

OFFICE OF INVESTIGATIONS



FY 2000 ANNUAL REPORT

January 2001

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EXECUTIVE SUMMARY

This report provides the Commission with the results of investigations completed by the NRC Office of Investigations (OI) (reference SRM COMJC-89-8, dated June 30, 1989). This is the 12th OI annual report and addresses fiscal year 2000 (FY 2000).

OI conducts investigations of alleged wrongdoing by individuals or organizations who are NRC licensees or certificate holders, applicants for NRC licenses or certificates, or vendors or contractors to these entities. OI is composed of four regionally based Field Offices reporting to OI Headquarters. OI reports to the Deputy Executive Director for Reactor Programs and is responsible for two NRC programs: Reactor Investigations and Materials Investigations. In FY 2000 there were, on average, 30 special agents and 8 operational support staff assigned nationwide. The average experience of an OI special agent in FY 2000 was approximately 20 years in Federal law enforcement.

There were 688 allegations regarding potential violations of its rules, regulations, or requirements received by the NRC during FY 2000. Although the 688 allegations represented a 6% decrease from the total of 730 received in FY 1999, there was a 6% increase in allegations involving wrongdoing.

The total number of investigations in the OI inventory during FY 2000 was 326, an 11% increase from FY 1999 (293 to 326). OI closed 226 of these investigations, or 69% of the total inventory. A statistical summary of investigations opened and closed during FY 2000 is contained in the Appendix to this report.

In FY 2000 OI made significant strides toward increasing effectiveness, efficiency, and productivity in management, organizational, and process-related activities. Again this year, many of these improvements were the result of initiatives first identified through field office review visits and other aspects of the continuing OI self-assessment program.

The following are significant achievements during FY 2000:

- The OI goal was to close cases in 9 months. OI achieved this goal by completing cases in an average of 5.5 months.
- Another OI goal was to reduce the percentage of cases in the inventory open longer than 12 months to 9%, or less. OI achieved 7% in FY 2000.
- OI established an effectiveness and efficiency goal of 75%, or above, of cases within the inventory which are brought to a full conclusion based on the merits of the case. OI met this goal, achieving 95% for such cases.
- In addition to the above performance measures, 98% of all case-specific investigative staff hours were spent on cases brought to a full conclusion based on the merits of the case.
- During this period OI processed 88 FOIA requests, the second largest number of requests processed by an office within the NRC.

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INVESTIGATIONS

Analysis of Case Inventory

Figure 1 shows the OI case inventory from FY 1998 to FY 2000. The total case inventory in FY 2000 was 326 cases. This is a combination of 102 cases carried over from FY 1999, and an additional 224 cases opened in FY 2000. Of the 326 cases in the inventory, OI closed 226, or 69%.

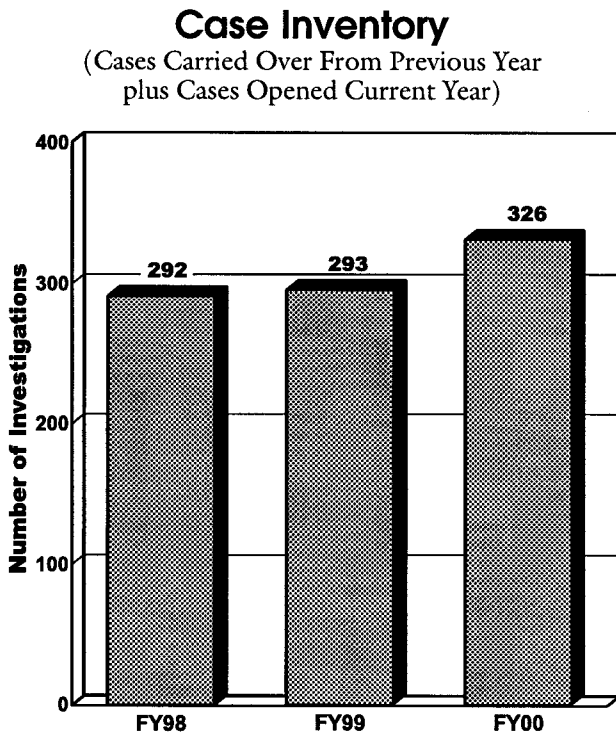


FIGURE 1

Analysis of Cases Opened

There were 688 allegations regarding potential violations of its rules, regulations, or requirements received by the NRC during FY 2000. Although the 688 allegations represented a 6% decrease from the total of 730 received in FY 1999, there was a 6% increase in allegations involving wrongdoing.

