

Employee Concerns Program Annual Activity Report 2001



U.S. Department of Energy
Office of Economic Impact and Diversity
Office of Employee Concerns

July 2002

Summary

This is the sixth year for which the Department of Energy (DOE) Office of Employee Concerns (OEC) has prepared an annual report on the DOE Employee Concerns Program (ECP) activities. These reports are intended to provide an overview of DOE's ECP activities and the progress made in carrying out the goals of those programs during the calendar year (CY) 2001.

An employee concern is a good faith expression by an employee that a policy or practice of the Department of Energy or of one of its contractors or subcontractors should be improved, modified, or terminated because they are unsafe, unlawful, fraudulent, or wasteful. Concerns can address issues such as health, safety, the environment, personnel or management practices, fraud, waste, or reprisal for whistleblowing.

Some concerns involve the disclosure of information such as the violations of health, safety, or environmental laws or regulations, fraud or waste of funds, or abuse of authority. The disclosure of this type of information may be protected under various Federal and state laws, rules, and regulations. Raising protected concerns is often referred to as "whistleblowing." Under the whistleblower protection laws, rules, and regulations, employees can seek remedial action where they can show that they were subjected to reprisal actions that would not have occurred absent their whistleblowing activities.

While the OEC aims to continually improve its process, I am heartened by the consistency of our success rate, particularly since the volume of concerns has increased significantly during the past several years. Of particular note, the Department successfully resolved approximately three-quarters of employee concerns received during the year, with an emphasis to resolve them within three months. Nonetheless, a greater number of Employee Concerns Program Managers have collateral duties than ever before which challenges the ECP Managers to achieve the same resolution rates with fewer personnel resources at their disposal.

If there are any questions or comments you may have regarding this report, please do not hesitate to contact me or your Employee Concerns Program contact listed in Appendix A. I would particularly like to thank Dianne Saylor, Employee Concerns Manager of the Savannah River Employee Concerns Office, Sara Rhoades, Employee Concerns Manager at the Nevada Operations Office, and Cynthia Brawner-Gaines, Headquarters Employee Concerns Manager for their dedication and expertise in producing this report. On behalf of the Employee Concerns Managers throughout the DOE complex, let me assure our readers that we are here to serve you.

William A. Lewis, Jr.
Director
Office of Employee Concerns

“I expect all Department of Energy managers and supervisors to take a lead role in ensuring that every personnel decision is just, equitable and fair.”

Secretary of Energy Spencer Abraham

October 30, 2001

Section I. OVERVIEW

➤ Introduction

Employees have the right and responsibility to report concerns relating to the environment, safety and health (ES&H), security, or management of DOE operations. Employees also have the right to receive a timely investigation and resolution of their concerns and protection from reprisal or retaliation as a result of reporting their concerns.

One of the primary missions of the Office of Employee Concerns (OEC) is to fulfill the Secretary's commitment to create an environment where employees are free to raise concerns without the fear of reprisal or retaliation. The Employee Concerns Programs (ECP) throughout DOE are structured to ensure that employee concerns are addressed in a full, fair, and timely manner.

➤ Employee Concerns Program Activities

The Office of Employee Concerns. In its sixth year of operation, the Office of Employee Concerns accomplished the following milestones and initiatives: 1) handled and closed the most concerns since the office's inception in 1996; 2) increased the number of concerns closed in less than six months; 3) improved the Headquarters Office of Employee Concerns website to add a direct link to the ECP field offices home pages; revised the website resources guide; 4) initiated action to move the OEC website to the main "Energy.Gov" Home page; 5) successfully conducted its first video teleconference--reaching 14 different sites; 6) provided training to all ECP managers and continued training on the Contractors Employee Protection program regulations.

In 2001, the OEC held two conferences with its field element ECP managers to share successes, best practices, and challenges. The discussions included a cadre of speakers who provided training, presentations and updates in the areas of Alternate Dispute Resolution (ADR), Environment, Safety and Health, the handling of Office of Inspector General referrals, security and FOIA/Privacy Act issues.

Guest speakers included representatives from National Academy of Public Administration, the Government Accountability Project (GAP), the U.S. Office of Special Counsel (OSC), the Department of Labor's Office of Administrative Law Judges, the Employee Concerns Manager from the Arizona Public Service, an attorney who has successfully represented whistleblowers, and members of the Hanford Joint Council.

➤ **Employee Concern Program Tracking System**

The Nevada and Savannah River ECP managers took the lead in revising the tracking spreadsheet that continues to be utilized effectively in the collection and consolidation of all data. The system provides crosschecking of data and additional instructional material and reduces the amount of time required for completion of the forms by ECP managers. This has resulted in an improved process where quarterly reports are now available for review at Headquarters within 30 days of the end of the quarter, making the compilation of figures more effective.

➤ **Field Employee Concerns Activities**

Operations and field ECPs achieved a number of successes in 2000. As indicated in the data in Section II, operations and field office ECPs closed out 76 percent of the concerns on hand during the year. The number of concerns, while below the record levels of 1997 and 1998 (83 percent), represents the highest volume of concerns since the inception of the ECP in 1966. It should be noted that 49 percent of concerns that were subject to review were either fully or partially substantiated.

