



**NRC Office of Enforcement's  
Alternative Dispute Resolution (ADR) Program**

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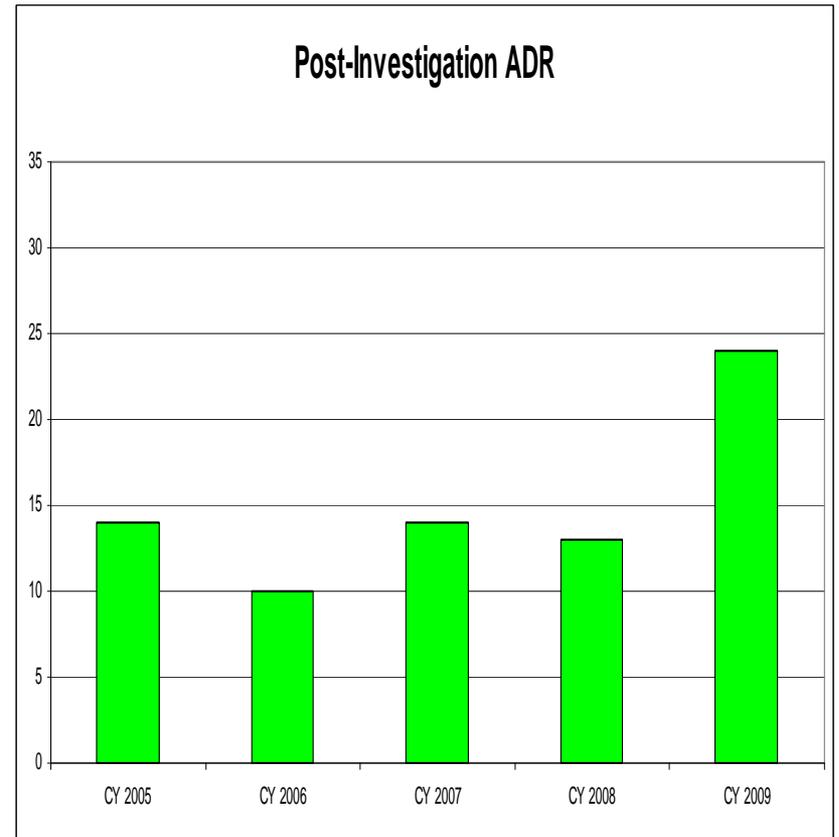
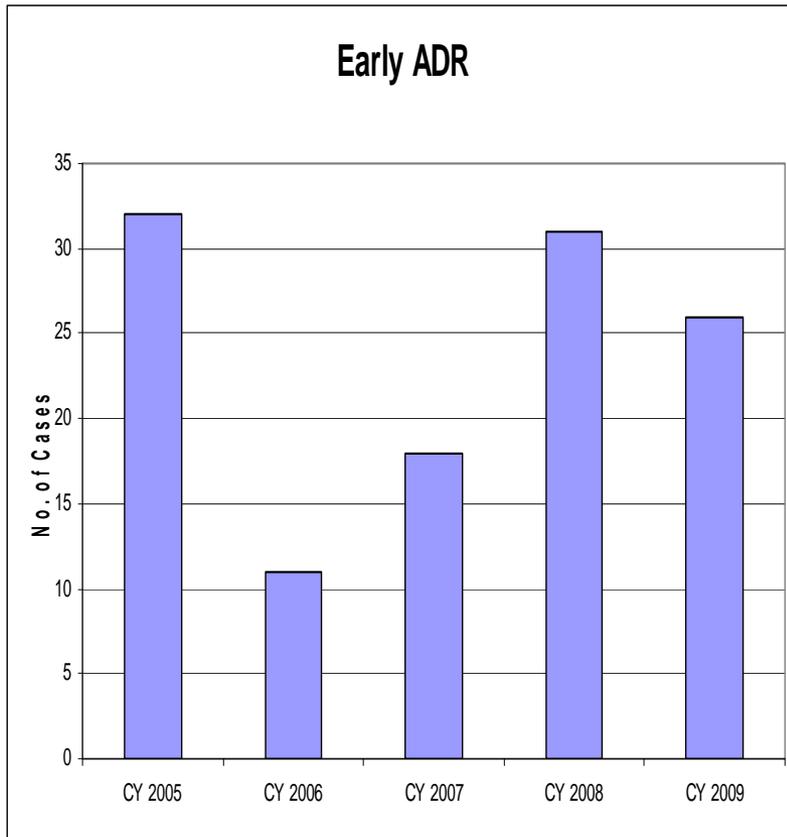
# Agenda

