Employee Concerns Program
Fiscal Year 2008
Activity Report

Office of Civil Rights

U.S. DEPARTMENT OF
ENERGY

Message from the Director…

The Employee Concerns Program was established as part of a Secretarial Initiative in 1996 to handle concerns filed by employees on a variety of issues ranging from health and safety to waste, fraud and abuse. This report covering fiscal year (FY) 2008 marks the thirteenth consecutive year the Department of Energy's (DOE) Employee Concerns Program (ECP) has produced and issued an Annual Report reviewing the complex-wide activity of the ECP. These reports provide an overview of important progress made during the year advancing the work and mission of the ECP, as well as highlighting trends of interest to Department administrators.

In Fiscal Year 2008, 643 employees utilized the program, and filed 362 new concerns. Combined with a carry-over of 167 concerns from the previous year, the total caseload was 529 concerns, with 467 concerns being closed by the end of the fiscal year. The resulting closure rate of 88% constitutes the highest closure rate in the program's history, and is significantly above the 79% average closure rate for the previous twelve years. A concomitant benefit of the record-setting closure rate is the resulting low carry-over of concerns for the ECP, which portends well for the Employee Concerns Program closure rate in FY 2009.

As reported last year, the Office of Civil Rights and Diversity has been involved in the Employee Concerns Program Improvement Initiative, and significant progress on the Initiative was made in fiscal year 2008. The updating and revision of the current ECP Order, 442.1A is nearly complete, and the new Order will extend the requirements of the Order for the first time to the Department's contractors. Another aspect of the Initiative -- a complex-wide ECP survey -- was conducted in the Fall of 2008 as a follow-up to the survey done for the Department by the National Academy of Public Administration in 2001, and close to 12,000 federal and contractor employees participated. The responses are currently being analyzed and the results, which are available on a individual site basis, will help in our program planning for the upcoming year. A third significant component of the Initiative involves the implementation of a new database, which will help in our tracking of the number and types of employee concerns, complex-wide, on a real-time basis. This is particularly timely as the scope of the ECP is expanding to include contractor programs in FY 2009.

With the completion of these components, our program activities in FY 2009 will shift to a focus on implementing these changes. A training component will be launched to inform federal and contractor employees regarding changes in the new Order, including new roles and responsibilities. An outreach program to DOE Elements and sites in the field will also be undertaken. The focus on outreach will address one of the key findings in both the 2001 survey by NAPA and the recently completed survey that the ECP should be "advertised" more effectively to the employees of the Department.

During the past fiscal year, the Office of Civil Rights and Diversity continued to facilitate breakout sessions for the DOE Federal and contractor employees who attend the semi-annual conferences of the National Association of Employee Concerns Professionals (NAECP), the leading conference for people in the field of employee concerns. These breakout sessions have generated a great deal of interest in the DOE community, with ever increasing attendance by Department federal and contractor employees, and have helped the employee concerns community remain up to date with the Initiative's status.

I look forward to implementing the Employee Concerns Program Improvement Initiative Plan. The work on the new Order and database, and the survey report will serve as a sound foundation for the ECP as the new Administration takes office. The survey results will provide our new Secretary with a timely snapshot of how employees are feeling regarding the Department's commitment to create an environment where employees are free to raise concerns without fear of reprisal or retaliation. With the new Order as our guide, the ECP intends to continue to provide the necessary leadership, policy guidance and assistance to operations and field ECPs throughout the Department.

As always, I look forward to receiving any feedback regarding this report, and welcome any suggestions of how the ECP and this report can be improved. A special thanks to Julie Goeckner and Michelle Bruner of the Office of Civilian Radioactive Waste Management (OCRWM), Janet Freimuth of the Office of Hearings and Appeals, and Liza Almo and Bill Lewis of the Office of Civil Rights for their contributions and assistance in producing this report.

For more information about ECP and Field Office locations, visit us at http://civilrights.doe.gov or contact our office at (202) 586-2218.

Respectfully,

Poli A. Marmolejos
Director
Office of Civil Rights

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Receipt and Disposition

The data collected reflects concerns filed with the Department of Energy (DOE) Employee Concerns Program (ECP) offices during FY 2008. It does not contain data relating to concerns, allegations, or complaints filed directly by employees with other offices, such as the Office of Inspector General, Office of Civil Rights, Office of Environment, Safety and Health, or through contractor ECPs or other grievance procedures.

The DOE ECP offices began FY 2008 with a total inventory of 167 concerns. During FY 2008, 362 new concerns were opened. In addition, five concerns were reopened. In sum, 367 concerns were filed in FY 2008, only six concerns fewer than last year's 373. Thirty-two percent of the concerns were filed at Richland (RL), while 16% were filed at the Service Center, and 11% at the Office of River Protection (ORP). The DOE ECP offices closed 467 concerns, leaving 62 open at the end of the fiscal year.

The charts below show the employee concerns activities at the represented DOE field elements with respect to the processing of employee concerns in FY 2008. The figures for "Open" concerns refer to concerns that were either newly opened or reopened.