The 224 investigations opened are categorized in Figure 2 by major types of alleged wrongdoing as follows:

Discrimination	98
Violations of Other NRC Regulatory Requirements	85
Material False Statements	41

Figure 2 depicts the number of cases opened from FY 1998 through FY 2000. There was a 15% increase in OI cases opened between FY 1999 and FY 2000 (195 to 224). Discrimination cases continue to lead other categories of violations. The number of cases of suspected material false statements has modestly decreased, while the number of cases which involve other NRC regulatory requirements has continually increased since FY 1998.

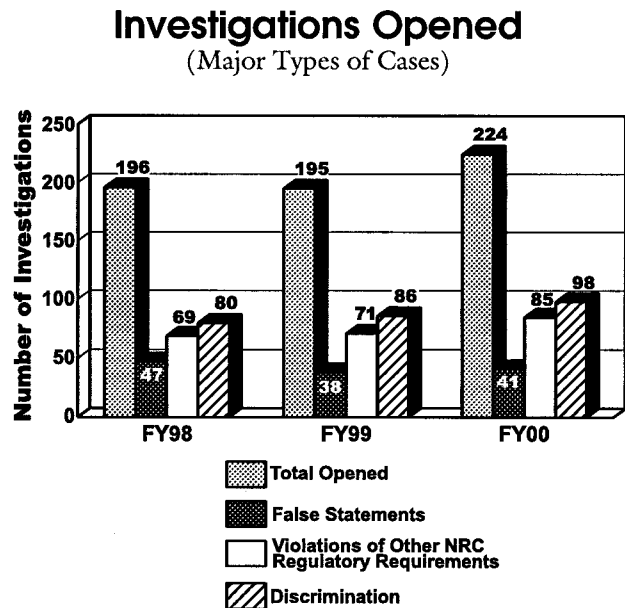


FIGURE 2

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Investigations Opened (Percent by Category)