- ADR Program Overview
- ADR Trends
- Settlement Agreement Practice Pointers
- Sources of Information about the ADR Program

# ADR Program - Overview

- In 2004, the NRC established the pilot ADR program; comprised of two different parts
  - Early ADR (including Licensee Sponsored ADR)
  - Post-Investigation ADR
- Participation is entirely voluntary

# ADR Cases Opened



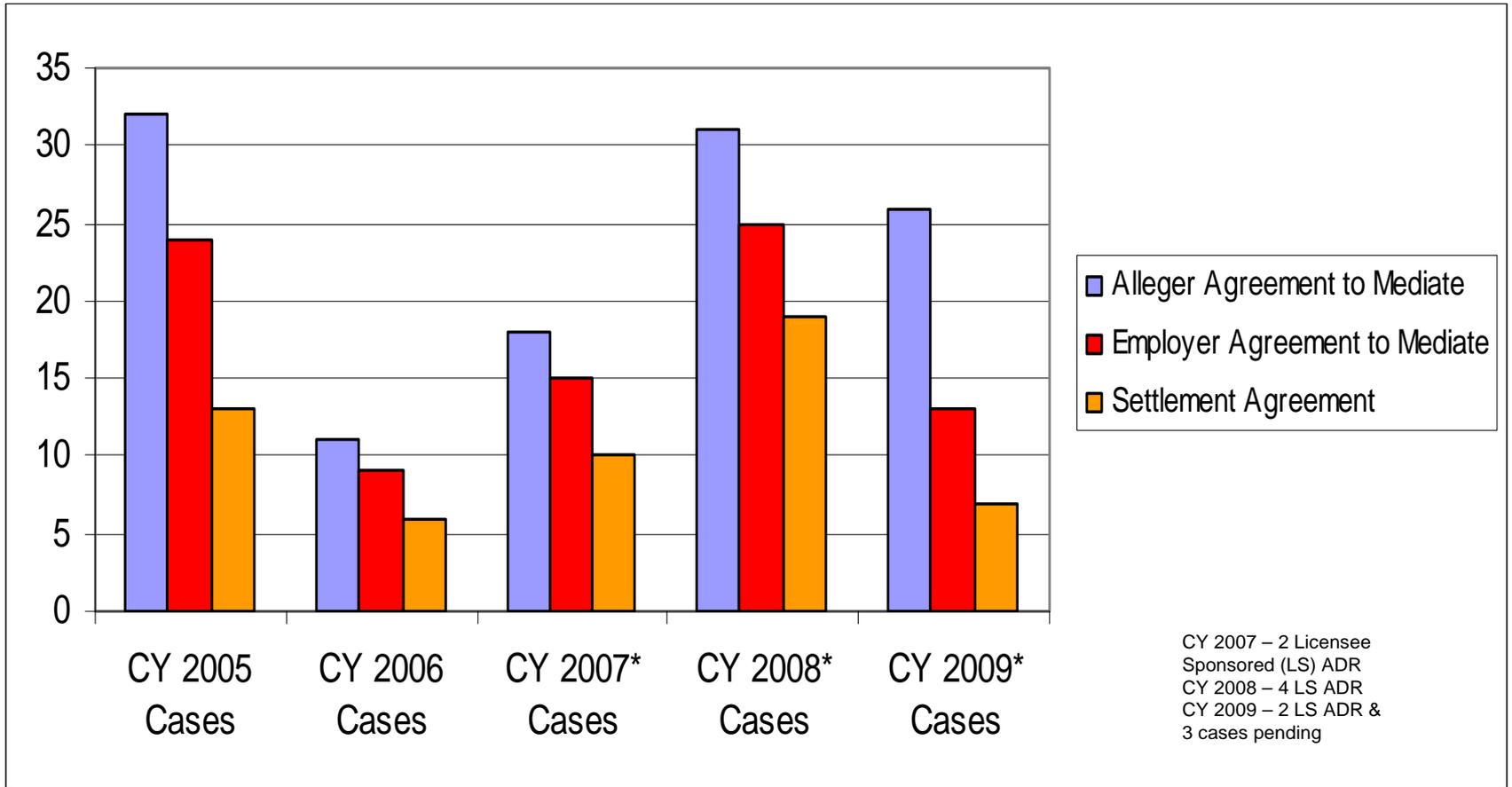
# Early ADR

- Prior to the initiation of an OI investigation
  - For resolution of discrimination allegations only
- Technical safety concerns are not subject to settlement
- Mediating parties are the allegor and employer
  - NRC is not a party
- Cornell University Institute of Conflict Resolution is the program administrator
- NRC pays mediator fees and expenses if mediator is from Cornell's roster of mediators
  - Mediator does not have binding authority
- NRC reviews settlement agreement for restrictive covenants