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

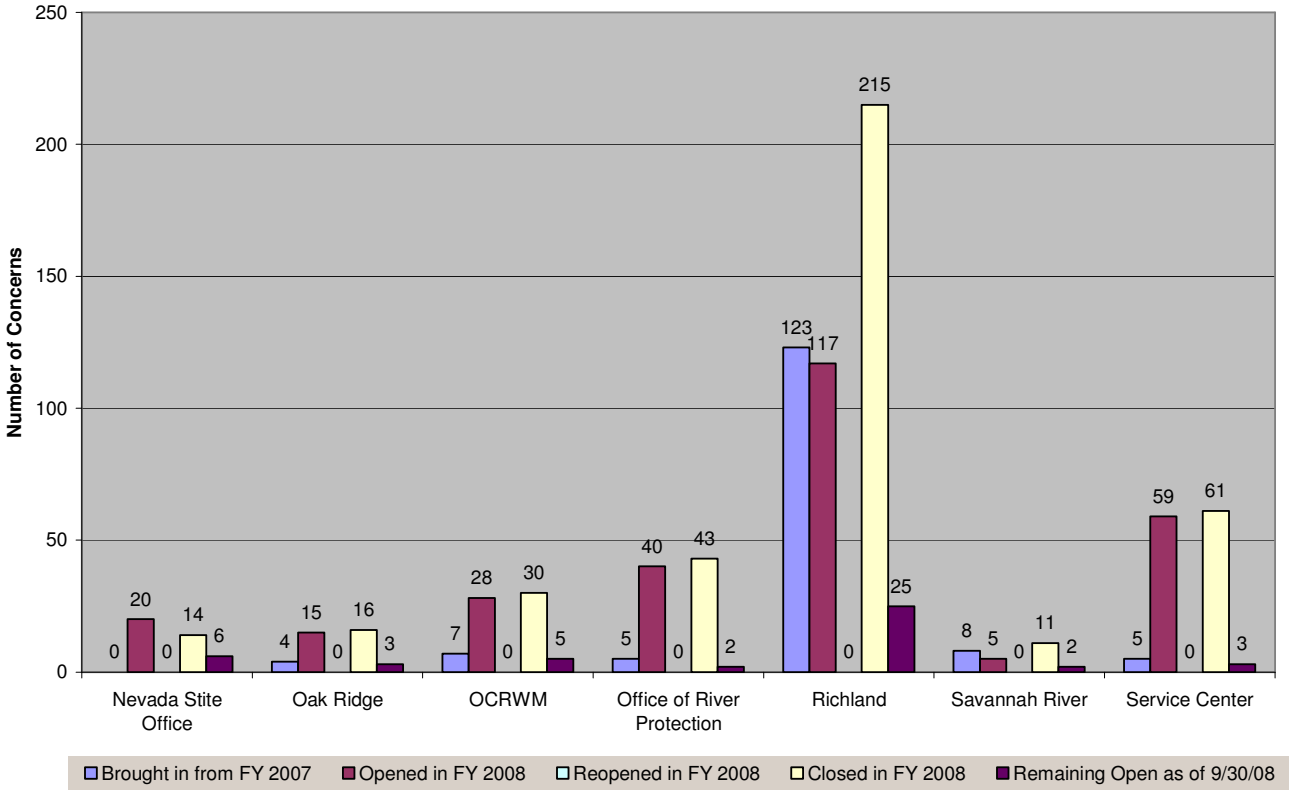
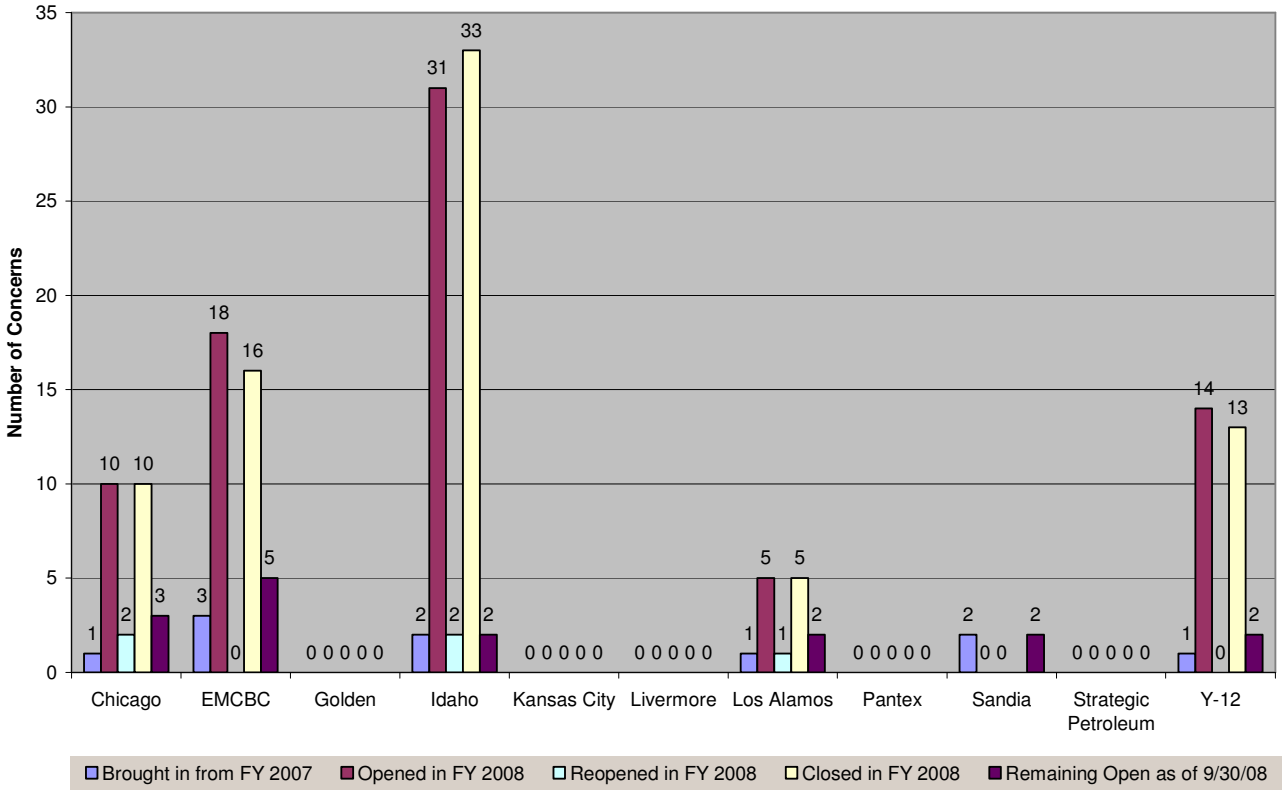


Figure 2. Disposition of Concerns by Field Element (Smaller Offices)



Sources of Concerns

Multiple avenues are available and utilized by DOE employees to bring forward their concerns. In FY 2008, the most popular option was walk-in/verbal, followed by written, telephone and via hotline, respectively. The remaining 26 concerns were received from other DOE offices, including the Inspector General, federal or state agencies, or other miscellaneous sources.

The preferred method of reporting concerns to ECP Managers varies across the complex, and from year-to-year. For example, in fiscal years 2008 and 2007, walk-ins were the predominant method in Richland, and at the NNSA Service Center. Richland alone reported 67 concerns filed by walk-in/verbal method. Written concerns were more frequently utilized at Idaho and Oak Ridge. Only one concern was referred from a state agency, and that was to the Oak Ridge Employee Concerns Program.

Figure 3 shows sources of concerns for all field offices, while figures 4 and 5 in the next page show the sources of concerns divided by smaller and larger ECP offices.

Figure 3. Sources of Concerns (All Offices)

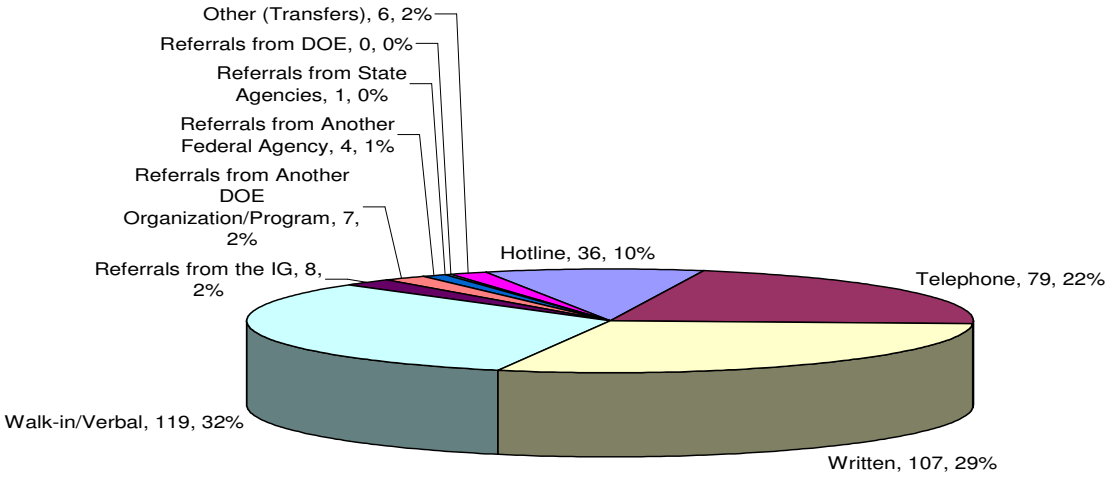


Figure 4. Sources of Concerns (Smaller Offices)