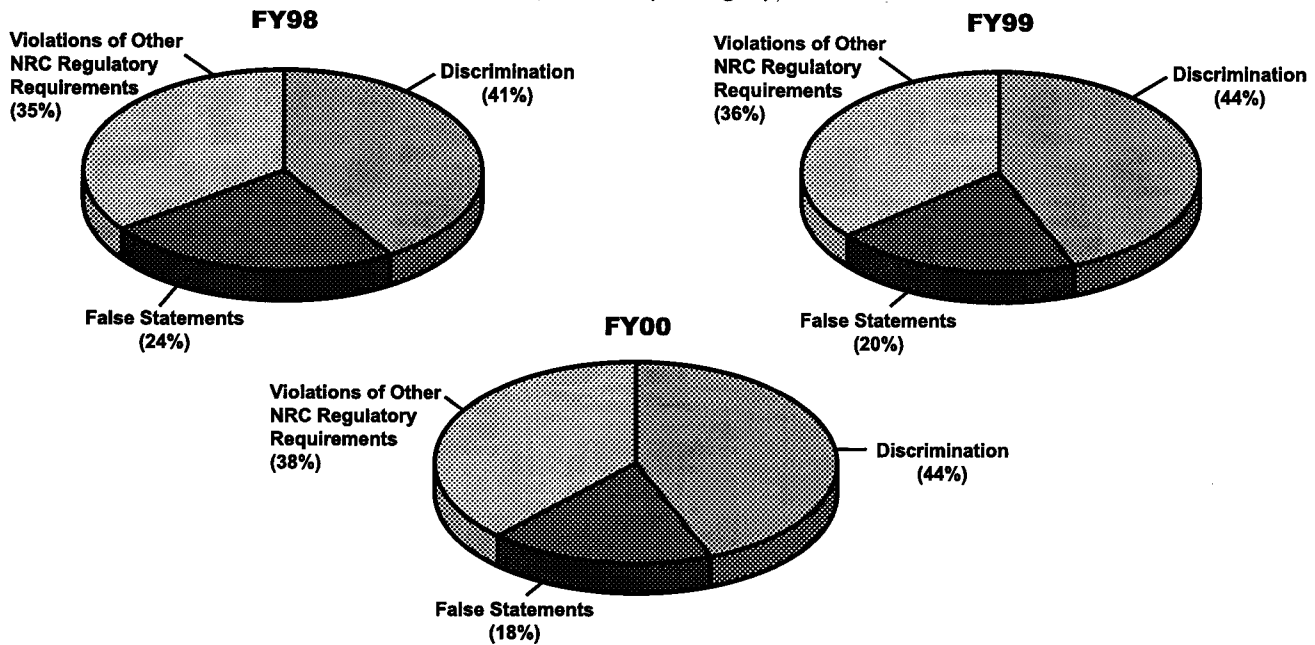


FIGURE 3

Figure 3 indicates the distribution of cases from FY 1998 to FY 2000 by percentage and category of cases opened. The FY 2000 distribution shows discrimination cases representing 44% of the cases opened, violations of other NRC regulatory requirements representing 38%, and material false statement cases accounting for 18%.

The graph at Figure 4 depicts the distribution of cases opened from FY 1998 through FY 2000 by the Reactor Investigation and the Materials Investigation Program areas. In FY 2000, reactor-related cases experienced a 6% increase over the period (139 to 147), while the number of materials-related cases increased 38% (56 to 77).

Investigations Opened (Reactor/Materials)

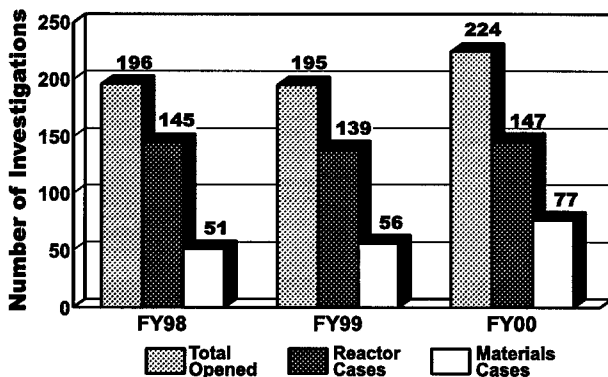


FIGURE 4

Analysis of Cases Closed

Figure 5 depicts the number of completed investigations in FY 2000, categorizes these cases by major types of alleged wrongdoing, and compares them to FY 1998 and FY 1999. Of the 226 investigations completed in FY 2000, the major categories of wrongdoing are as follows:

Discrimination	95
Violations of Other NRC Regulatory Requirements	84
Material False Statements	47

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Investigations Closed (Major Types of Cases)

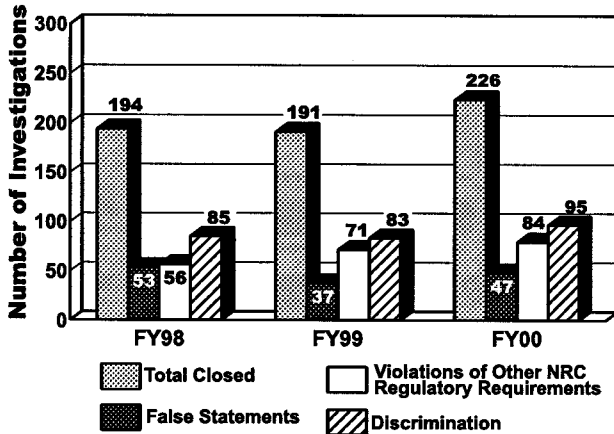


FIGURE 5

Of the 226 investigations completed in FY 2000,

- 55 cases were closed after investigation substantiated one or more of the allegations of wrongdoing.

- 149 cases were closed after investigation did not substantiate wrongdoing.
- 1 was closed after the evidence developed did not warrant further expenditure of OI resources.
- 6 cases were closed as deferred to the Department of Labor (DOL), in keeping with direction from the Commission (SRM 97-147) regarding discrimination allegations.
- 12 cases were closed where OI provided assistance to technical staff inspections.
- 3 were closed for administrative reasons.

Figure 6 is a percentage comparison by category of investigations closed from FY 1998 through FY 2000. Discrimination cases accounted for 42% of the closed cases in FY 2000, cases involving other violations of NRC regulatory requirements remained at 37%, and material false statement cases accounted for 21%.