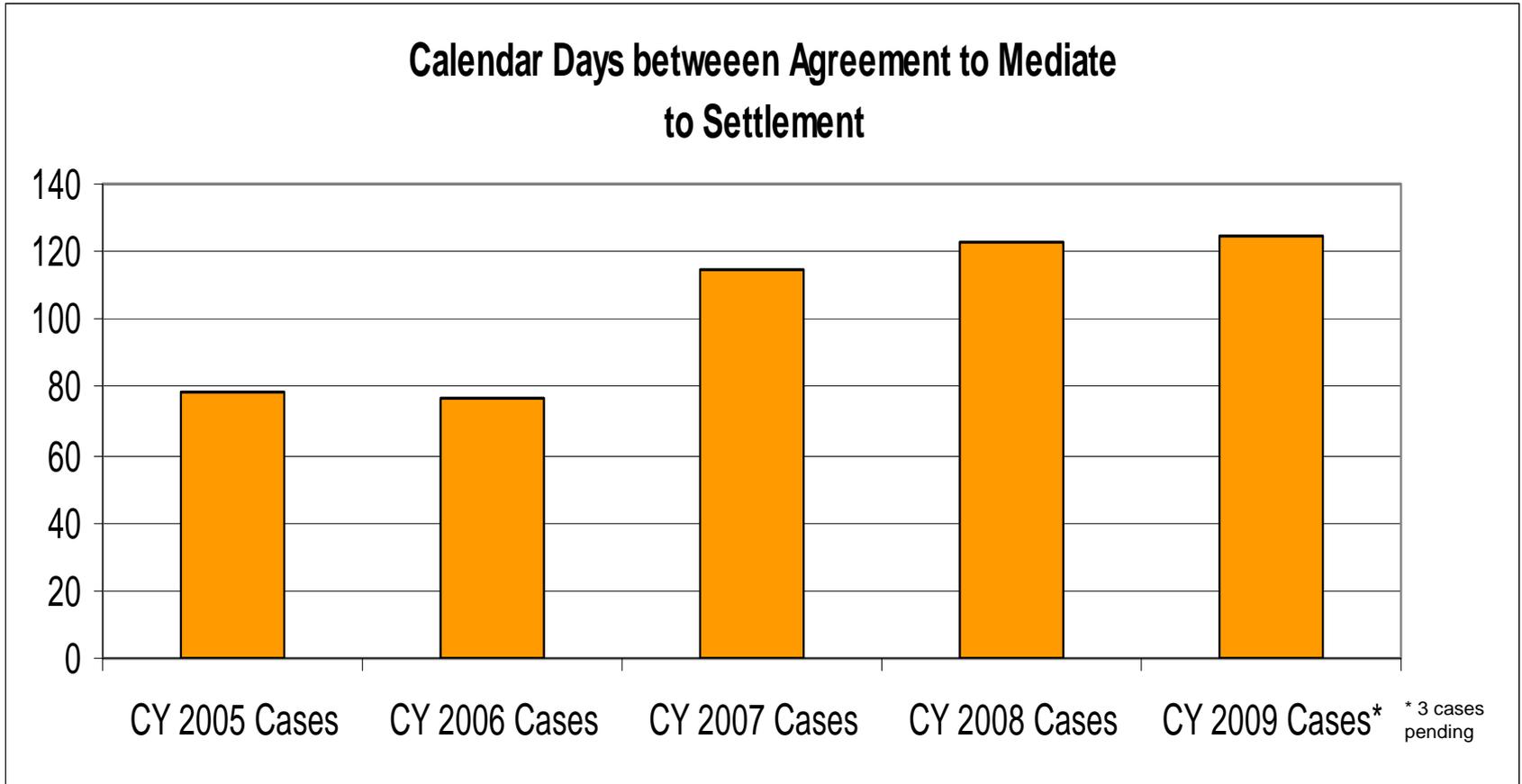
# Early ADR

- Intended Benefits
  - Facilitates employee/employer communications
  - Helps minimize potential SCWE issues at the site
  - Results in more timely resolution of discrimination concerns
  - Is less resource intensive than litigation or responding to an NRC investigation
  - No OI investigation if reach settlement & no restrictive covenants in violation of NRC's employee protection rule
- Licensee Sponsored ADR
  - Same as Early ADR but the parties are responsible for mediator fees and expenses and for informing the NRC of settlement prior to the initiation of an OI investigation

