



REGION VIII

ENFORCEMENT
PERFORMANCE PROJECT

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PREFACE

The REGION VIII ENFORCEMENT PERFORMANCE PROJECT (EPP) was prepared for the Regional Administrator (RA) and the Deputy Regional Administrator (DRA) by the Budget and Planning Section (BPS). It represents a tremendous amount of cooperation, input, and review from all levels of regional staff.

The EPP is in response to a memorandum received during the 4th quarter of FY 1987, from the Office of Enforcement and Compliance Monitoring (OECM) indicating that the region had "apparent weaknesses" in its enforcement programs. OECM reported that the number of civil referrals, administrative orders and state enforcement activity had declined through the 3rd quarter of FY 1987 by comparison to the same period for the previous two years. OECM also suggested that the region (and three others) assess its programs to ensure a strong and certain enforcement presence. Beyond a "gut reaction", the region had difficulty in responding to this critique.

The EPP was designed to enable the region to respond objectively to Headquarters concerns about the quantity of enforcement actions with more comprehensive data; to establish accessible and high quality data for a range of enforcement activities; to periodically perform trend analyses to determine which programs were producing fewer actions and why; to provide the programs with this option, as well as the opportunity to make similar comparisons among their state programs; and to enable senior regional managers to quickly grasp the range, type, and amount of enforcement activity within the region. Potentially, this type of report could also be useful for the Agency in its dealings with Congress.

The EPP report will be included in a larger report entitled REGION VIII ENFORCEMENT PROJECT, which addresses a number of enforcement initiatives and recommendations that were developed and implemented in FY 1988, or will be in FY 1989. Both reports are being made available to the region's senior staff as well as some senior managers in Washington.

The data used in this report were provided by the enforcement programs. BPS is confident of the FY 1988 data quality, but it does not have the same degree of confidence regarding the data quality for FY 1985, 86 and 87. BPS recommends that the reader of this report review the graphs/charts and associated conclusions with the understanding that some degree of error is acceptable for trend analyses. This situation, however, limited BPS's ability in some cases to draw more significant conclusions from the trend analyses, and to generate potentially more trend information. Data accuracy will be enhanced from this time forward, as the programs provide data

on a quarterly basis.

Finally, this report addresses formal enforcement actions only (Administrative Orders (AOs) and Civil Referrals); it does not reflect on such actions as Notices of Violations (NOVs).

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REGION VIII ENFORCEMENT PERFORMANCE PROJECT (EPP)

I. INTRODUCTION

For the Regional Administrator and Deputy Regional Administrator, the Budget and Planning Section performed a quantitative review of each compliance program in an attempt to determine whether they had/have apparent weaknesses. If so, why, and what changes by Headquarters, the region and the states are necessary to improve enforcement performance.

The EPP highlights trends in enforcement activities for each regional enforcement program over the last four years (see APPENDIX I). It also aggregates the programs' response to a questionnaire concerning a variety of topics such as compliance rates, administrative authority, penalty policies, etc (see APPENDIX II).

II. FINDINGS/CONCLUSIONS

Are there "apparent weaknesses" in the region's enforcement programs? No, not in reference to the Office of Enforcement and Compliance Monitoring (OECM) concerns that the number of enforcement cases had declined -- OECM failed to recognize the region's excellent management of Significant Non-Compliers (SNCs).

For five combined EPA and state programs (NPDES, AIR, RCRA, PWS, and UIC) that use the concept of SNC or Significant Violator), the data indicate that when significant non-compliance is identified, it is being effectively addressed, i.e., the trend for the last two to three years shows the number of SNCs declining (based on an evaluation of the "dynamic" quarterly counts of SNCs). In other words, non-compliance among sources considered to be potential major sources of pollution is decreasing. The EPP data cannot be used to determine whether the enforcement programs effectively identify significant non-compliance.

This review addressed in part the issue of what are the optimum enforcement activities that should be measured to assess the enforcement programs' performance. It showed that a region's enforcement performance is more accurately measured by assessing a range of performance indicators for all enforcement programs rather than by just comparing data on referrals and AO's from year to year.