Investigations Closed (Percent by Category)

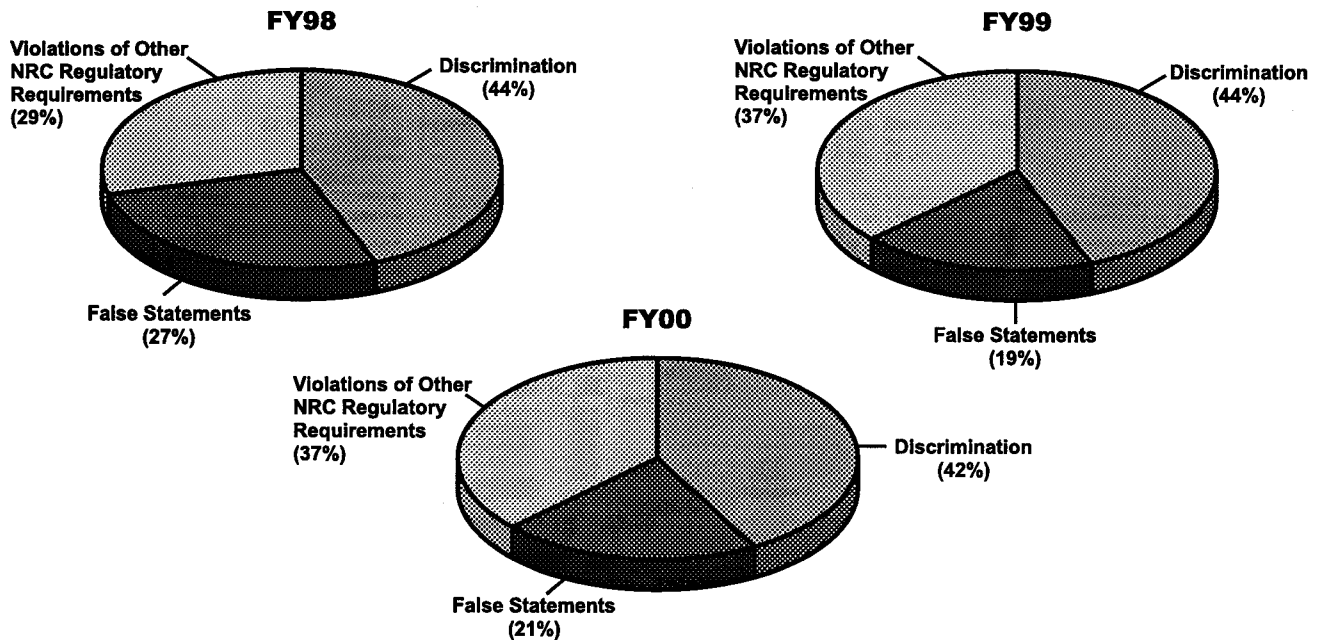


FIGURE 6

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Figure 7 illustrates that in FY 2000 there were a high number of cases brought to a conclusion on the merits as either substantiated and unsubstantiated, as compared to other

closures. This reflects improved resource utilization through efficiencies gained in both the Allegation Review Board (ARB) and the investigative processes in recent years.

Figure 8 depicts the disposition of closed cases. The percentage of cases brought to conclusion on the merits increased during this period. At 95%, this is well within the OI performance goal of 75%, or above. The evidence developed during these investigations provides the information upon which the technical, legal, and enforcement staffs normally base regulatory decisions. Current staff hour statistics indicate that of the 44,300 staff hours devoted to case-specific investigative activities in FY 2000, 98%, or 43,900, were spent on cases brought to conclusion on the merits. These statistics are indicative of improvements in effectiveness and efficiency gained within the investigative program and the ARB process.