# Early ADR Use Trend



# Early ADR Timeliness Trend



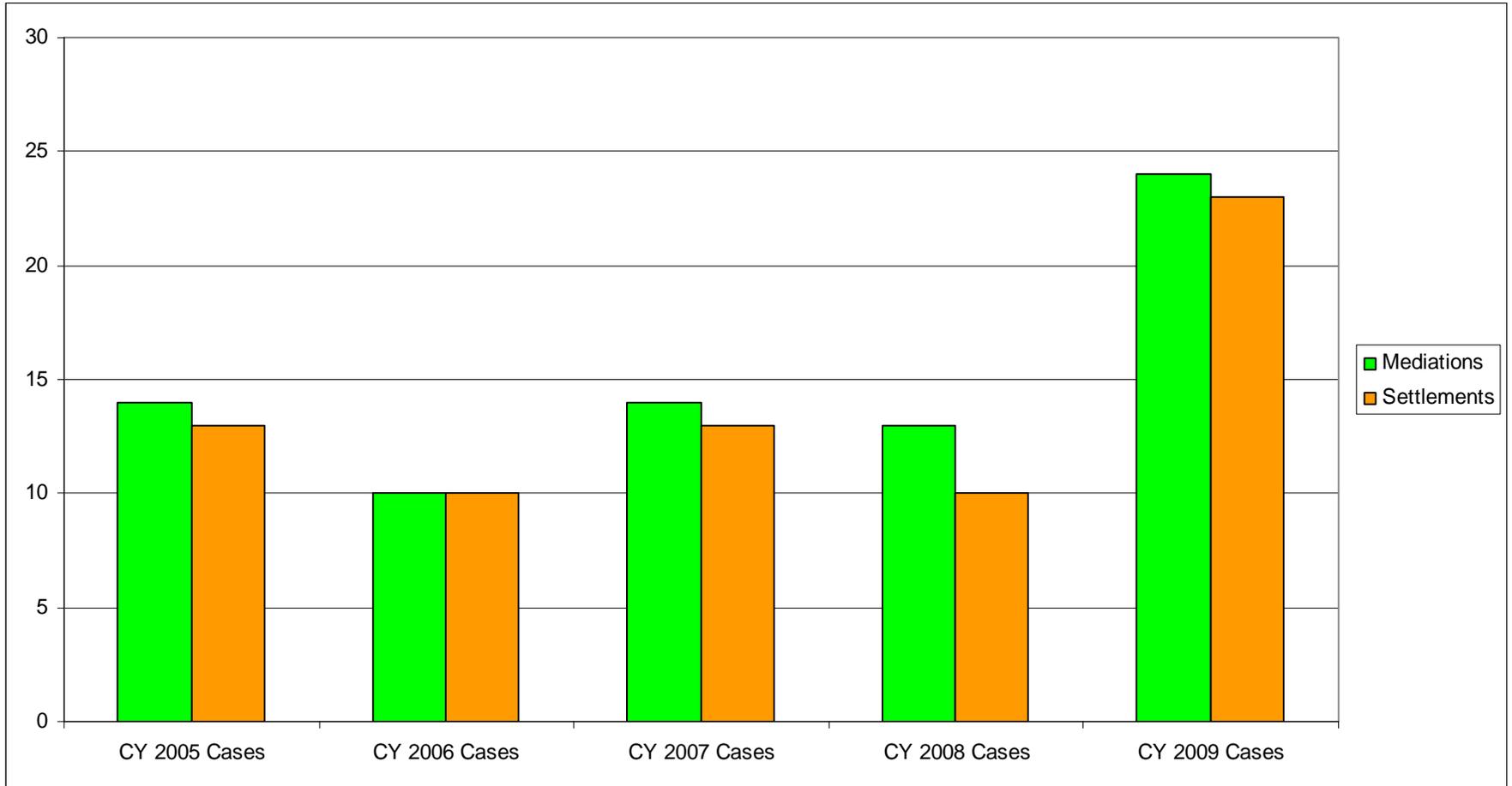
# Post-Investigation ADR

- After OI has completed its investigation
  - Covers discrimination and other wrongdoing cases
  - Available at three stages of the enforcement process
- Parties are the NRC and the licensee, contractor or individual
  - Allegor is not a party but the NRC may consult with Allegor prior to mediation
- Mediator fees and expenses are equally shared by the parties
  - Mediator does not have binding authority
- Mediation is confidential
- Settlement agreement is typically finalized in a publicly issued confirmatory order