Most concerns in 2001 were resolved in accordance with Departmental policy, through the action of the ECP local offices, often working in conjunction with appropriate DOE program offices at the sites. The following is an example of a situation handled by field element ECP offices:

In mid-January of 2002, the Nuclear Regulatory Commission (NRC) received a series of calls from a Quality Assurance (QA) Inspector working for a fabrication subcontractor on a project for DOE-Idaho. The concerns stemmed from poor QA procedures, poor documentation, and potential falsification of records. The NRC recognized that this complaint was out of their jurisdiction since the project in question was not a NRC project. The NRC provided the information to DOE-HQ on January 31, and DOE-HQ sent the complaint to DOE-Idaho shortly thereafter.

The ECP Manager for DOE-ID initiated a concern file, contacted the concerned individual, and coordinated the investigation of this concern with the DOE-ID Program Manager and the principle contractor. This process initiated a steady stream of information regarding practices, procedures and quality documentation that the employee was concerned about. All information provided by the Concerned Employee was funneled to the ID Program Manager, who in turn discussed each item with the primary contractor. The contractor sent their senior project manager and their senior QA manager to the subcontractor's facility to meet with the concerned employee, other witnesses and to investigate the concerns. A number of claims were substantiated and others were partially substantiated. As a result, on March 11, 2002, the prime contractor determined that conditions met the criteria for reporting nuclear safety non-compliance under 10 CFR 820.11. The contractor's investigation also evaluated the significance of the allegations on nuclear, environmental, public and worker safety. Based on the technical design and testing requirements, and the fabrication requirements specified by the governing

American Society of Mechanical Engineers code, the contractor found no effect on nuclear, environmental, public or worker safety.

To prevent similar concerns from arising in the future, the contractor required a series of corrective actions to be implemented by the subcontractor. These included: (1) suspending shipments until the investigation was complete; (2) recovering all original inspection records and placing them under lock at the subcontractor's facility; (3) having subcontractor personnel review all original records to identify and provide a list of discrepancies; and (4) having the subcontractor issue 10 corrective actions reports that are specific to findings from their own internal investigation.

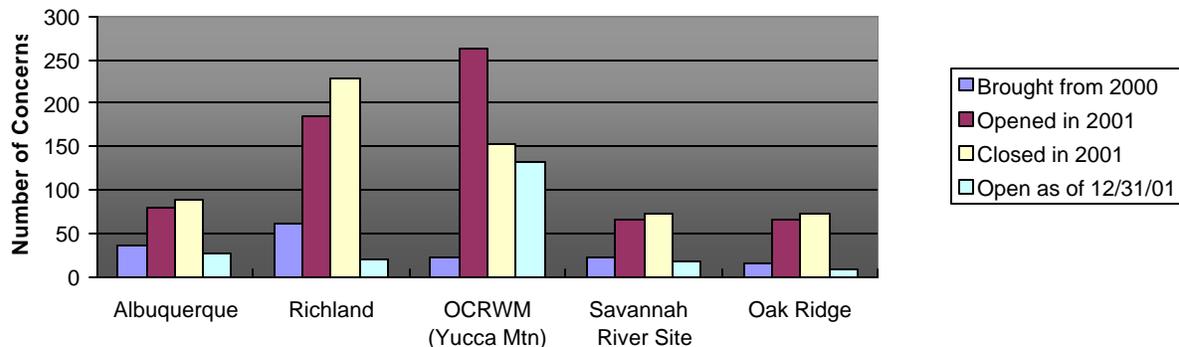
Section II. EMPLOYEE CONCERNS PROGRAM STATISTICAL DATA

A. 2001 Employee Concerns Activity Levels

Receipt and Disposition. The data collected reflects concerns filed with the DOE operations and field ECP offices for CY 2001. It does not contain data relating to concerns, allegations, or complaints filed directly by employees with appropriate offices, such as the Office of Inspector General, Office of Civil Rights, Office of Environment, Safety and Health or through contractor employee concerns or grievances procedures.

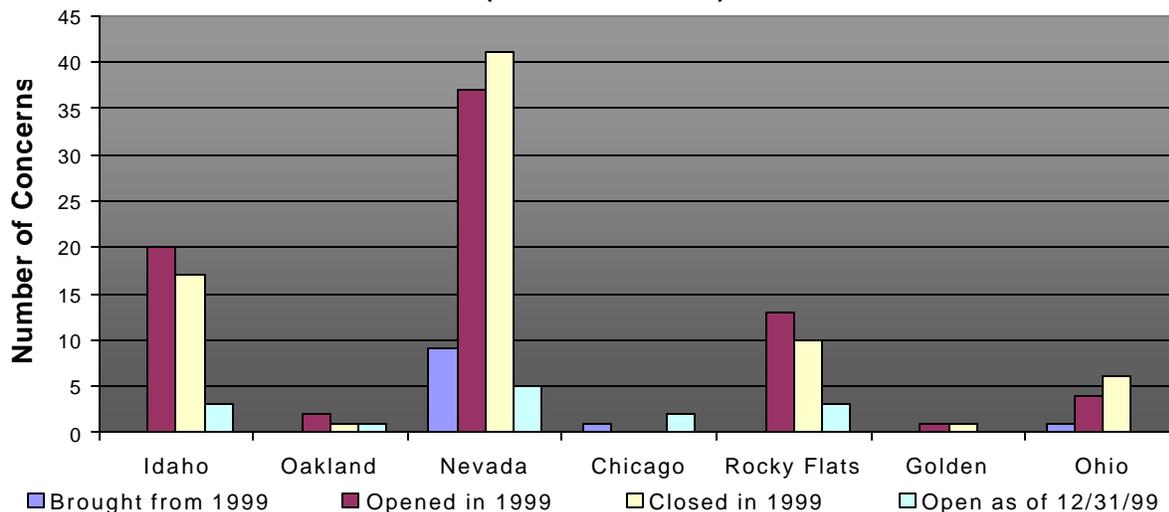
The DOE ECP offices began CY 2001 with a total of 171 concerns that had not been closed out in 2000. During 2001, a total of 741 new concerns were opened and six previously closed concerns were reopened. The DOE ECP offices closed 700 concerns, leaving 218 open at the end of CY 2001. The charts below show the employee concerns activities at the major DOE field elements with respect to the processing of employee concerns in 2001. The figures for "Open" concerns refer to concerns that were either newly opened or reopened in 2001.

