entering the restricted area during those operations. Based upon evidence developed during the OI investigation, NRC issued an Order Suspending Licensed Activities (Effective Immediately) to AIX. Additional enforcement action is pending.

SIGNIFICANT ASSIST

OI initiated an Assist to Staff after the NRC received an anonymous letter authored by a group calling itself the "Ginna Founders." The letter claimed the "Ginna Founders" were pre-Constellation Energy nuclear plant operators who could no longer guarantee the safe operation of Ginna. Rochester Gas and Electric operated Ginna plant prior to licensee Constellation Energy. The letter claimed there had been willful violations of NRC regulations, including falsification of records and alleged several Constellation Energy executives were guilty of mismanagement. The "Ginna Founders" made strong assertions and claimed to possess documentation regarding alleged NRC violations, but no specifics were provided. The "Ginna Founders" sent copies of the letter to members of Congress, as well as to officials in the State of New York. OI expeditiously conducted interviews of reactor operators (both current and former), shift managers,

control room supervisors/senior reactor operators, and a former operations manager. OI interviewed representatives from each shift and questioned operators about the Safety Conscious Work Environment (SCWE) at Ginna. Immediate unsafe operations were not identified and specific indications of wrongdoing were not detected, but OI provided its findings to the NRC staff which resulted in additional inspection activities at the Ginna plant.

APPENDIX

OFFICE OF INVESTIGATIONS CASELOAD SUMMARY

FOR THE PERIOD 10/01/2006 TO 09/30/2007

Cases Open at Start of This Period	51
Cases Opened This Period.....	170
Cases Closed This Period*	156
Investigations	99
Substantiated	34
Unsubstantiated	62
Higher Priority.....	0
Other.....	3
Assists to Staff	57
Cases Open at End of This Period.....	65
Criminal Referrals	34

* Source:

Alleger/Whistleblower/Intervenor - 87
NRC (inspector/technical staff) - 32
Licensee/Licensee Employee Concerns Program - 21
OI (self-initiated and developed by OI) - 5
Other Government Agency (Congress, FBI, State Police etc) - 11

BIBLIOGRAPHIC DATA SHEET
(See instructions on the reverse)

NUREG 1830, Vol. 4

2. TITLE AND SUBTITLE

Office of Investigations Annual Report FY 2007

3. DATE REPORT PUBLISHED

MONTH	YEAR
February	2008

4. FIN OR GRANT NUMBER

5. AUTHOR(S)

6. TYPE OF REPORT

Annual

7. PERIOD COVERED (Inclusive Dates)

10/01/2006 to 9/30/2007

8. PERFORMING ORGANIZATION - NAME AND ADDRESS (If NRC, provide Division, Office or Region, U.S. Nuclear Regulatory Commission, and mailing address; if contractor, provide name and mailing address.)

Office of Investigations
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

9. SPONSORING ORGANIZATION - NAME AND ADDRESS (If NRC, type "Same as above"; if contractor, provide NRC Division, Office or Region, U.S. Nuclear Regulatory Commission, and mailing address.)

Same

10. SUPPLEMENTARY NOTES

11. ABSTRACT (200 words or less)

This report describes Office of Investigations case activities during FY 2007.

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

Office of Investigations
FY 2007
Annual Report

13. AVAILABILITY STATEMENT

unlimited

14. SECURITY CLASSIFICATION

(This Page)

unclassified

(This Report)

unclassified

15. NUMBER OF PAGES

16. PRICE

NUREG-1830, Vol. 4

February 2008