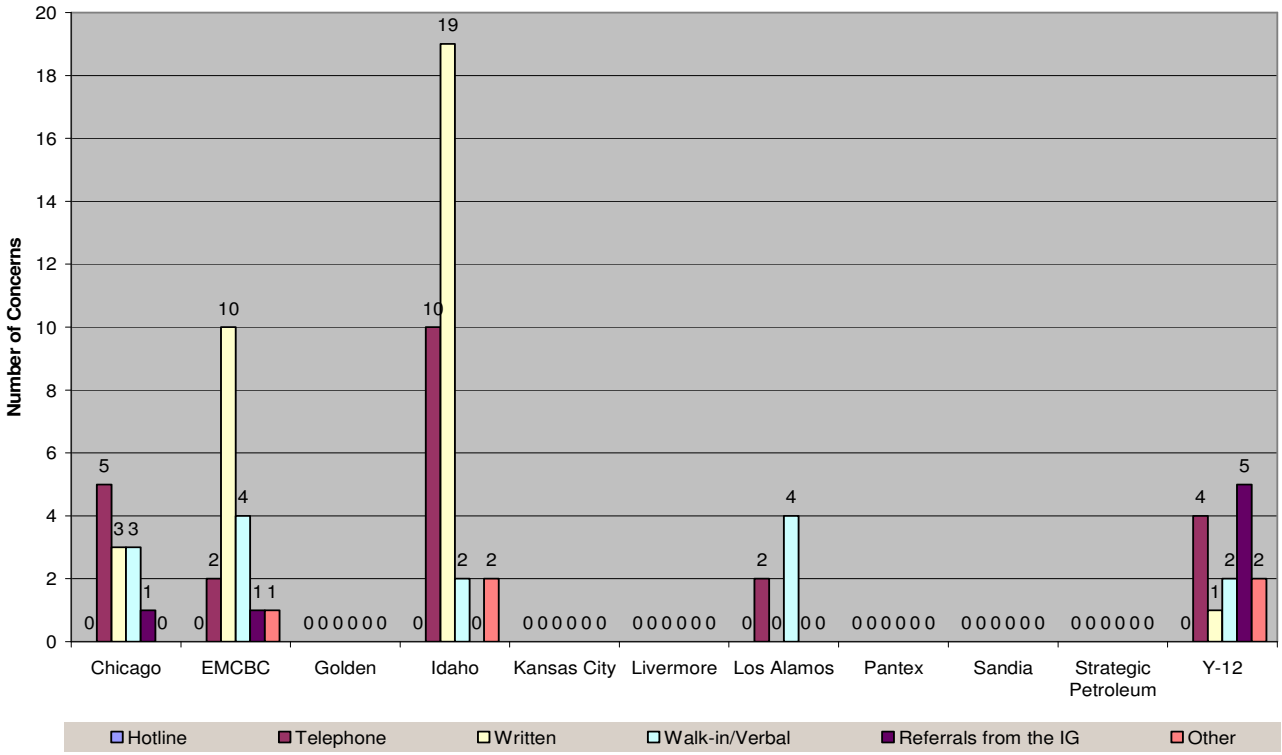


Figure 5. Sources of Concerns (Larger Offices)

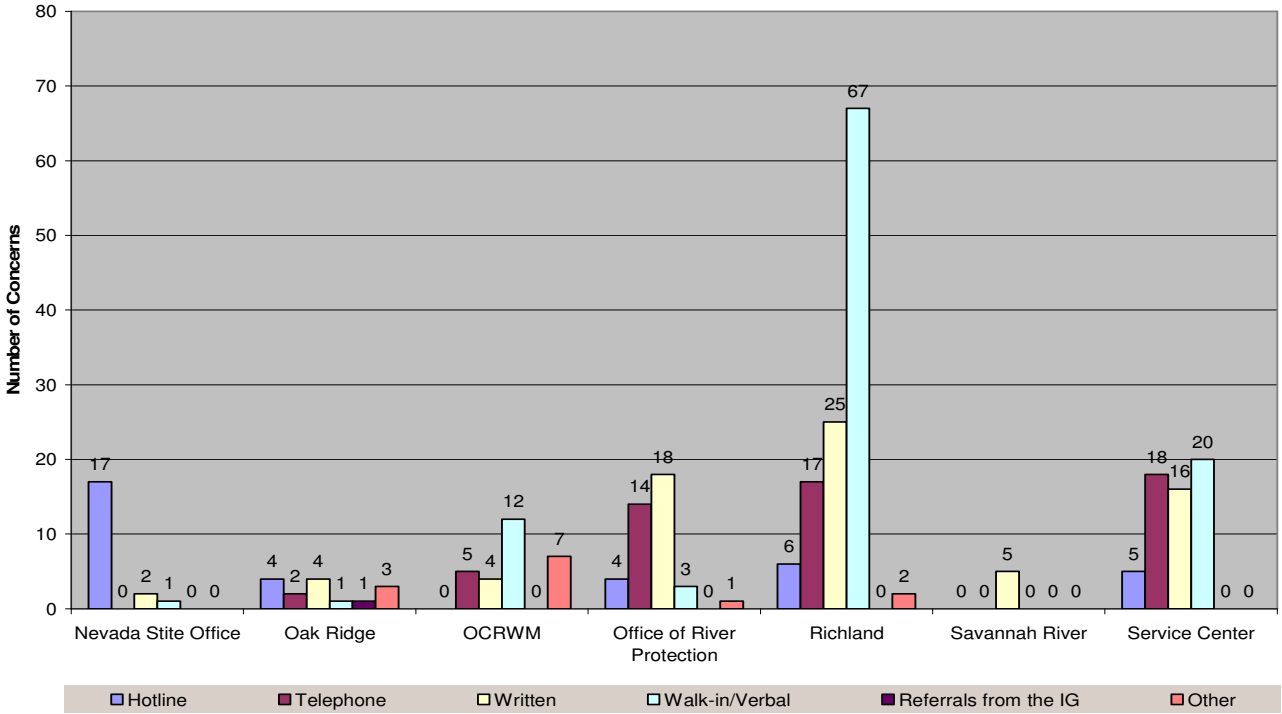
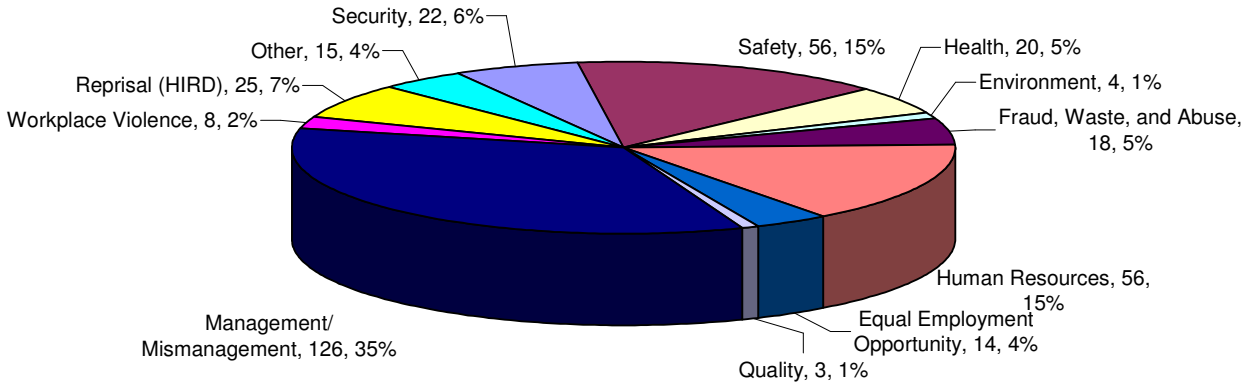


Figure 6. Categories of Concerns Received



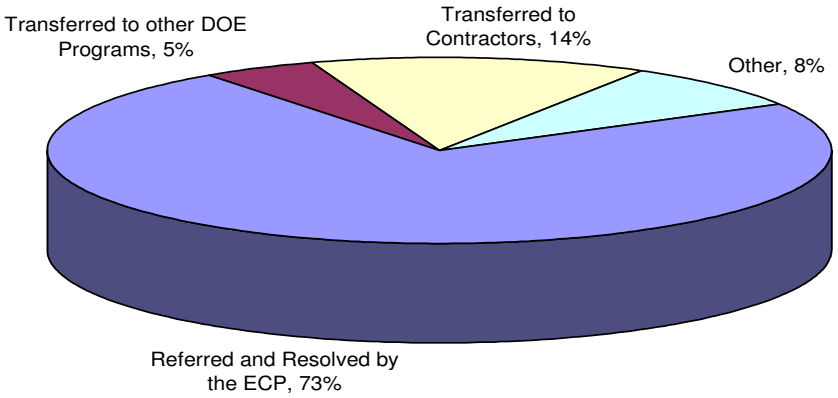
Categories of Concerns

In FY 2008, three categories -- management/mismanagement, safety, and human resources -- represented 65% of the 367 new concerns filed. Management/mismanagement concerns led the way for the third straight year, with 35%, an increase of 7% from last year. Last year, reprisal represented the second highest percent of concerns, but this year fell to fourth, behind safety and human resources. Indeed, reprisal decreased significantly in FY 2008, reporting 25 concerns, a reduction of 11%.

Closing Concerns

Concerns *closed* by ECPs include those processed solely by ECP offices themselves, as well as those closed by 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 no further action by ECP offices, ECP Managers usually request information on actions taken where follow-up activities were necessary. This is particularly true regarding safety-related issues where ECP Managers want to make sure the underlying safety issue has been properly handled and resolved, whether it was the initial focus of the concern or not.