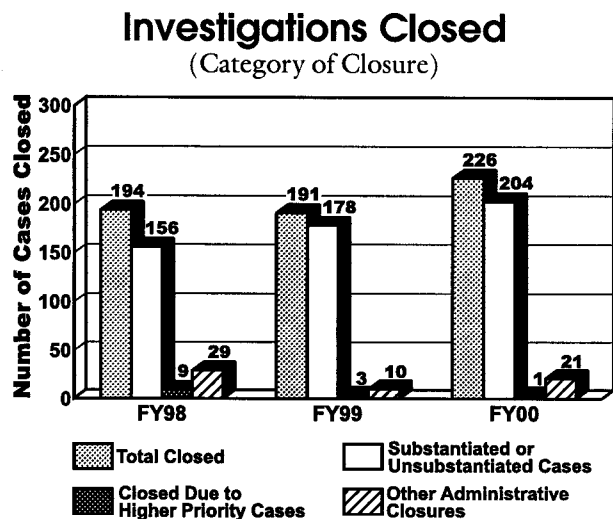
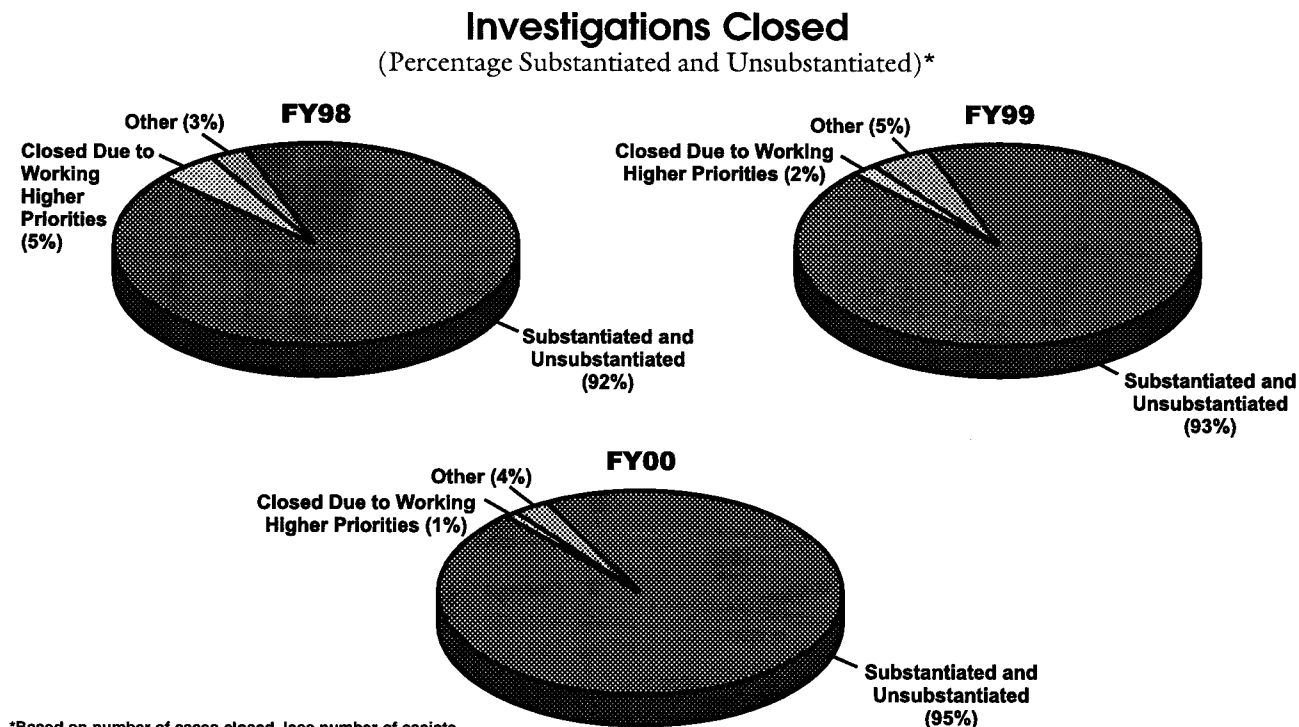


FIGURE 7



*Based on number of cases closed, less number of assists.

FIGURE 8

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High priority substantiated and unsubstantiated cases are the most time-consuming and routinely the most complex cases in OI's inventory. These high priority cases require an average of 330 hours to close, as compared to an average of 140 hours to conclude normal priority cases. Figure 9 depicts the number of months cases were in process from FY 1998 through FY 2000, and compares the months in process for the most complex investigations to the average time in process for all investigations. The overall number of months to complete cases decreased 13% from FY 1998 to FY 2000 (6.3 months to 5.5 months). Figure 9 demonstrates a decrease of 10% in the completion time for OI's most complex (substantiated or unsubstantiated, high priority) cases (7.9 months to 7.2 months).