**Figure 1. Disposition of Concerns by Field Element
(Larger Offices)**



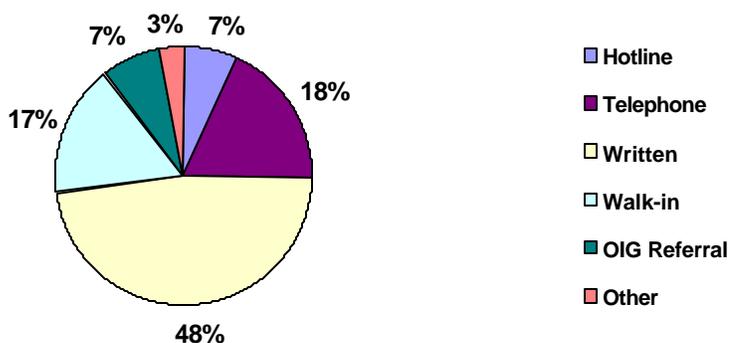
All of the DOE ECP managers routinely meet with contractor ECP representatives and coordinate efforts to resolve concerns at the lowest level possible. In addition, a variety of dispute resolution processes have been instituted by DOE and contractors to resolve issues, including Ombuds programs, training a cadre of mediators, and joint labor-management partnerships. The success of these programs is helping to meet one of the primary goals of the DOE Employee Concerns Program – to improve the responsiveness of management to concerns raised by their employees.

Figure 2. Disposition of Concerns by Field Element (Smaller Offices)



Sources of Concerns. The means by which concerns are brought to the attention of employee concerns offices differ among the offices. Overall, the methods by which concerns are submitted to the ECPs included written submissions (359; 48 percent), telephone calls directly to the ECP (136; 18 percent), walk-ins (124; 17 percent), referrals from the Office of Inspector General (OIG) (56; 7 percent), and hotline calls (50; 7 percent). The remaining 22 concerns (3 percent) are received from other DOE offices, Federal or state agencies, or other miscellaneous sources.

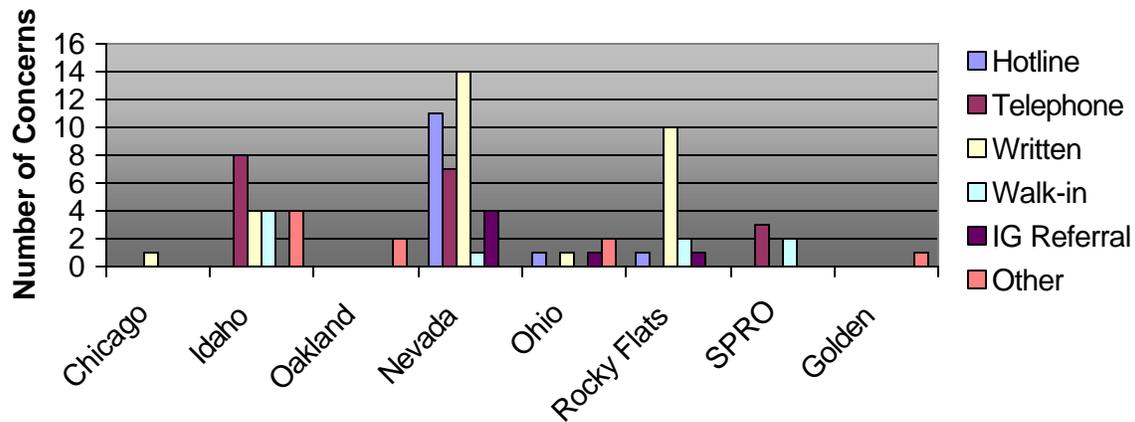
Figure 3. Sources of Concerns (All Offices)