Figure 7. Disposition of Concerns



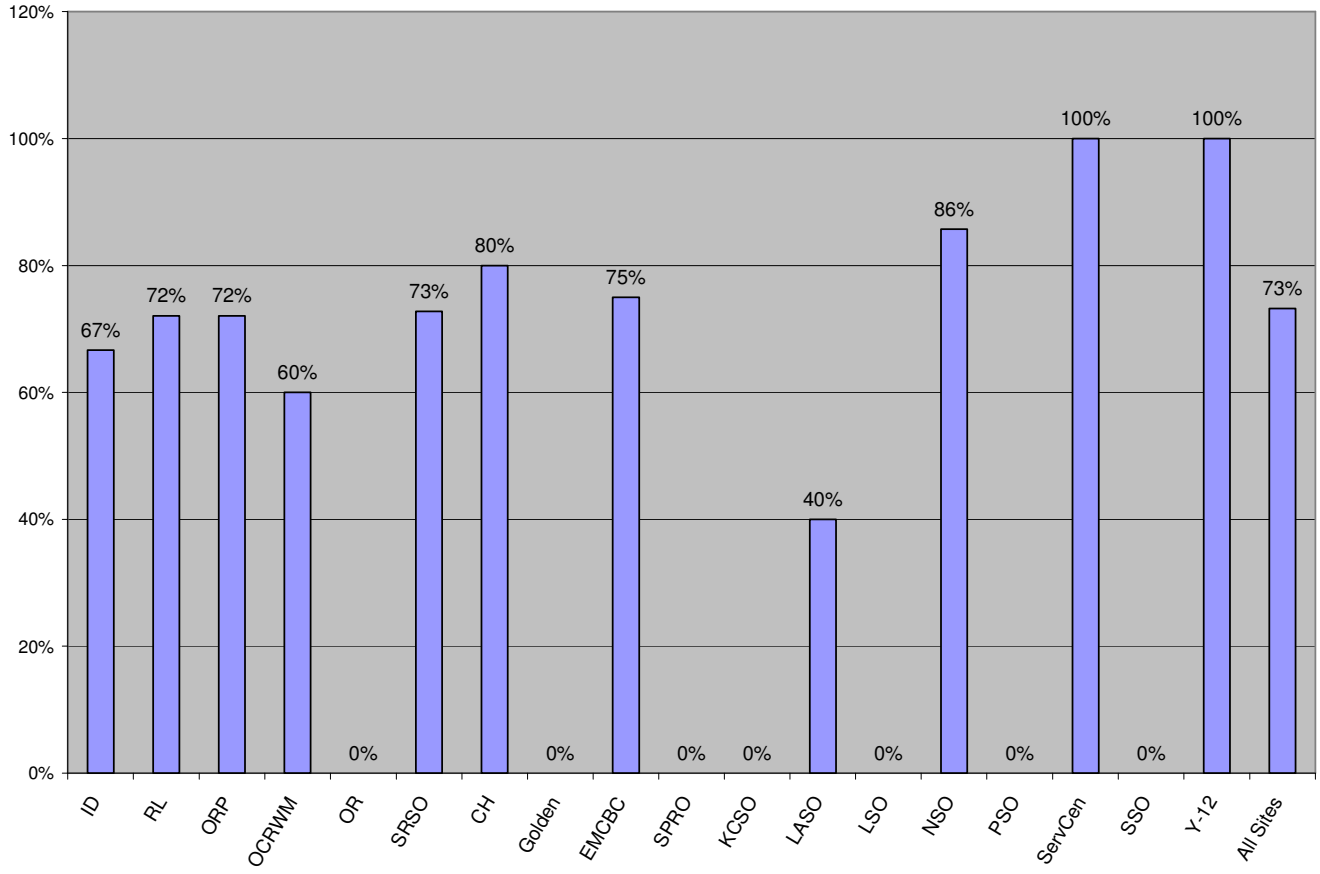
As shown in Figure 7, in FY 2008, 73% of closed concerns were resolved by the ECP, while 14% were transferred to contractors, and 5% were transferred to other DOE programs. A total of 467 concerns were closed during FY 2008, compared to 431 last year and 554 in FY 2006.

Richland was the field office with the highest number of concerns resolved by ECP for a total of 155. In addition, Richland also tops the list of concerns transferred to contractors with 48 concerns. This year, the Service Center had the second highest number of concerns resolved by the ECP with a total of 61, and ORP was third with 31 concerns. Last year, the Service Center reported 49 concerns resolved by the ECP, while ORP reported 23.

Figure 8 reflects the percentage of concerns closed by individual field element ECPs, as well as the overall closure rate.

Note: The transfer of concerns, which occurred at Oak Ridge for example, is not reflected in the percentages in this chart, and several site offices, including Kansas City, Los Alamos, Pantex, Livermore, and Nevada, all formerly included under the Service Center, are now set out separately. These two factors contributed to several sites reporting no closures, as defined by this chart.

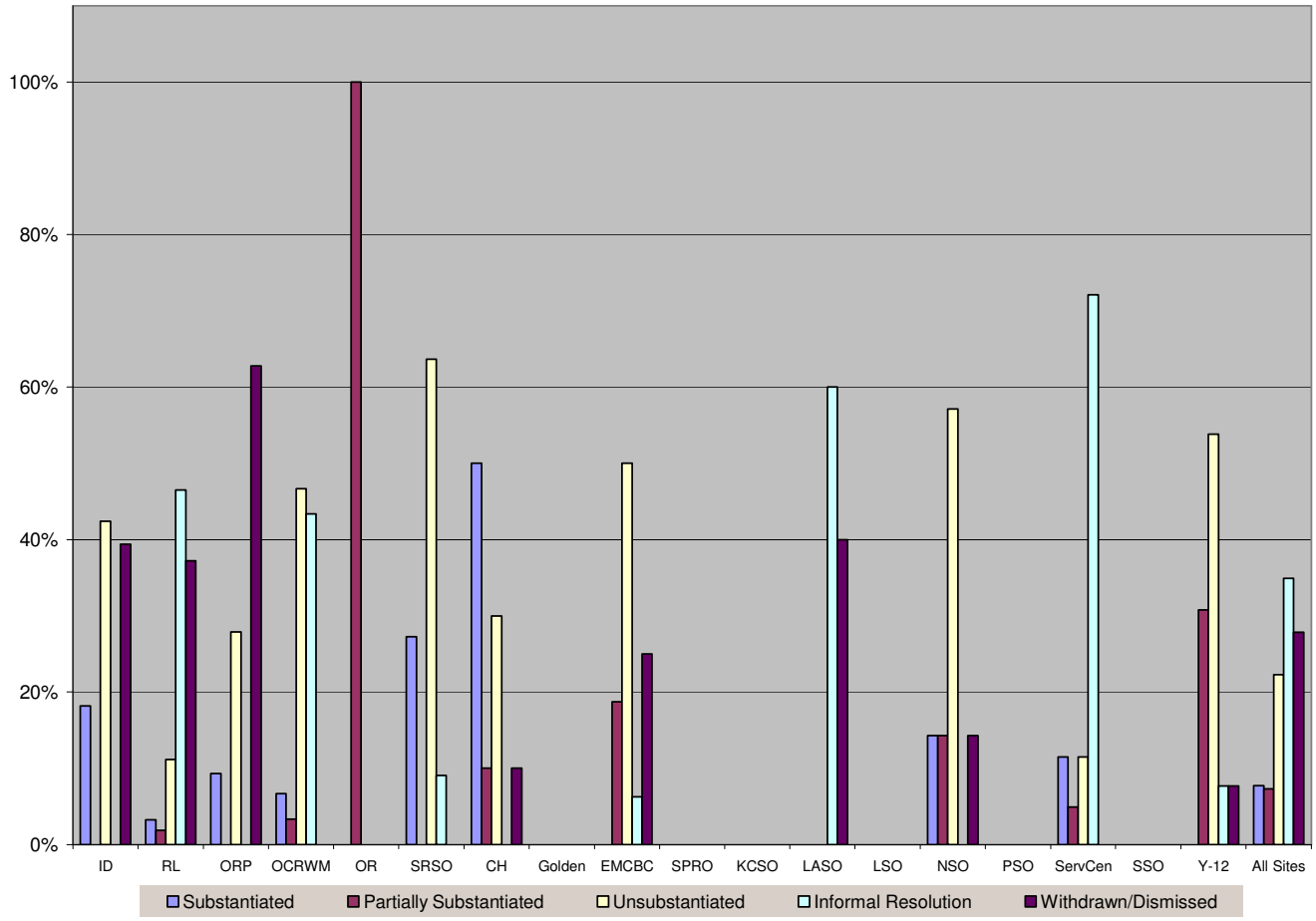
Figure 8. Percentage of Concerns Closed (by Field Element)



Level of Substantiation of Concerns

Since 1996, data has been collected to show the extent to which concerns submitted were substantiated. Four categories are available for reporting this data: substantiated, partially substantiated, unsubstantiated, or no review. In 2007, two categories were added: informal resolution and withdrawn/dismissed. For definitions of these terms, please refer to the Glossary in Appendix D of this report.