For at least three programs (NPDES, UIC and PWS), there is a better understanding of performance by examining the relationship

of the referrals and AO's for the universe of major facilities to the number of SNCs and facilities on an "Exceptions List" (those facilities that fail to come into compliance within a specified time).

The other enforcement programs do not use an exceptions list, so an attempt was made to determine if there is a positive correlation between referrals and AO's for the universe of majors, the number of SNCs and number of majors inspected. It was concluded that the concept has merit for evaluating the Air Compliance Program and RCRA.

The TSCA, FIFRA and Clean Water Act S.404 (Dredge and Fill) programs do not use an SNC concept. However, for TSCA and FIFRA, correlations of enforcement actions to inspections and violations has some merit, as does the relationship of investigations to enforcement cases for the S.404 Enforcement Program.

A comparison was made of total enforcement actions for EPA and the states between FY 1988 and each of the three previous years. It showed that in FY 1988 six enforcement programs (EPA and states combined -- Air, UIC, and PWS; EPA only -- 404, TSCA, and FIFRA) exceeded their FY 1985 AO/referral performance. In FY 1988, six enforcement programs (EPA and states combined -- NPDES, RCRA, UIC, and PWS; EPA only -- 404 and FIFRA) exceeded their FY 1986 AO/referral performance; and in FY 1988, six programs (EPA and states combined -- NPDES, RCRA, UIC, and PWS; EPA only -- 404 and FIFRA) exceeded their FY 1987 AO/referral performance. The data indicate a fairly consistent level of enforcement actions overall, with some fluctuations among the programs.

An examination of the level of enforcement actions for EPA and the states for five programs yielded some interesting comparisons. For NPDES, RCRA, and PWS, EPA had a higher ratio of actions (referrals and administrative orders) to either inspections, violations or the universe of majors than did their state counterparts. It appears for these programs that EPA is more willing to take formal enforcement actions. This underscores the need for clear and consistent oversight of the state programs on which the region placed added emphasis in FY 1988. (On the other hand, the states' UIC and Air enforcement programs had a higher ratio than their EPA counterparts.) Applying this type of comparative analysis to individual state programs could highlight relative strengths and weaknesses in a manner that would be easily understood and communicated.

Generating more enforcement actions will require either refinement of our ability to detect non-compliance (e.g., develop new techniques to evaluate the NPDES Discharge Monitoring Reports to address historical violation trends) or broadening our compliance activity focus beyond "major facilities", and

encouraging the states to do the same.

The region did identify areas that needed attention and overall improvement such as inspector training, data quality and reporting, state oversight, and other items, all of which are addressed in the REGION VIII ENFORCEMENT PROJECT report. It cannot be concluded, however, that these areas were cause for decreases in the number of cases in FY 1987.

The following analyses provide additional conclusions relative to each enforcement program. Some are limited in scope based on the amount/quality of data that were available. This report did not evaluate the Comprehensive Environmental Response Compensation Liability Act (CERCLA) and Underground Storage Tank (UST) programs.

III. ANALYSES OF EACH ENFORCEMENT PROGRAM

A. NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)

1. INTRODUCTION

- 1.a. The programs's authority comes from 1987 Clean Water Act (CWA).
- 1.b. Five States in Region VIII have basic delegation -- South Dakota has not received delegation.
- 1.c. The Pretreatment program is delegated only in Utah.

2. ENFORCEMENT HIGHLIGHTS

- 2.a. Region VIII is the first region to achieve its National Municipal Policy (NMP) compliance initiative goals: all but three of 63 facilities achieved compliance; the other three (Central Valley, Denver Metro and Pueblo) were under EPA or State court orders by the July 1, 1988, deadline. Central Valley and Denver Metro have since achieved compliance. Central Valley's \$450K up-front cash settlement is the largest to date of any Region VIII action.
- 2.b. Region VIII has the best national timely and appropriate record, and has the fewest "exceptions" on the national list.
- 2.c. From FY 85 through FY 88, the NPDES program produced the most judicial referrals (18) of any of the region's enforcement programs.
- 2.d. Most of EPA's enforcement actions are based on self reported violations; it is not feasible to document violations of 30 day average effluent limitations through inspections.