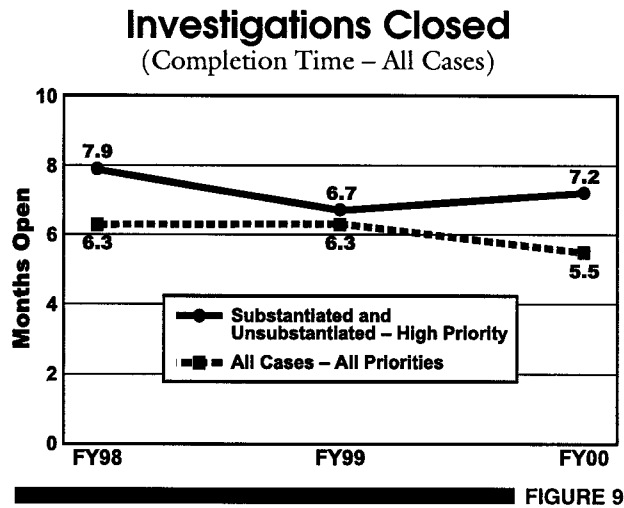
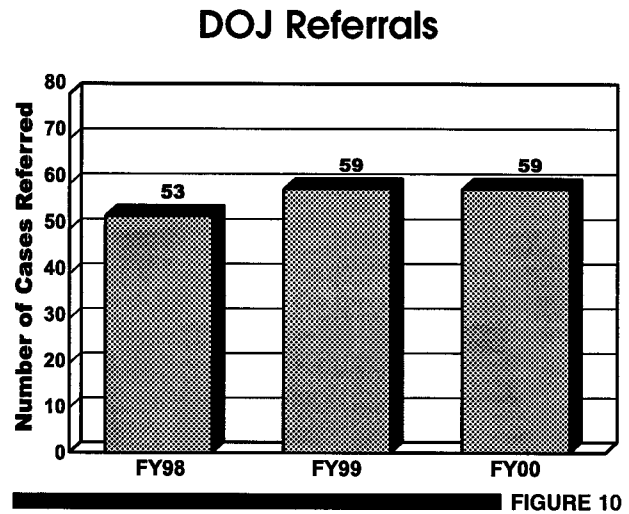
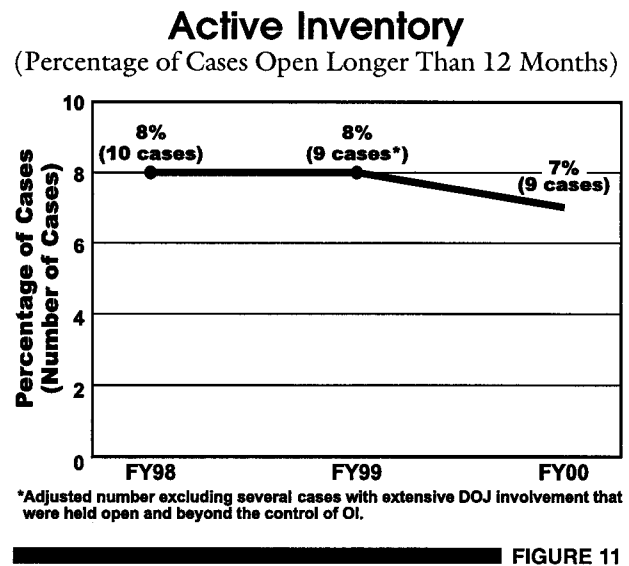


Figure 10 depicts the number of cases referred to DOJ from FY 1998 through FY 2000.



Management of Investigations

Figure 11 shows the number of cases open longer than 12 months as a percentage of the case inventory from FY 1998 through FY 2000. This percentage has remained fairly constant during this period. OI achieved its goal of 9%, or less, in FY 2000 with 7% (9 cases).



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Case-specific staff hours are shown in Figure 12, indicating an 8% decrease from FY 1998 through FY 2000 (48,000 down to 44,300 investigative hours). This decrease is primarily due to a 10% decrease in the average number of agents working cases from FY 1998 to FY 2000 (33 to 30). The FY 2000 ratio of investigative activities (field work, investigative travel, etc.) to administrative activities (allegation review process, writing the final report of investigation, management review of the case, etc.) is approximately 61 to 39, which is in keeping with OI's standard of 60 to 40.

In addition to cases closed, OI processed 88 FOIA requests, the second largest number of requests processed by an office within the NRC in FY 2000.