Figure 9. Rate of Substantiation



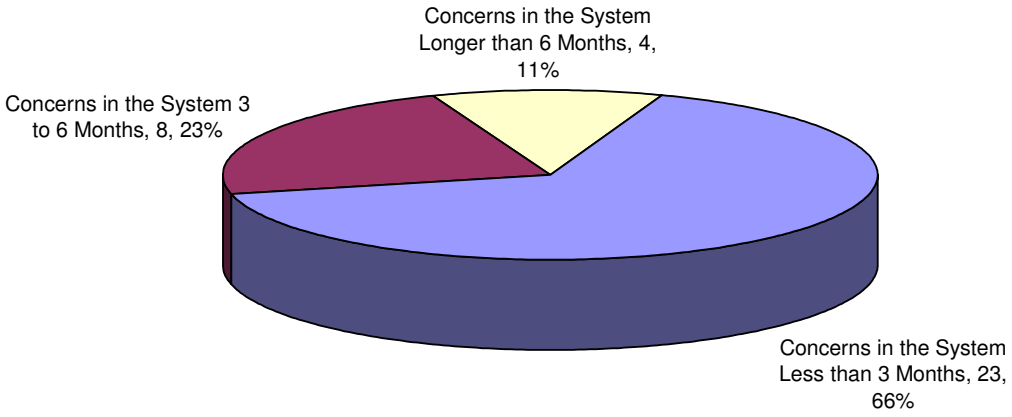
In FY 2008, only 15% (70) of all concerns were fully or partially substantiated, while 22% (104) were unsubstantiated. Thirty-five percent (163) of concerns were addressed through informal resolution, while 28% (130) were withdrawn/dismissed.

Age of Open Concerns

Data is collected to track the age of concerns that remained open at the end of FY 2008. As stated earlier, 62 concerns remained open at the end of the fiscal year. Figure 10 below depicts the age of only 35 of those 62 concerns that remained in the system inasmuch as Richland and ORP numbers were not available for this particular part of the report.

Of the concerns shown in the chart, 66% had been opened less than three months, 23% between three and six months, and 11% more than six months. It should be noted that for the second year in a row, ECP accomplished its goal of reducing the percent of concerns open over six months to its desired range of 10-12%. A review of the concerns that have been pending for more than six months revealed that many involved issues that, by their nature, required more time to investigate and close. In general, concerns that remain open the longest become more difficult to resolve for a variety of reasons. Therefore, resolving concerns filed as soon as practicable is encouraged by ECP Managers across the complex.

Figure 10. Age of Concerns



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

The Department's Contractor Employee Protection Program, found in Part 708 of Title 10, Code of Federal Regulations (10 CFR § 708), is primarily under the jurisdiction of the Department's Office of Hearings and Appeals; however, pursuant to the regulations, the ECP offices have the initial responsibility for processing the complaint(s) and exploring resolution options.

Figure 11. Reprisal Complaints

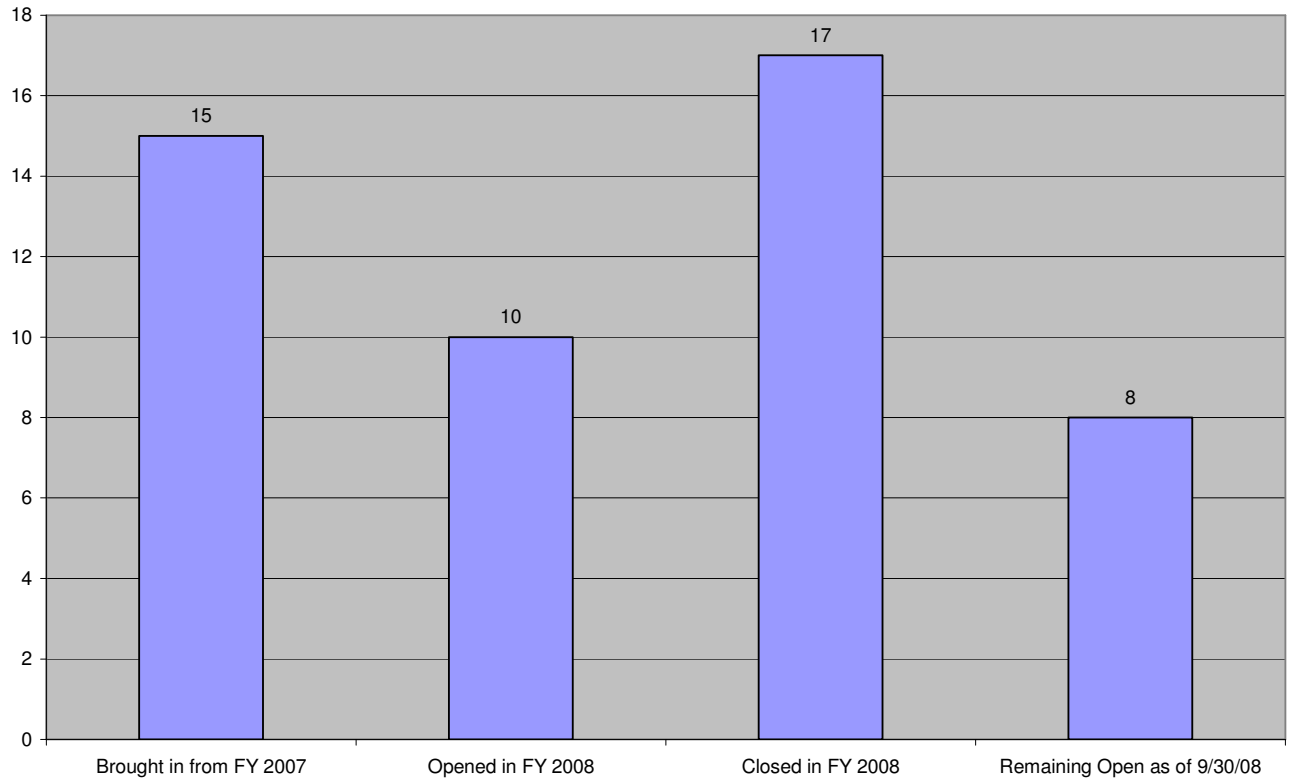


Figure 11 shows 15 complaints that were carried over from fiscal year 2007 and 10 new complaints filed in FY 2008. Seventeen complaints were closed during FY 2008, leaving eight complaints open at the end of the fiscal year.