3. CONCLUSIONS

- 3.a. The Region VIII NPDES Program manages an extremely effective compliance process (see below, item 4.a. and b. and the program's data/graphs Attachment A). There is a strong (positive) correlation between the number of SNCs/facilities on the "Exception List" to the number of formal enforcement actions (cases), i.e., generally, as the number of SNCs/facilities on the Exception List increase/decrease so do the number of actions.

It was concluded that once a facility is identified in SNC, it will be dealt with effectively. The focus for improvement by the program, if any is needed, is in assuring that detection efforts are comprehensive.

3.b. EPA (see below, item 4.f.), on a percentage basis, takes an average 1.4 times as many formal enforcement actions per year as do the states.

EPA and the states need to evaluate the states' inspection targeting procedures and whether disinvestment of inspections is at least partially feasible. States inspect most majors and minors annually. What is the overall value of this level of activity by comparison to EPA's? At the same time, we also need to assure the quality of state inspections and proper use of discretionary authority to file cases (i.e., are they too "soft"?).

3.c. EPA should consider performing more inspections, especially of significant minors.

3.d. The national program should consider expanding the definition of SNC to include significant minor facilities.

4. TRENDS

4.a. The average compliance rate (EPA and states) for a 15 quarter period (for FY 85 thru 3rd quarter FY 88) is 92%. The highest rate (95%) was in the 3rd quarter FY 88 and the lowest (86%) in the 3rd quarter FY 85.

4.b. For the period of FY 85 through 88, the average universe of facilities that the NPDES program regulates is 2,863; EPA has the lead on 764 facilities of which 66 (9%) are majors; and the state has the lead on 2099 of which 231 (11%) are majors.

4.c. EPA's average number of SNCs (for FY 85 through 3rd quarter FY 88) is 9 facilities per quarter. The highest (19) was in 3rd quarter FY 85 and the lowest (0) was in 3rd quarter FY 88. The states average number of SNCs is 18 per year; the highest (30) was also in the 3rd quarter FY 85 and the lowest (7) was in the 3rd quarter FY 87.

4.d. EPA's average number of facilities on the Exceptions List (from 2nd quarter FY 85 through FY 88) is 2.5 per quarter; the highest (9) was in the 1st quarter FY 86 and the lowest (0) in the last 2 quarters FY 88. The states' average number of facilities on the Exceptions List is 6 per quarter; the highest (14) was also in the 1st quarter FY 86 and the lowest (0) was in the 1st quarter FY 88.

4.e. For FY 88, 9 (25%) of EPA cases were penalty AOs; 15 (42%) AOs were non-penalty; 13 (36%) were AOs against majors; and 3 (8%) were referrals (total cases = 36). For the states, No cases were identified as penalty AOs; 57 (73%) were AOs; and 21 (27%) were referrals (total cases = 78). All six states have AO authority. Colorado can collect penalties for some violations, but EPA doesn't track them. The program does not track the number of state referrals against majors to make a comparison to EPA data.

4.f. For the last four years, an average of 5% per year of EPA's universe of facilities had actions taken against them (38 cases to 765 facilities); where as, an average of 4% per year of the states universe of facilities had actions taken against them (74 cases to 2,099 facilities).

4.g. For the last four years, 18 (12%) EPA cases were referrals to 132 AOs; and 73 (25%) states' cases were referrals to 221 AOs. Approximately 50% of EPA's actions are against major facilities.

4.h. Over the last four years, the states' average number of inspections is 1,784 per year or 85% of the universe of facilities. On the average, 365 (20%) are inspections of majors; and 4% of the universe of facilities have an action taken against them, annually.

5. OTHER FINDINGS

5.a. The CWA of 1987 includes RCRA-related enforcement provisions.

5.b. The CWA of 1987 also includes broad criminal provisions.

6. GRAPHS AND CHARTS (SEE ATTACHMENT A)

B. UNDERGROUND INJECTION CONTROL PROGRAM (UIC)

1. INTRODUCTION

1.a. The Program's authority comes from the Safe Drinking Water Act (SDWA) as amended in 1986.

2. ENFORCEMENT HIGHLIGHTS

2.a. Region VIII had the first civil referral in the nation (1985 - Grace Petroleum), and the first AO (1987 - Montex).

2.b. The Program had a successful multi-media case (Dakota Krome - RCRA/UIC).