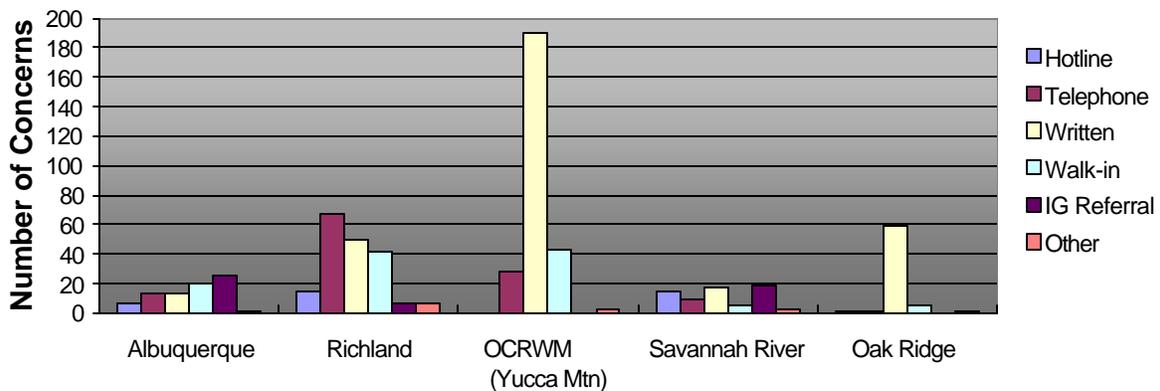
Written concerns are the most prevalent method used in Nevada, Yucca Mountain (OCRWM), Oak Ridge, Rocky Flats, and Chicago. The telephone is the most prevalent method used in Richland, Idaho, and SPRO. The largest source of concerns for Albuquerque and Savannah River are referrals from the OIG. It should be noted that Albuquerque and Savannah River receive the majority of the referrals

from the OIG, accounting for 45 of the 56 in that category. Nevada, Ohio and Richland also process

**Figure 4. Sources of Concerns
(Smaller Offices)**



**Figure 5. Sources of Concerns
(Larger Offices)**

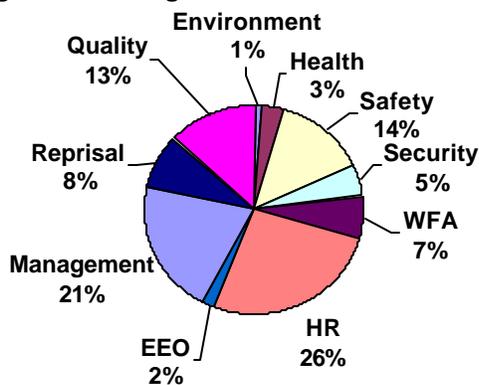


referrals from the OIG.

Subject Matter of Concerns. Four categories accounted for 537 of the 747 concerns, or 72 percent of the new concerns.

- ❖ Human Resources (192) - union relations, contractor relations, policies/procedures, staffing, hiring, termination, workforce restructuring, promotion, selection, qualification, overtime, and training.
- ❖ Management/Mismanagement (149) - re-engineering, policies and procedures, smoking, standard of conduct, reprisal, and ethics.
- ❖ Safety (100) – training, protective equipment, lockout/tagout, fire equipment, fire department, ambulance, fires, hoisting and rigging, and Price Anderson Amendment Act violations.
- ❖ Quality (96) – design/engineering, quality control, quality assurance, and inefficiency.

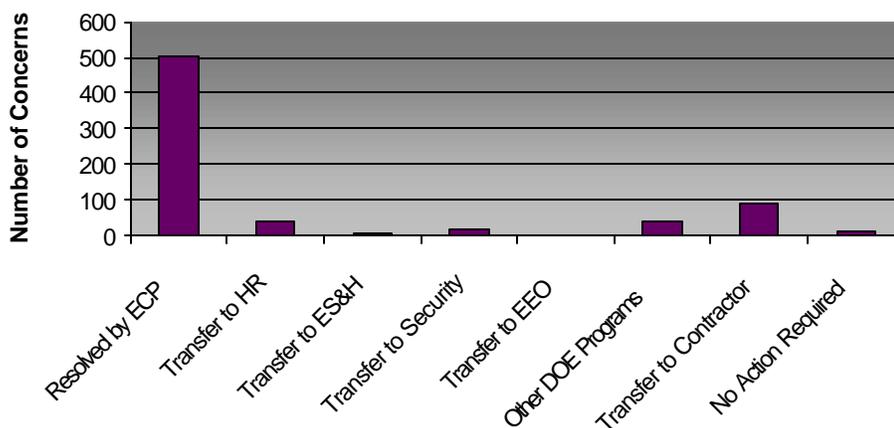
Figure 6. Categories of Concerns Received



Human Resources (HR) concerns are the largest category at 26 percent of the total. Concerns in the area of management increased from 20 percent in 2000 to 21 percent in 2001. Safety concerns decreased over the last two years from 23 percent in 1999 to 14 percent in 2001. Quality concerns are 13 percent of the total received.