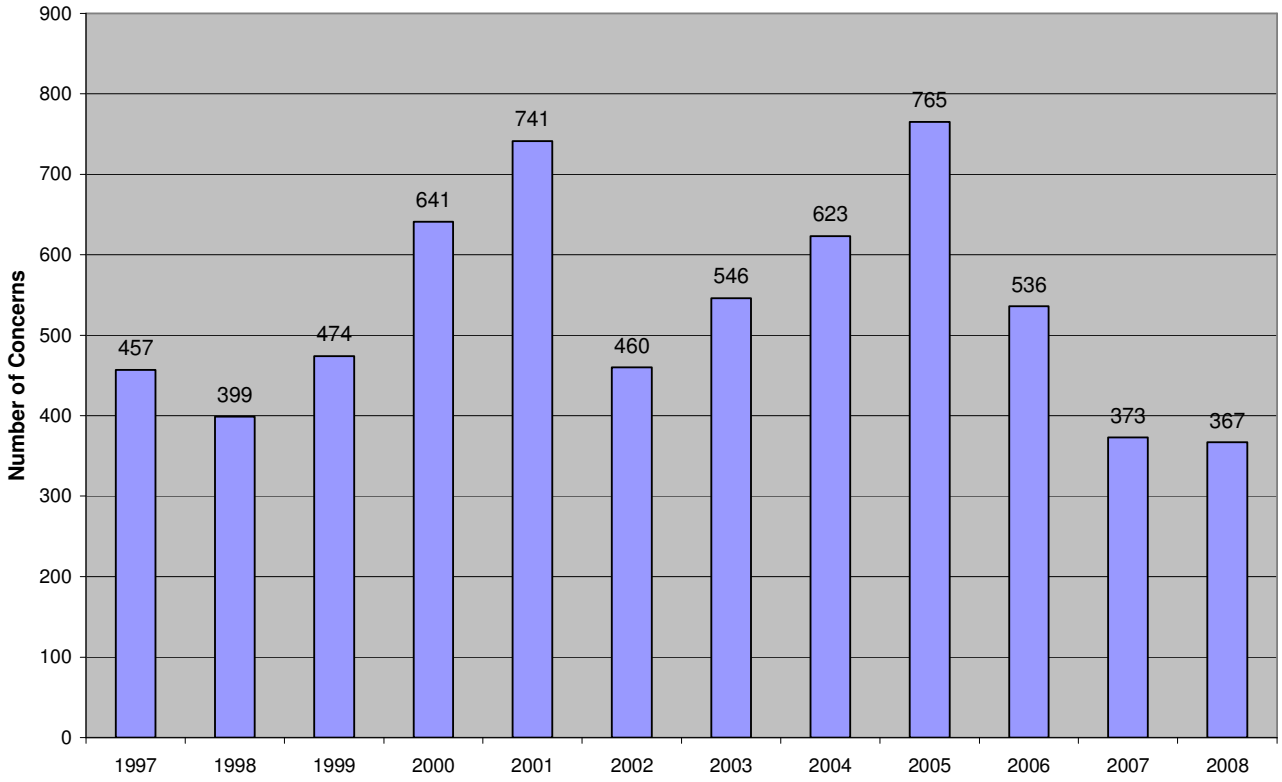
Number of Concerns Received

In FY 2008, 367 concerns were received, representing the lowest number since the ECP started tracking these numbers in 1996. This number marks the fourth consecutive year the numbers have declined. One reason may be the establishment of new contractor ECPs, which over the past several years have handled an increasing number of concerns from their employees at their respective DOE sites and lessened the reliance on the DOE ECP.

Over the years, we have used 500 concerns as the "benchmark" for the annual filing of concerns at DOE. As depicted in Figure 12, however, over the past 12 years there has been a wide variance in the actual number of concerns brought forward by employees. The actual annual average for the 13-year period of tracking this data is 532 concerns, and has varied on any given year from a high of 765 to the current low of 367.

Figure 12 depicts the trend line since 1997.

Figure 12. Number of Concerns Received

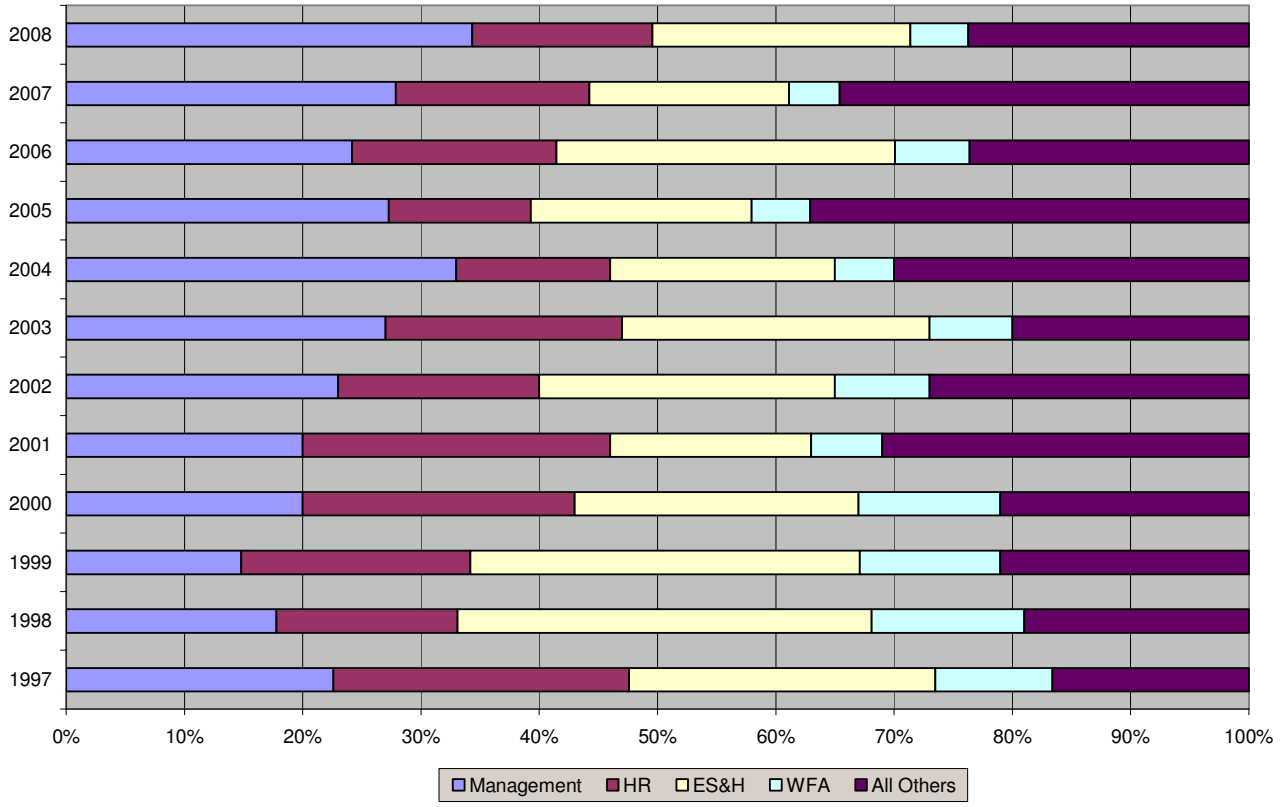


Categories of Concerns Received

Over the years, the categories that have dominated have been management, human resources, environmental, and safety and health issues. These five categories have typically accounted for at least 50% of the concerns, and sometimes as much as 60%. While the ECP serves as a "clearinghouse" for all types of concerns that are brought to the attention of the Employee Concerns Managers -- at least initially -- the types of concerns coming into the ECP can also include workplace violence, reprisal, security and equal employment opportunity. Where appropriate, the concerns are promptly transferred to the office with jurisdiction for further processing.

The Employee Concerns Program has seen fluctuations in the percentage of concerns filed under each of these categories over the years. As Figure 13 reflects, in FY 2008, 34% of concerns were related to management issues. In addition, 22% were filed for environmental, safety and health reasons, and 24% were filed under the all others category.