2.c. The Program exceeded the FY 1988 National compliance inspection goals.

2.d. The Program had 3 of the Agency's 8 civil referrals in FY 88 in Direct Implementation jurisdiction.

3. CONCLUSIONS

3.a. The program appears to manage an effective compliance process (see the program's data/graphs Attachment B). There seems to be a positive correlation between the number of SNCs/facilities on the "Exception List" to the number of enforcement actions, but more data over time are needed to determine how strong the correlation is.

3.b. For the large number of violations, there are few SNCs and No facilities on the Exceptions List, presumably indicating: 1) a willingness by the facilities to quickly return to compliance and avoid an enforcement action; or 2) state record keeping and reporting may be inadequate with regard to SNC (see below -- Section 4.d. and Note).

3.c. More enforcement actions would presumably yield a stronger deterrent effect, but more resources may be required to produce more cases.

4. TRENDS

4.a. For the period of FY 85 through 88, the average universe of facilities that EPA regulated is 1,070 (also there are approximately 5,000 Class V wells, which are now starting to be

regulated). Starting in FY 88, the states have a universe of 13,479 facilities or 92% of the total universe of 14,616 facilities (data for FY86 and FY87 were missing).

4.b. EPA's average number of SNCs (for FY 87 through FY 88) is two facilities per quarter. The highest (12) was in 4th quarter FY 88 and the lowest (0). The states' average number of SNCs is 2 (for 7 quarters of that time period); the highest (4), and the lowest (0).

4.c. For EPA and the states, there have not been any facilities on the Exceptions List (for FY 87 through FY 88).

4.d. For the last four years, an average of less than 1% per year of EPA's universe of facilities had actions taken against them; 5 cases to 1,070 facilities. For FY 88, 3% of the states' universe of facilities had actions taken against them (364 actions to 13,479 facilities -- **NOTE: SPMS includes in its definition of actions NOV's, shut-ins, and pipeline severance**).

4.e. For FY 87 and 88, 12 (75%) of EPA's cases were AOs and the rest (4) were referrals; of EPA's cases against majors, 9 (56%) were AOs, and 4 (25%) were referrals; and the remaining 3 (19%) were against minor facilities. North Dakota, in FY 86, issued a penalty AO of \$121,000. The states' actions were not calculated, because of the broad SPMS definition mentioned above.

4.f. For the last four years, EPA performed an average of 350 inspections per year, or 33% of the universe of facilities on an annual basis. This resulted in an average 470 violations per year or 1 violation per inspection. For FY 88, the states performed 5,683 inspections (42% of their universe of facilities).

5. OTHER FINDINGS

5.a. The program received administrative authorities in 1986, including a substantial penalty authority.

5.b. There is consistent regional application of Uniform Penalty Policy.

5.c. There is strong state cooperation with the program.

5.d. The primacy state programs have a good deterrent effect (major economic impact) that results when wells are shut-in or the pipeline is severed (EPA lacks this authority).

5.e. The program maintains a strong field presence.

5.f. The multi-step AO process is cumbersome.

5.g. This is a young program (first civil referral in 1985).

5.h. National compliance philosophy emphasizes the use of public outreach, field presence and compliance monitoring prior to enforcement.

5.i. Specific guidance is in place for the use of an AO vs. a referral.

5.j. Compliance rates are not calculated.

6. GRAPHS AND CHARTS (SEE ATTACHMENT B)

C. PUBLIC WATER SUPPLY PROGRAM (PWS)

1. INTRODUCTION

1.a. The program's authority comes from the Safe Drinking Water Act (SDWA); most recent revision: major amendments in 1986.

1.b. All States except Wyoming have primacy.

2. ENFORCEMENT HIGHLIGHTS

2.a. The program and Regional Counsel resolved the Sheridan, Wyoming Alternative Dispute Resolution (ADR) case in FY 1988 -- the first ADR pilot in the country -- a success in identifying a workable solution.

2.b. Region VIII's first enforcement actions in delegated States were taken in the 4th quarter FY 1988.