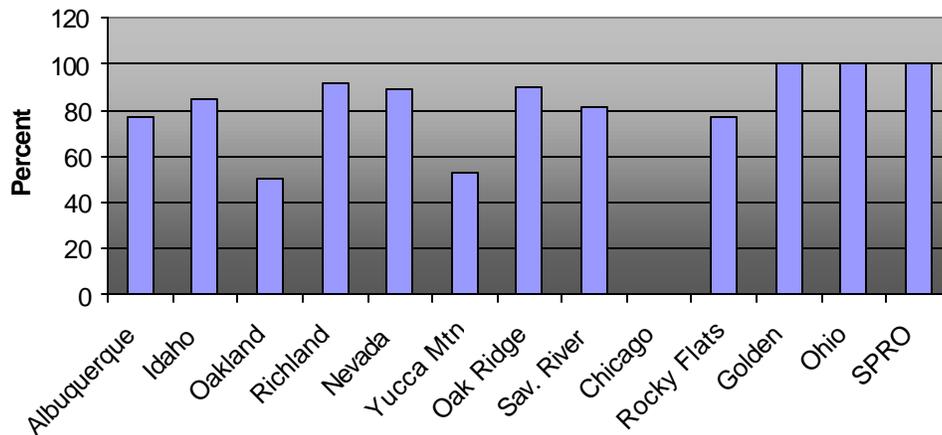
Closing Concerns. Concerns closed by employee concerns offices include those processed solely by the ECP offices, as well as those closed by the ECP offices after they had received evaluations of the concern from offices to which the concerns were referred. A concern is considered *closed by transfer* when it is sent to another office or organization that has primary responsibility for the subject matter of the concern. The statistics shown in Figure 7 distinguish between concerns transferred within DOE and those transferred to contractors. Although transferred concerns generally require that ECP offices take no further action, ECP managers will request information on any follow-up activities.

Figure 7. Disposition of Concerns



As shown in Figure 7, 504 concerns (72 percent of closed concerns) were resolved by the ECP offices, while 59 concerns (8 percent) were transferred to offices within DOE for resolution. Eighty-eight concerns (13 percent) were referred to contractors for resolution; 11 concerns (2 percent) required no action.

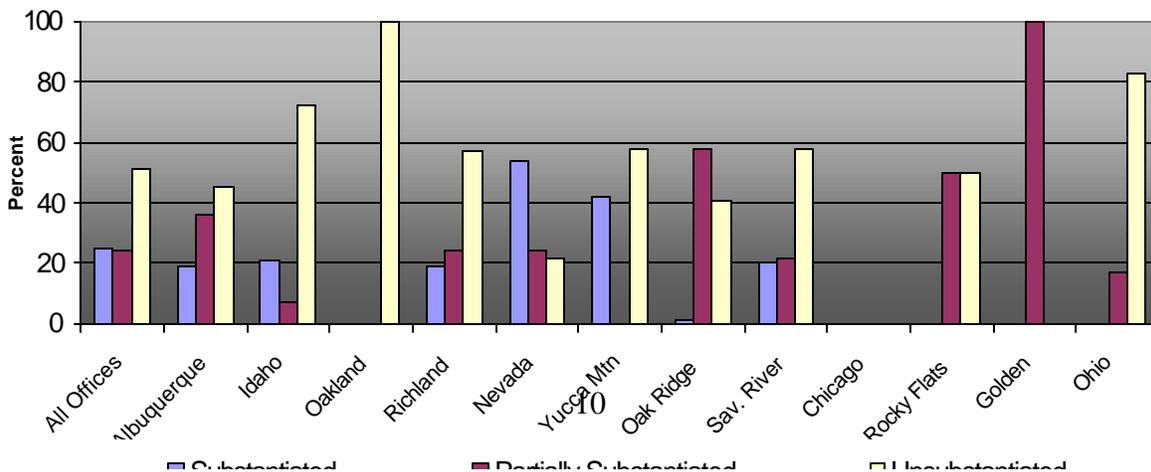
Figure 8. Percentage of Concerns Closed (by Field Element)



A total of 700 concerns were closed during 2001, representing 76 percent of all concerns open during the year. This compares to 78 percent closed in 2000. The chart in Figure 8 shows the percentage of concerns closed by field element ECPs, as well as the overall closure rate.

Level of Substantiation of Concerns. Since 1997, data has been collected to show the extent to which concerns submitted were substantiated, i.e., the number of concerns that were found to be either fully or partially verified as to the merits of the issues presented by concerned employees. Four categories were available for reporting this data: substantiated, partially substantiated, unsubstantiated, or no review. In 2001, the latter category, which accounted for 22 percent of all concerns closed, primarily reflected concerns where the nature of the concern was not subject to factual substantiation or the concerns were outside of the jurisdiction of the Employee Concerns Program. These concerns therefore were transferred to other offices and the Employee Concerns Programs did not track the outcomes.

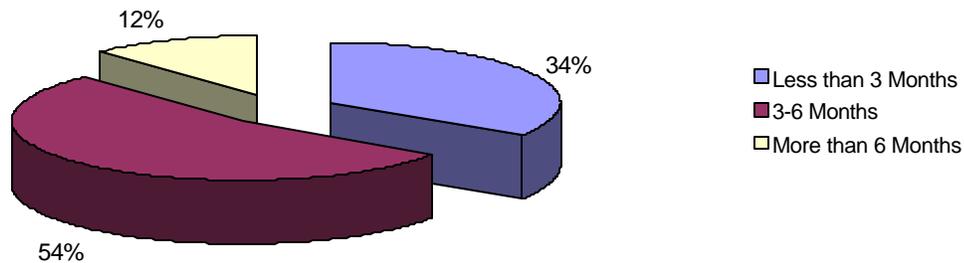
Figure 9. Rate of Substantiation



As shown in Figure 9, 49 percent of concerns that were subject to review were either fully or partially substantiated. These figures are indicative of a process that is providing full and fair review of employee concerns. The substantiation rates for each field element ECP in 2001 are also shown.