Figure 13. Comparison of Major Concern Categories



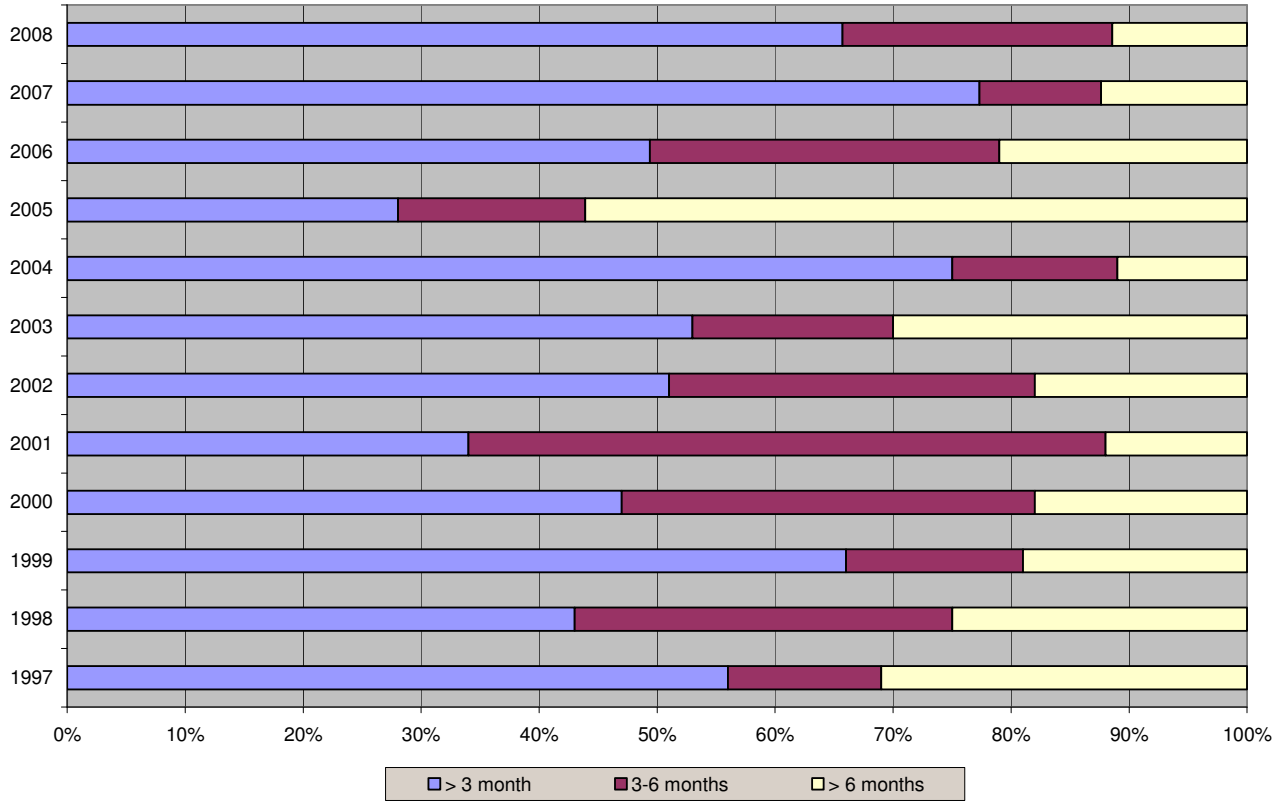
Timeliness of Concerns Processed

Concerns that are not promptly resolved tend to remain in the system for long periods of time. Costs associated with unresolved concerns are often high for both the agency and the employee.

Last year, the Department's Employee Concerns Program achieved the goal of surpassing 2004, by reporting a record high of 78% of concerns open less than three months; 10% of concerns that remained open for three to six months; and 12% of concerns that remained open for more than six months. Such figures indicate that the ECP is performing at an optimal level while addressing concerns in a prompt and efficient manner.

In FY 2008, 66% of concerns were in the system less than three months, a number which represents the third highest percentage in the history of the ECP. During the reporting year, 23% of concerns remained open three to six months; while only 11% remained open more than six months. The latter percent, similar to 2004, is the lowest since this data has been tracked.

Figure 14. Timelines of Concerns Processed

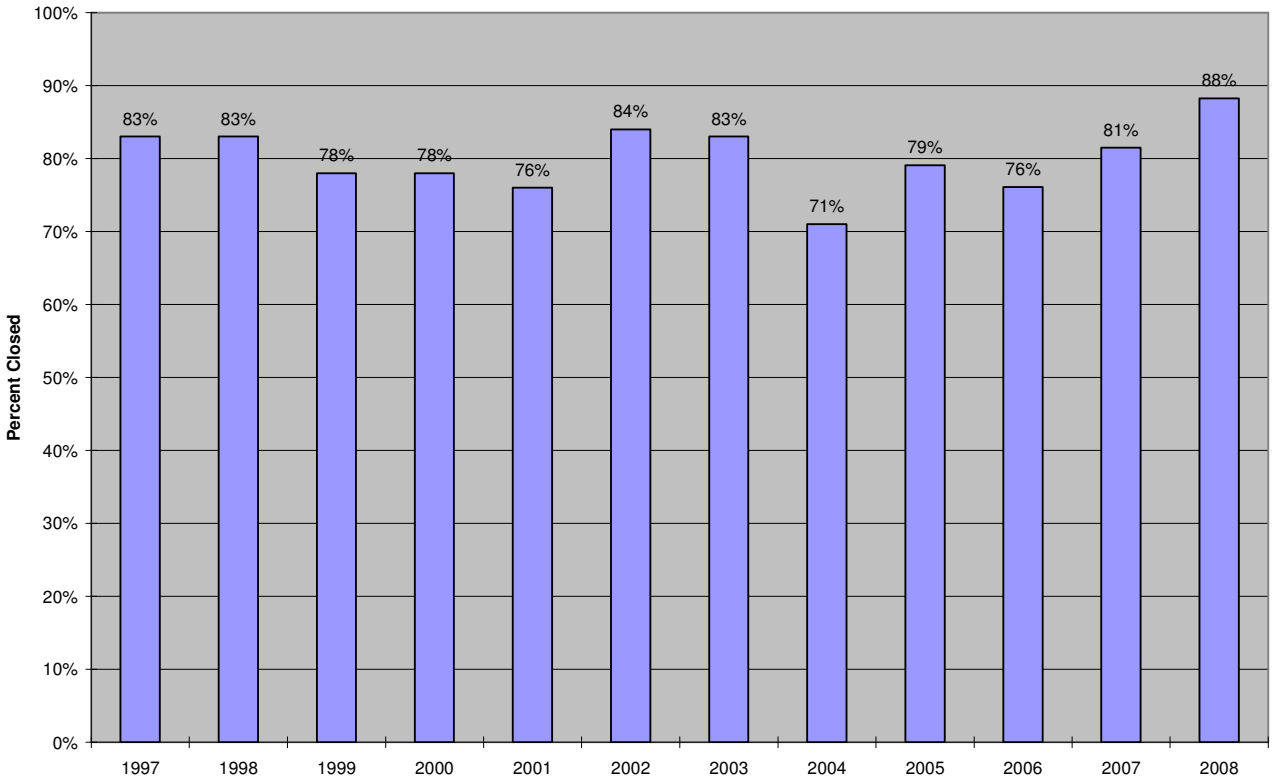


Rate of Resolution

One key measure of overall effectiveness of the ECP offices is the rate at which concerns are resolved and closed. Many factors are taken into account, including total number of concerns received during a fiscal year, size of ECP staff to process concerns, and effectiveness of internal processes.

Much like the average of 500 concerns annually as a measuring point, the standard "benchmark" resolution rate cited over the years (1996-2008) is 80%. As Figure 15 illustrates, however, the rate can vary from year to year. FY 2008 reported the highest resolution rate ever with 88%, marking the sixth time in the program's history the resolution rate reached over 80%.

Figure 15. Resolution Rate



APPENDIX A

Employee Concerns Program Contacts

ORGANIZATION	CONTACT	TELEPHONE	EMAIL
DOE Headquarters	Poli Marmolejos Bill Lewis	(202) 586-2218 (202) 586-6530	Poli.Marmolejos@hq.doe.gov Bill.Lewis@hq.doe.gov
NNSA Albuquerque	Eva Glow Brownlow Michelle Rodriguez de Varela	(505) 845-5113 (505) 845-4935	ebrownlow@doeal.gov mrodriguezdevarela@doeal.gov
Amarillo	Brenda Findley	(806) 477-3120	bfindley@pantex.doe.gov
Chicago	Kris Winiarski	(630) 252-2299	Kris.Winiarski@ch.doe.gov
Idaho	Jan Ogilvie	(208) 526-9272 Hotline: (208)-526-7200	ogilvije@id.doe.gov
Nevada	Sara Anderson Susan Christian-Payne	(702) 295-7843 (702) 295-1174	AndersonS@nv.doe.gov PayneS@nv.doe.gov
Oak Ridge	Rufus Smith	(865) 576-4988	SmithRH@oro.doe.gov
Office of Civilian Radioactive Waste Management	Julie Goeckner	(702) 821-8399	Julie.Goeckner@ymp.gov
Richland Operations Office	Stan Branch Bonnie Lazor	(509) 376-9450 (509) 376-6230	Stanley_O_Branch@rl.gov Bonnie_A_Lazor@rl.gov
Richland - Office of River Protection	Bobby Williams	(509) 376-0034	Bobby_L_Williams@RL.gov
Savannah River	Diane F. Stallings Paulette Kenner Darren Parham	(803) 952-8515 (803) 952-8523 (803)952-6259	Diane.Stallings@srs.gov Paulette.Kenner@srs.gov Darren.Parham@srs.gov