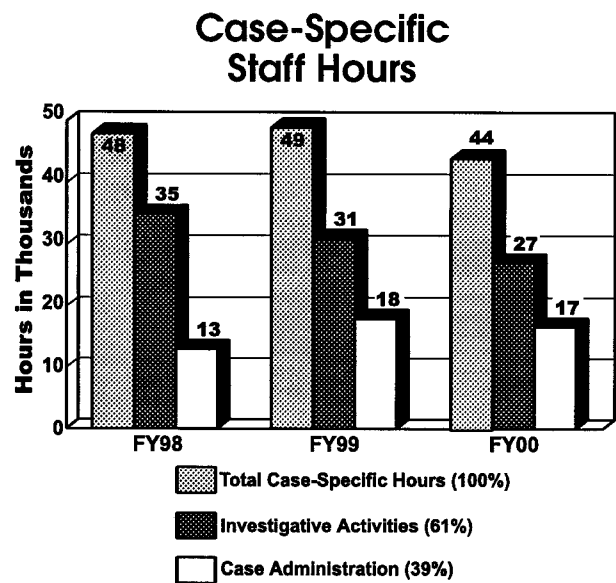


FIGURE 12

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SIGNIFICANT ACTIONS

NRC Enforcement Actions

There were 94 escalated enforcement actions¹ taken by the NRC in FY 2000. In 43 (or 46%) of these actions, the OI investigative findings were factored into the decision to take escalated enforcement action. The following are examples of significant cases, the results of which were factored into enforcement action taken by the NRC in FY 2000:

NDT Services, Inc. (NDT)

An investigation, which involved multiple allegations and more than 30 allegations regarding personal dosimetry, training, radiation safety, and discrimination issues, was completed in December 1999. An immediate order to cease radiographic activities was issued early in the investigation. This led to the closing of the company. Enforcement action has been issued terminating NDT's license, and orders barring several of the company principals from participating in radiographic activities are pending.

Burning Rock Coal Company

An investigation disclosed that Bass Energy, Inc., sold a coal mine to Burning Rock Coal Company, which subsequently used a coal gauge containing special nuclear materials without authorization or being licensed to do so. A Severity Level II Notice of Violation and Proposed Imposition of Civil Penalty was issued to Bass Energy and a Severity Level II Notice of Violation was issued to Burning Rock Coal Company in June 2000.

United States Enrichment Corp. (USEC)

An investigation determined that a quality assurance manager was discriminated against for raising safety concerns at the Paducah

Gaseous Diffusion Plant. In January 2000, USEC paid a substantial civil penalty.

Professional Service Industries, Inc. (PSI)

An investigation determined that PSI employees, despite their having received training regarding NRC requirements, deliberately violated NRC rules and regulations, as well as license conditions, at a temporary job site in Pocatello, Idaho. These violations were identified as failure to have at least two qualified individuals observing radiographic operations and failure to supervise a radiography assistant while work was being performed. In October 1999, a Notice of Violation and Proposed Imposition of Civil Penalty was issued to the company. In addition, an order imposing some restrictions was issued to a radiographer.

Interaction with the Department of Justice

Of the 226 investigations closed in FY 2000, 59 cases were referred to the Department of Justice (DOJ) for prosecutorial review. During FY 2000, OI supported six Federal grand juries.

Central Michigan Community Hospital

Following the conclusion of a substantiated OI investigation in November 1999, OI served Grand Jury subpoenas resulting in additional witness interviews and the review of personnel and administrative records relating to the alleged inappropriate conduct of a nuclear lung scan procedure. The nuclear

¹ An escalated action is a Notice of Violation or civil penalty for any Severity Level I, II, or III violation (or problem); a Notice of Violation associated with an inspection finding that the reactor oversight's Significance Determination Process evaluates as having low to moderate, or greater, safety significance (i.e., white, yellow, or red); or any order based upon a violation.

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medicine technician pleaded guilty to one felony count of violating Section 1001 of Title 18, United States Code, Material False Statement, and further has agreed not to practice as a nuclear medicine technician for a period of 5 years. Formal sentencing is expected in March 2001.

Niagara Mohawk Power Corp.

An investigation substantiated that a chief shift operator (CSO) at Nine Mile Point Nuclear Station, Unit 1, deliberately failed to disclose to the Niagara Mohawk Power Corporation (the licensee) and the NRC, fitness-for-duty information, including use of prescription medications, contrary to NRC regulations and in violation of Section 1001 of Title 18, United States Code. OI provided support to the U.S. Attorney's Office (USAO) in negotiations with the CSO and the CSO's defense counsel. These negotiations resulted in a Pretrial Diversion Recommendation from the U.S. District Court, Northern District of

New York. This recommendation stipulates that the CSO accepts criminal responsibility for the offense and agrees to be placed under the supervision of the U.S. Probation Office for a period of 12 months, with special conditions that include not applying for or accepting a position that involves working in the control room of a nuclear reactor, or any position that is significant to the operations of a nuclear power plant, with no time limitation. The Pretrial Diversion Agreement was signed by the CSO in November 2000.