Age of Open Concerns. Data has been collected to reflect the age of concerns that remained open at the end of the calendar year. Of the 218 concerns that remained open at the end of 2001 throughout the DOE employee concerns complex, 75 (34 percent) had been open less than three months, 117 (54 percent) had been open between three and six months, and 26 (12 percent) had been open more than six months. A review of the concerns that have been pending for more than six months indicated that many are concerns that were referred to ECP offices by the Office of the Inspector General and/or involved issues that, by their nature, require more time to investigate and close.

Figure 10. Age of Concerns

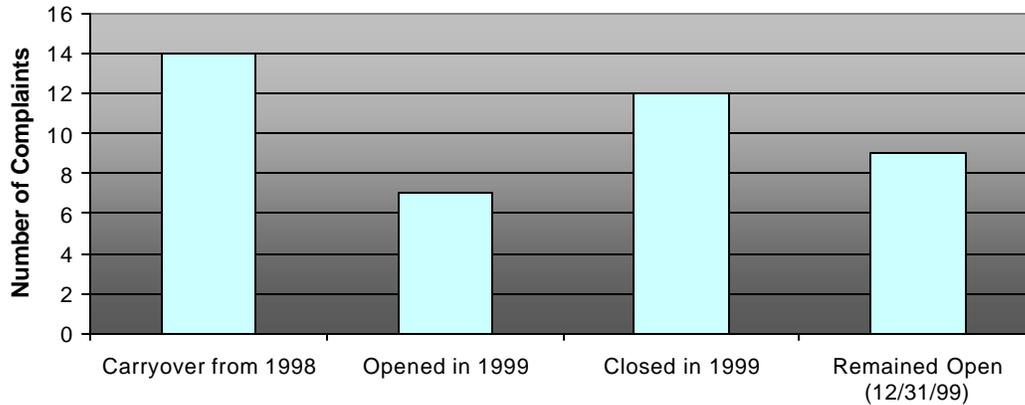


Status of Complaints Filed Under the Department's Contractor Employee Protection Program.

The statistics in previous sections of this report do not include whistleblower complaints filed by contractor employees with DOE, pursuant to the Department's Contractor Employee Protection Program found in Part 708 of Title 10, Code of Federal Regulations. On April 14, 1999, the Office of Hearings and Appeals assumed jurisdiction over Part 708 under revised regulations, published in the Federal Register on March 15, 1999. Most of the ECP offices do, however, have responsibility for initial processing and seeking informal resolution of the concerns as the first step of complaint processing.

Fifteen "708" complaints were carried over from 2000 and thirteen new complaints were received in 2001. Seventeen complaints were closed during 2001, leaving eleven complaints open at the end of CY 2001 as shown in Figure 11.

Figure 11. Reprisal Complaints

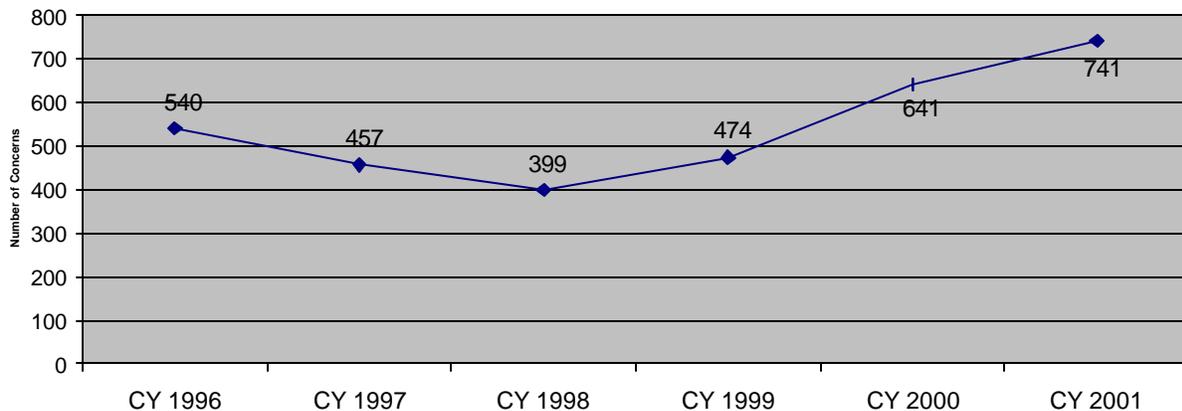


B. 1996-2001 Employee Concerns Program Trends

Since the Office of Employee Concerns has been tracking data complex-wide for six years, this year's ECP Activity Report reviews trends over this period, which may provide insights to senior management. Four areas of interest in terms of trends that have appeared are (1) number of concerns filed, (2) primary subject matter of concerns filed, (3) timeliness of concerns processed and (4) resolution rate.