Employee Concerns Program Contacts

ORGANIZATION	CONTACT	TELEPHONE	EMAIL
Golden	Rosemary Vela	(303) 275-4804	Rosemary.Vela@go.doe.gov
Springdale		(513) 246-0074	
Mound		(513) 246-0066	
Columbus		(513) 246-0603	
Ashtabula		(716) 942-4690	
Rocky Flats		(303) 966-2730	
Office of Dispute Resolution	Kathy Binder Pam Pontillo	(202) 586-6972 (202) 586-4002	Kathleen.Binder@hq.doe.gov Pamela.Pontillo@hq.doe.gov
NNSA Livermore Site Office	Clemonce Heard	(925) 422-0557	Clemonce.Heard@oak.doe.gov
Environmental Management Consolidated Business Center	Bartley Fain	(513) 246-0468	Bartley.Fain@emcbc.doe.gov
EM Small Sites	Lynette Chafin	(513) 246-0461	Lynette.Chafin@emcbc.doe.gov
Fernald	Dave Lojek	(513) 246-0601	Dave.Lojek@emcbc.doe.gov
West Valley	Christopher Eckert	(716) 942-4783	Christopher.J.Eckert@wv.doe.gov
Portsmouth/Paducah	Susan Sparks	(859) 219-4016	Susan.Sparks@lex.doe.gov
Bldg. 55 Denver	Simon Lipstein	(303) 966-4948	Simon.Lipstein@emcbc.doe.gov
Carlsbad Field Office	Dan Ferguson	(505) 234-7018	Daniel.Ferguson@wipp.ws
Strategic Petroleum Reserve Office	Charlene Reynolds	(504) 734-4565	Charlene.Reynolds@spr.doe.gov

APPENDIX B

Employee Concerns Program Websites

In addition to the contact information in Appendix A, some of the offices, including DOE HQ can be accessed through the internet. We are working to improve our website by making it more user friendly and adding links to the websites listed below. Ultimately, it is our goal to electronically connect all of the field programs with Headquarters.

FACILITIES	WEB ADDRESSES
HQ	http://employeeconcerns.doe.gov
NNSA Albuquerque	http://scweb.na.gov/finance/empconcerns.shtm
Los Alamos National Laboratory	http://www.lanl.gov/ombuds/
Richland	http://www.hanford.gov/orp
Savannah River	http://sro.srs.gov/employee.htm
Environmental Management Consolidated Business Center	http://www.emcbc.doe.gov/dept/diversity/ecp.php
NNSA Livermore	http://scweb.na.gov/lso/

Facilities

NNSA	Service Center, Albuquerque, NM Nevada Site Office, Las Vegas, NV Savannah River Site, Aiken, SC Y-12 Site Office, Oak Ridge, TN
EMCBC	Paducah Gaseous Diffusion Plant, Paducah, KY Portsmouth Gaseous Diffusion Plant, Piketon, OH
LM	Weldon Spring Site, St. Charles, MO
Albuquerque	Energy Technology Engineering Center, Canoga Park, CA Grand Junction Project Office, Grand Junction, CO Inhalation Toxicology Research Int., Albuquerque, NM Kansas City Plant, Kansas City, MO Lawrence Livermore National Laboratory, Livermore, CA Los Alamos National Laboratory, Los Alamos, NM Pinellas Plant, Largo, FL Pantex Plant, Amarillo, TX Sandia National Laboratory, Albuquerque, NM
Chicago	Ames Laboratory, Ames, IA Argonne National Laboratory-East, Argonne, IL Brookhaven National Laboratory, Upton, NY Fermi National Accelerator Laboratory, Batavia, NY Lawrence Berkeley National Laboratory, Berkeley, CA Princeton Plasma Physics Laboratory, Princeton, NJ
Idaho	Idaho Chemical Processing Plant, Idaho Falls, ID Idaho National 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

Facilities (cont'd)

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
New Mexico	Waste Isolation Pilot Project, Carlsbad, NM
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
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 Thomas Jefferson National Accelerator Facility, Newport News, VA Stanford Linear Accelerator Laboratory, Menlo Park, CA
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, Aiken, SC Savannah River National Laboratory, Aiken, SC
SPRO	SPRO, New Orleans, LA

APPENDIX D

Definitions[1]

a. Alternative Dispute Resolution. A variety of processes used to resolve disputes through use of a neutral third party in an attempt to avoid judicial or administrative litigation. Forms of alternative dispute resolution include mediation, partnering, ombuds, neutral evaluation, nonbinding arbitration, mini-trial and binding arbitration.

b. Concern Review Panel. A group that is brought together to evaluate the merits of a concern. It can be made up of representatives of employees, supervisors, managers, the ECP office, human resources, outside experts, consultants, or stakeholders. A panel may be used to provide program expertise, assist in fact finding; evaluate specific concerns for which there are either unique circumstances or for which there are no previously established evaluation channels; and to recommend resolutions and propose corrective actions.

c. Confidential Concern. A concern submitted by an employee who wishes to have his or her identity protected from all persons except the ECP staff and those with a need to know.

d. Confidential Source. A person who provides information to an ECP representative and requests that his or her identity not be revealed.

e. Differing Professional Opinion. An opinion related to a policy or practice that (1) differs from previous management decisions, stated positions, or established policies or practices; (2) in the opinion of the employee, has not been adequately considered; and (3) if not adopted, has a reasonable probability of having significant negative impact on the activity in question with respect to safety, efficiency, or quality.

f. Employee. Any person working for DOE or a DOE contractor or subcontractor on a DOE project.

g. Employee Concern. A good faith expression by an employee that a policy or practice of DOE or one of its contractors or subcontractors should be improved, modified, or terminated. Concerns can address issues such as health, safety, the environment, management practices, fraud, waste, or reprisal for raising a concern.

h. Employer. DOE, a contractor, or a subcontractor working on a DOE project.

i. Harassment. In the context of the ECP, an action taken or condoned by an employer against or toward an employee to bother, belittle, humiliate, or impede that employee in his or her work environment, relationship with others, or job performance because the employee reasonably and in good faith raised a concern. Harassing actions can include, but are not limited to, threatening, restraining, coercing, blacklisting, mocking, humiliating, or isolating an employee.

[1] These definitions were taken from the draft of the revised DOE G 442.1-1.

j. Investigations. An inquiry conducted by or on behalf of an ECP office, for the purpose of evaluating and resolving a concern, usually involving interviews, inspection of relevant documents, sites, or equipment, and an evaluation of practices being followed.

k. Protected Activities. Activities such as raising concerns or otherwise making disclosures protected under law, regulations, or legal precedent of information related to DOE operations, which the individual reasonably and in good faith believes is evidence of unsafe, unlawful, fraudulent or wasteful practices.

l. Referral of a Concern. Transmittal of an employee concern to another organization or process for investigation or resolution, with the results of the investigation or resolution attempts being reported to the ECP Manager within a specified time period with recommended resolution including corrective actions.

m. Resolution of a Concern. Actions taken and decisions made that respond to the concern by verifying the concern and establishing plans to correct identified deficiencies, correcting the deficiencies, or determining that the concern is not substantiated and that no corrective action is required.

n. Reprisal. Any action taken against an employee in response to, or in retaliation for, the employee having raised, in good faith, reasonable concerns about any aspect of DOE-related operations. Reprisals against contractor or subcontractor employees may lead to the imposition of penalties under the Price-Anderson Amendments Act of 1988 (Public Law 100-49, August 20, 1988), implemented by DOE under 10 CFR Part 820 (Part 820). Pursuant to Part 820, to the extent a reprisal by a DOE contractor or subcontractor results from an employee's involvement in matters of nuclear safety in connection with a DOE nuclear activity, the reprisal could constitute a violation of a DOE Nuclear Safety Requirement.

o. Self Assessment A quantitative or qualitative method of collecting and analyzing data by the ECP with the goal of detecting trends that are not readily apparent and that warrant corrective measures.

p. Transfer of a Concern. Transmittal of a concern by the ECP office to an office with subject matter responsibility or expertise pursuant to which that office will address the concern with the concerned individual.