3. CONCLUSIONS

3.a. The Region VIII PWS Program manages an effective compliance process (see the program's data/graphs Attachment C). There seems to be a positive correlation between the number of SNCs/facilities on the "Exception List" to the number of enforcement actions, but more data over time are needed to determine how strong the correlation is. From FY 86 through FY 88, the correlation increased in relative strength for both EPA and the states.

For the large number of violations, there are few SNCs and facilities on the Exceptions List, presumably indicating: 1) most violations are minor, by definition; or 2) that some of the informal actions are effective; or 3) the program can expand the number of SNCs through a more formal approach to violations.

4. TRENDS

NOTE: FY 87 3rd quarter and 4th quarter FY 88 state data were unavailable. Also, the violations addressed in this report are discovered in reviews of the facility-generated monitoring reports, and are not a result of the sanitary surveys.

4.a. For the period of FY 85 through 88, the average universe of facilities that EPA regulated is 836 (10%) of the total universe of 8,203 facilities. EPA regulates 323 (39%) major facilities (Community Water Systems). The states regulate an average universe of 6,533 facilities, (89%) of the total.

4.b. EPA's average number of SNCs (from the 2nd quarter FY 86 through the 1st quarter of FY 88) is 26 facilities per quarter. The highest (49) was in 2nd quarter FY 86 and the lowest (17) in 3rd quarter FY 87. The states' average number of SNCs is 20; the highest (44), and the lowest (7).

4.c. EPA's average number of facilities on the Exceptions List (from 1st quarter FY 87 through FY 88) is 11 per quarter; the highest (18) was in the 4th quarter FY 87 and the lowest (4) in the 2nd quarter FY 88. The states' average number of facilities on the Exceptions List is 8 per quarter; the highest (15) was in the 4th quarter FY 87 and the lowest (2) was in the 2nd quarter FY 88.

4.d. For FY 87 and 88, 1 (2%) of EPA's cases was a penalty AO compared to all AOs (18) and referrals (0). For the states, No cases were penalty AOs (see item 5.c. below).

4.e. For FY 85 through FY 88, 100% of EPA's cases were against majors, on the average 74% (12) were AOs, and 26% (4) were referrals.

4.f. For the last four years, an average of 2% per year of EPA's universe of facilities had actions taken against them (16 cases to 836 facilities). For the states, (for quarters 1, 2, and 4 of FY 87, and the first three quarters of FY 88) less than 1% of the universe of facilities had actions taken against them (24 actions to 7,369 facilities).

5. OTHER FINDINGS

5.a. There is a willingness to use innovative techniques such as Alternative Dispute Resolution (ADR).

5.b. The multi-step AO process is cumbersome.

5.c. The program must wait for a violation of a Compliance AO to issue a Penalty AO.

5.d. DOJ/U.S. Attorneys prefer "high visibility" cases; tend to assign inexperienced attorneys and pursue the easiest instead of best settlements and State Attorneys General give these cases low priority.

5.e. Cases proceed slowly; several have taken years to resolve.

5.f. NEIC has been unwilling to pursue criminal investigations (not significant enough, and unwieldy statutory limitations make it difficult).

5.g. The 1986 criminal provisions have not been used yet.

5.h. There is a national focus on delegated States (only Wyoming and Indiana lack primacy).

5.i. There has been consistent application of the Wyoming Direct Implementation -- Compliance Strategy.

5.j. The program has a willingness to enforce the statutory and regulatory requirements.

5.k. 95% of SNCs are very small systems serving less than 500 persons.

6. GRAPHS AND CHARTS (SEE ATTACHMENT C)

D. WETLANDS (404 ENFORCEMENT)

1. INTRODUCTION

1.a. The program's authority comes from the 1987 Clean Water Act (CWA), and is shared with Army Corps of Engineers (COE).

1.b. Sec. 301, prohibits the discharge of dredged or fill materials to the waters of the U.S. without a permit; Section 404 deals with Permits; and Section 309 deals with Enforcement: (a) Compliance (Restoration) Order; (b) Civil Referral; (c) Criminal Referral; and (d) Administrative Penalty.

1.c. There are no delegated States in Region VIII.