Environmental Crimes Task Force Participation

OI is participating in two Environmental Crimes Task Forces, along with other Federal, State, and local agencies. The first is chaired by the U.S. Attorney's Office in the Eastern Judicial District of Pennsylvania, and the second by the Northern Judicial District of New York.

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INITIATIVES

- In an effort to establish a more effective communication link with other Federal, State, and local law enforcement agencies, OI has undertaken an initiative to establish a connection to the National Crime Information Center (NCIC) network. This initiative will give OI the ability to communicate with other agencies through a system recognized by the law enforcement community as secure. This also will give OI access to numerous law enforcement data bases that will assist OI in its investigative mission.
- OI is a member of the Chicago Inspector General Council. This council is made up of the various Federal Inspectors General and other Federal agencies in the Midwest and meets regularly to discuss current issues and court decisions affecting the law enforcement community. It provides contacts with agencies involved in similar type cases, e.g., vendor fraud cases, and it provides a forum for liaison with these agencies to obtain training and share law enforcement equipment. Additionally, it provides access to experienced law enforcement personnel for recruitment purposes.
- OI is participating in an agency group that has been tasked with evaluating the NRC's processes for handling allegations of discrimination in violation of Section 211 of the Energy Reorganization Act. In support of the task group, OI has attended a series of public meetings to solicit external stakeholders' input on ways to improve the current processes, as well as internal stakeholder meetings designed to do the same. The task group will also interact with other Federal agencies to understand how they process similar issues. Ultimately, the task group will develop a Commission Paper to identify the group's findings and make recommendations for improvements to the processes.
- OI is currently participating in the training of Special Agents to handle potential wrongdoing cases based on the additional responsibilities of NRC regarding licensed activities in offshore waters. This additional duty requires that OI have an agent(s) trained in the Helicopter Underwater Egress and Hydrogen Sulfide Gas Masking procedures. This training enables OI to conduct investigations on any offshore oil platform or laybarge where the NRC has regulatory authority/jurisdiction.
- The OI self-assessment program continued in FY 2000 through visits to OI field offices and meetings with senior regional staff. These visits focused on OI performance measures related to general operational and administrative matters, quality of investigations and reports, compliance with policy and procedures, timeliness, and outcomes of our work with regard to effectiveness, efficiency, productivity, and client satisfaction. Each field office was visited by a team composed of senior OI Headquarters personnel and a Field Office Director from another office. The visits determined that the field offices were operating satisfactorily within OI and NRC requirements. Further, senior management at the regions was well satisfied with the effectiveness, efficiency, and productivity of OI.
- For the past several years OI has been working with the Office of the Chief Information Officer and its contractors to upgrade the OI Management Information System (OIMIS). This upgrade was completed and initially deployed during FY 1999. All OI users of the system, nationwide, were subsequently trained in its operation. It is anticipated to be fully operational with a final deployment of a completed system in the first quarter of FY 2001. This system has enhanced the

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ability to track, monitor, and manage the investigative case inventory at both the headquarters and individual field office levels. In addition, it has increased the overall accountability and reporting capability, while decreasing administrative requirements.

- OI has developed and is constantly updating Operating Plans for the Reactor Investigations Program and the Materials Investigations Program. These plans describe the strategies and performance measurements OI will use to support the NRC Strategic and Performance Plans and to adjust budgetary requirements.

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CONCLUSION

OI successfully met or surpassed its goals in FY 2000. The final deployment of the OI management information system will improve our ability to accomplish our mission. In the coming year, review teams will again visit each field office with a view toward continuing to improve efficiency, effectiveness, and productivity. The results of the field office review visits conducted and the overall statistical results for FY 2000 indicate that OI is using its resources in an effective, efficient, and timely manner to assist the NRC regulatory process.

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APPENDIX

STATISTICAL SUMMARY REPORT

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**Office of Investigations
Management Information System
Status of Cases
for the Period 10/01/1999 to 09/30/2000**

Cases Open at Start of this Period	102
Cases Opened this Period	224
Cases Closed this Period	226*
Substantiated	55
Unsubstantiated	149
Higher Priority	1
Deferred to Department of Labor	6
Transferred to Other Regions	1
Other	2
Assistance to Staff	12
Total Cases Open at End of this Period	100
Criminal Referrals	59

***Source:**

Alleger/Whistleblower/Intervenor – 139
NRC (Inspector/Technical Staff) – 41
Licensee/Licensee Employee Concern Program – 33
OI (Self-Initiated and Developed by OI) – 7
Other Government Agencies – 6

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