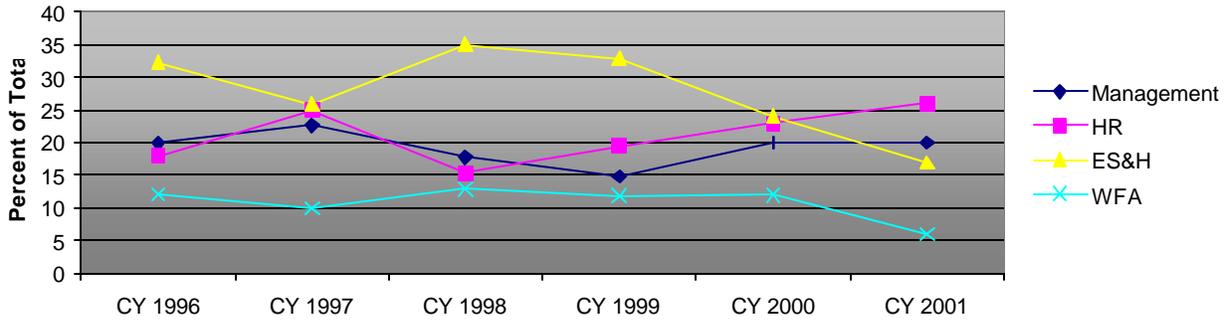
Number of Concerns Filed. The number of new concerns opened by the ECP offices in 2001 increased from 641 to 741, 100 more than were opened in 2000. This continues an upward trend that started in calendar year 1999, when the figures began to increase significantly. Figure 12 reflects the trend since 1996.

Figure 12. Number of Concerns Received



Primary Subject Matters of Concerns. The most dramatic trend in primary subject matter of concerns has been the decline in the category of Environment, Safety and Health (ES&H) issues. ES&H concerns decreased in percentage, going from a high of 35 percent of all new concerns in 1998 to 17 percent in 2001. In 2001, concerns in the area of management remained at 20 percent of all new concerns, a category that had been declining until 2000.

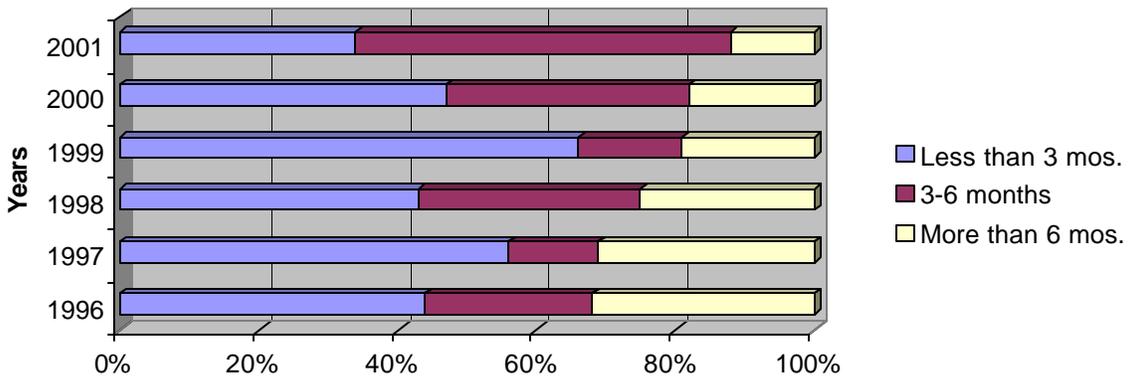
Figure 13. Comparison of Major Concern Categories



Human Resource (HR) concerns became a larger portion of new concerns, increasing to 26 percent over the 15 percent received in 1998, possibly due to increasing questions over potential lay-offs. Waste, fraud, and abuse (WFA) concerns decreased in 2001 from a consistent 10–12 percent during calendar years 1998 to 2000 to six percent in 2001.

Timeliness of Concerns Processed: 1996-2001. Prior to this year, the total number of cases that have remained open at the end of the calendar year had declined each year for which statistics have been collected. In 1996, the percentage of concerns that remained open at the end of the year that was more than six months old was 32 percent. At the end of 2001, only 12 percent had been pending for more than six months. A significant reduction in the number of concerns "open" for six months or longer has been a goal of the OEC, because concerns which are not promptly resolved within that time period tend to remain in the system for long periods of time, and the associated costs, for the agency as well as for the employee, are often very high.

Figure 14. Timeliness of Concerns Processed



Section III. FUTURE ACTIONS

1. Identify concerns that have been pending for more than six months and determine the reasons for the extended period of time the concerns have remained open.
2. Improve and update the Employee Concerns website to educate DOE employees on the jurisdiction of the Employee Concerns Program, and to publicize the distinctions from other employee-related processes. The program parameters will also be communicated through the use of DOECASTS.
3. Initiate Monthly Reports from the Employee Concerns Managers to provide a more up-to-date picture of the Departmental ECP activities and trends for senior management. These new monthly reports would complement the existing Quarterly Reports that are currently produced.
4. Conduct a review of ECP resources at each site to determine how additional personnel and funding support could be effectively utilized at various field locations to handle the increased workload.
5. Continue to train new ECP managers to promote the use of Alternative Dispute Resolution mechanisms, including Concerns Review Panels, Differing Professional Opinion (DPO) processes, mediation and facilitation.