# Post-Investigation ADR

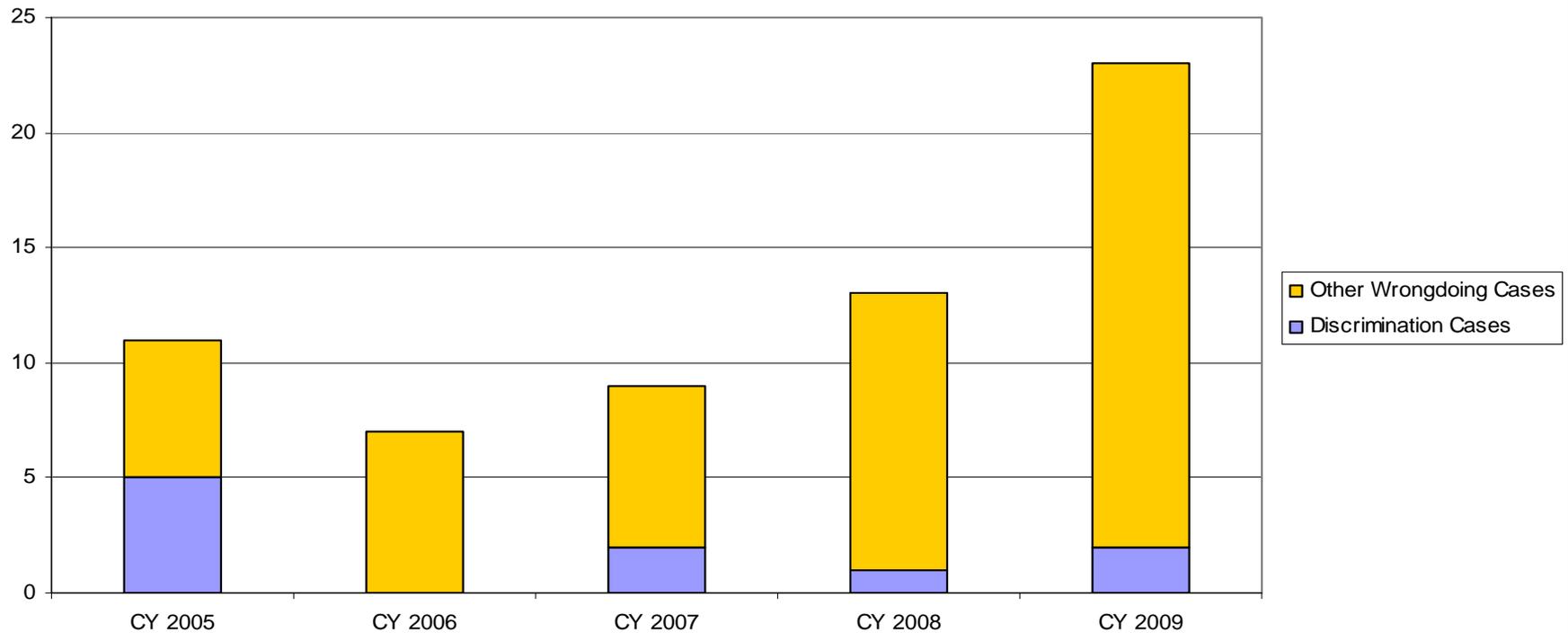
- Intended Benefits
  - Facilitates communication between the NRC and the licensee in an informal setting
  - Typically brings about more effective, efficient and timely resolution of enforcement concerns
  - In past cases depending on the underlying apparent violation or violation, the NRC has agreed to
    - Forgo the issuance of a notice of violation or a civil penalty or
    - Mitigate the amount of a civil penalty or
    - Forgo pursuit of enforcement action