APPENDIX A

EMPLOYEE CONCERNS PROGRAM CONTRACTS

Organization	Name	Telephone	Fax No.
Headquarters			
Office of Employee Concerns	William A. Lewis, Jr. Director	(202) 586-4034	(202) 586-4924
Office of Employees Concerns	Cynthia Brawner-Gaines ECP Manager	(202) 586-4579	(202) 586-4924
Office of Employee Concerns	Kay F. Gunn Secretary	(202) 586-4034	(202) 586-4924
Office of Dispute Resolution (GC-12)	Phyllis Hanfling	(202) 586-6972	(202) 586-7479
Field			
Albuquerque	Eva Glow Brownlow	(505) 845-5113	(505) 845-4020
Amarillo	Brenda Finley	(806) 477-3120	(806) 477-6641
Chicago	Lucy Borjas	(630) 252-2327	(630) 252-2919
	Sara Brunson	(630) 252-2321	(630) 252-2315
Idaho	Paul Allen	(208) 526-0128	(208) 526-7407
	Kathleen Whitaker	(208) 526-1062	(208) 526-0134
Nevada	Sara Rhoades	(702) 295-7843	(702) 295-0134
Oak Ridge	Rufus Smith	(865) 576-4988	(865) 574-1939
	Marcee Myers Addington	(865) 576-4988	(865) 574-1939
Oakland	Mark Barnes	(510) 637-1845	(510) 637-2008
Yucca Mountain (OCRWM)	Nancy Voltura	(702) 295-2652	(702) 295-2755
Ohio	Sandra Cramer	(937) 865-4389	(937) 865-4728
Richland	Stanley O. Branch	(509) 376-9450	(509) 372-0998
	Carrie Fetto	(509) 373-7798	(509) 372-0998
Rocky Flats	James Jeffries	(303) 966-7417	(303) 966-4763
	Janet Torma-Krajewski	(303) 966-7165	(303) 966-8053
	Richard Anzures	(303) 966-9706	(303) 966-8083
Savannah River	Dianne Saylor	(803) 725-3745	(803) 725-5949
	Nina Salazar	(803) 725-0590	(803) 725-5949
SPRO	JoAnn Rochon	(504) 734-4731	(504) 734-4002
Golden, CO	Christine Phoebe	(303) 275-4774	(303) 275-4788

Operations and Field Office Facilities

Operations Office

Facilities

Albuquerque

Grand Junction Project Office, Grand Junction, CO
 Inhalation Toxicology Research Int., Albuquerque, NM
 Kansas City Plant, Kansas City, MO
 Los Alamos National Laboratory, Los Alamos, NM
 Pinellas Plant, Largo, FL
 Pantex Plant, Amarillo, TX
 Sandia National Laboratory, Albuquerque, NM
 Waste Isolation Pilot Project, Carlsbad, NM

Chicago

Ames Laboratory, Ames, IA
 Argonne National Laboratory-East, Argonne, IL
 Argonne National Laboratory-West, Idaho Falls, ID
 Brookhaven National Laboratory, Upton, NY
 Environmental Measurement Laboratory, New York, NY
 Fermi National Accelerator Laboratory, Batavia, NY
 New Brunswick Laboratory, Argonne, IL
 Princeton Plasma Physics Laboratory, Princeton, NJ

Idaho

Idaho Chemical Processing Plant, Idaho Falls, ID
 Idaho National Engineering Laboratory, Idaho Falls, ID
 INEL Research Center, Idaho Falls, ID
 Radioactive Waste Management Complex, Idaho Falls, ID
 SMC Project, Idaho Falls, ID
 Test Area North, Idaho Falls, ID
 Test Reactor Area, Idaho Falls, ID
 Waste Reduction Operations Complex, Idaho Falls, ID

Nevada

Amador Valley Operations, Livermore, CA
 Los Alamos Operations, Los Alamos, NM
 Nevada Test Site, Nye County, NV
 North Las Vegas Facilities, North Las Vegas, NV
 Remote Sensory Laboratory, Las Vegas, NV
 Washington Aerial Measurements, Andrews AFB, VA

Oak Ridge

K-25 Site, Oak Ridge, TN
 Oak Ridge Institute of Science and Education, Oak Ridge, TN
 Oak Ridge National Laboratory, Oak Ridge, TN
 Paducah Gaseous Diffusion Plant, Paducah, KY

Operations and Field Office Facilities (cont'd)

<u>Operations Office</u>	<u>Facilities</u>
Oak Ridge (cont'd)	Portsmouth Gaseous diffusion Plant, Piketon, OH Thomas Jefferson National Accelerator Facility, Newport News, VA Weldon Spring Site, St. Charles, MO Y-12 Plant, Oak Ridge, TN
Oakland	Energy Technology Engineering Center, Canoga Park, CA Ernest Orlando Lawrence Berkeley National Laboratory, Berkeley, CA Lawrence Livermore National Laboratory, Livermore, CA Stanford Linear Accelerator Center, Menlo Park, CA
Ohio	Ashtabula Environmental Management Project, Ashtabula, OH Columbus Environmental Management Project, Dublin, OH Fernald Environmental Management Project, Cincinnati, OH Miamisburg Environmental Management Project, Miamisburg, OH West Valley Demonstration Project, West Valley, NY
Richland	Hanford Site, Richland, WA Pacific Northwest National Laboratory, Richland, WA
Rocky Flats	Rocky Flats Environmental Technology Site, Rocky Flats, CO
Savannah River	Savannah River Site