# Post-Investigation ADR Use Trend

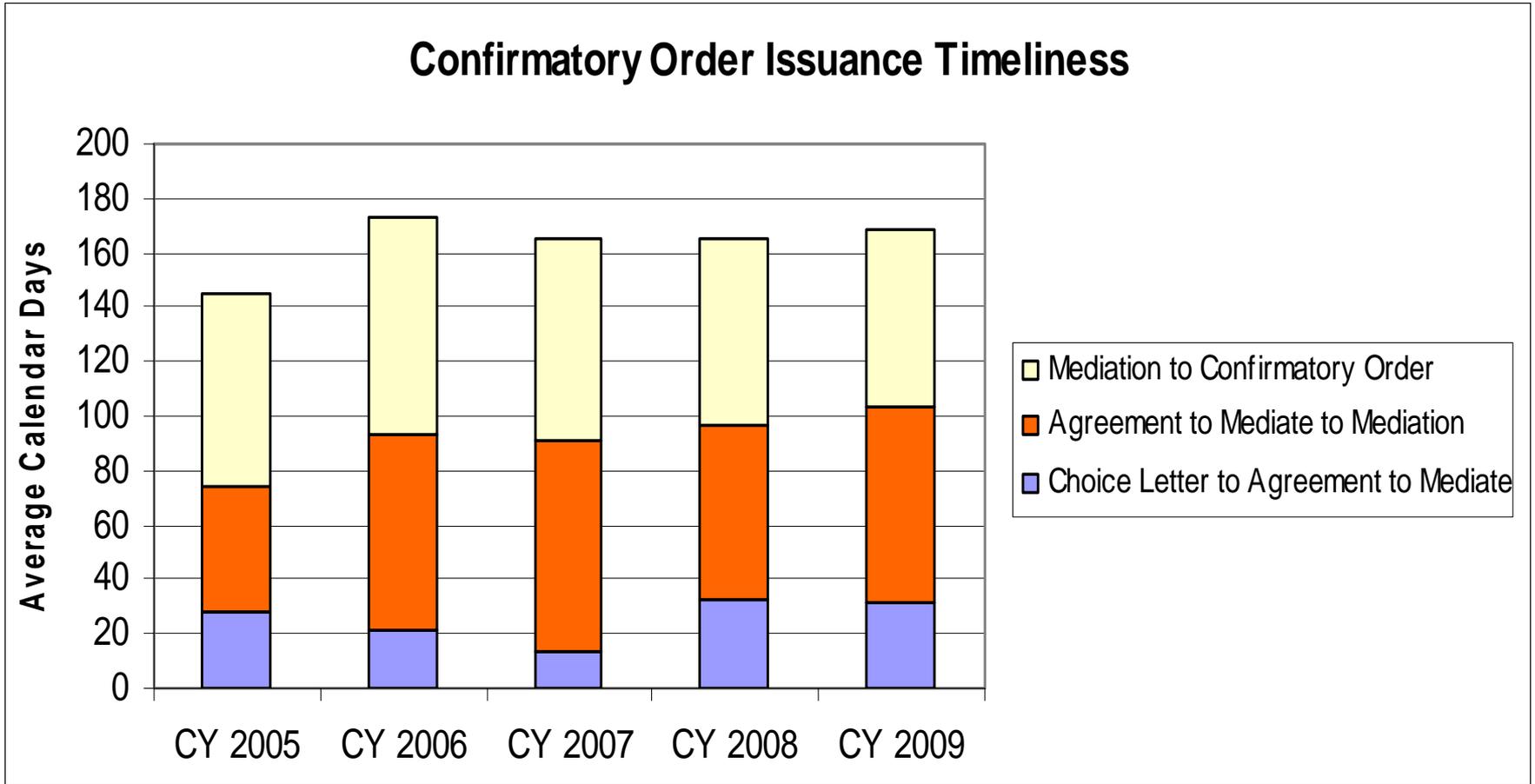


# Post-Investigation ADR Confirmatory Orders

Confirmatory Orders Issued CY 2005- 2009



# Post-Investigation ADR Timeliness Trend



# ADR Program Initiatives

- Enhance/increase communication about the program
- Publish statistical data about the program
- Pay closer attention to ADR process timeliness

# Early ADR & Licensee Sponsored Program-Settlement Agreement Practice Pointers

- Non-disparagement clause. Ensure that the non-disparagement clause may not be reasonably interpreted by a layperson to infringe on the complainant's right to communicate with the NRC or to voluntarily testify in proceedings
- Modification of Agreement. Ensure that complainant has incentive to cooperate with you in a timely manner in the event NRC requests a modification to the settlement agreement

# Early ADR & Licensee Sponsored Program-Settlement Agreement Practice Pointers

- Consider including provisions relating to the following topics:
  - **NRC review.** For credit under the OE ADR policy, the settlement agreement will be provided to the NRC for its review
  - **Technical concerns.** The settlement agreement does not settle or resolve the complainant's technical concerns
  - **Revocation period.** The complainant may reconsider the settlement agreement within 3 days of its execution
  - **Pro-se Complainants.** Include the name of legal counsel with whom the pro-se complainant consulted, if any, or otherwise have pro-se complainant initial by the provision that highlights his/her right to confer with legal counsel

# Sources of Information

- NRC public website
  - [www.nrc.gov/about-nrc/regulatory/enforcement/adr.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html)
- Cornell University's Institute on Conflict Resolution
  - (877) 733-7415
- Shahram Ghasemian, OE ADR Program Manager
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  - (301) 415-3591