2. ENFORCEMENT HIGHLIGHTS

2.a. Program Goals:

- Protect wetlands and sensitive aquatic ecosystems from unnecessary destruction and damage;
- Implement an EPA 404 enforcement initiative in each state in the region;
- Emphasize the deterrent value of enforcement by seeking high public visibility for actions taken;
- Focus on illegal discharges while the COE deals with permit compliance;
- Implement new Administrative Penalties provisions of CWA; and
- Focus enforcement on the wetlands and aquatic systems of greatest value and facing the greatest risk.

2.b. Region VIII has the highest number of referrals of any Region.

3. CONCLUSIONS

3.a. The Region VIII 404 Program appears to manage an effective enforcement process, but more data over time, including other performance indicators, are needed to support this conclusion.

4. TRENDS

4.a. For the last four years, an average of 21 investigations per year have been performed by EPA resulting in an average of 4.5 (21%) enforcement cases per year. This is a relatively high rate of violations per investigation (i.e., inspection).

4.b. For the last four years, six (33%) of EPA's cases were referrals, and 12 (67%) were AOs.

5. OTHER FINDINGS

5.a. The program receives assistance from U.S. Fish and Wildlife Service (USFWS) and the COE augments resources.

5.b. The program has reduced permit review efforts to increase enforcement activity.

5.c. The program is relatively small (6.6 FTE - FY 1988) in comparison to other regional programs.

5.d. Referred cases proceed very slowly; the U.S. Attorney is reluctant to accept criminal referrals.

5.e. The program needs a final enforcement Memorandum of Agreement with Army COE.

5.f. Enforcement is only one of the priority initiatives in the Wetlands/404 program. The others are Advanced Planning, Public Education/Outreach, and the Prairie Wetlands Initiative.

5.g. Unlike other CWA and SDWA programs, there is no self-monitoring system to detect violations (i.e. unpermitted discharges).

6. GRAPHS AND CHARTS (SEE ATTACHMENT D)

E. RESOURCE CONSERVATION and RECOVERY ACT (RCRA)

1. INTRODUCTION

1.a. The most recent revision to statutory authority was the Hazardous and Solid Waste Act (HSWA) (November, 1984); all States except Wyoming have primacy (pre-HSWA), but no states currently have authorization for HSWA.

2. ENFORCEMENT HIGHLIGHTS

2.a. The program initiated studies of contaminated (S.3013) areas and implemented interim measures, under S.7003 during FY 1988 (see items 5.a and b below).

2.b. Cross-media actions were implemented at Dakota Krome and at several Wyoming facilities where the Wyoming Department of Environmental Quality took action under its water quality authority.

2.c. Region VIII was one of the first regions to receive delegation for RCRA Corrective Action via Section 3008 (h) for orders on consent and unilateral orders.

3. CONCLUSIONS

3.a. The states average three times as many inspections as the EPA staff, but the states' average number of SNCs is only two times that of EPA's. The states find on the average one-and-a-half times as many violations as EPA, and generate an average of four times as many cases.

EPA and the states need to evaluate the states' inspection targeting procedures. At the same time, there is a need to assure the quality of state inspections and proper use of discretionary authority to generate cases, through EPA's enforcement oversight role.

3.b. For EPA, it is concluded that once a facility is identified in SNC, it will be dealt with effectively. The focus for improvement by the program, if any is needed, is in assuring that detection efforts are comprehensive. For the states, it appears they have insufficient penalty authority, and that possibly they should be sending cases to EPA and/or pursuing more referrals (see items 4.c and d below).

4. TRENDS

NOTE: The universe of facilities mentioned below only reflect Treatment, Storage and Disposal facilities (TSDFs) (it doesn't reflect Generators and Transporters for which enforcement actions are also taken). Also, the definition of SNC has changed over the past four years.

4.a. For the period of FY 86 through 88, the average universe of TSDFs that the RCRA program (Wyoming's and the states' TSDFs) regulates is 121 per year; on the average, EPA's has the lead on 16 (13%) facilities per year, and the state has the lead on 104 (87%) facilities.

4.b. EPA's average number of SNCs (for FY 86 through FY 88) is five facilities per quarter. The highest (10) was in the 2nd quarter of FY 86 and the lowest (2) was in the 1st and 2nd quarters of FY 88. The states average number of SNCs is 10 per quarter; the highest (15) was in the 4th quarter FY 88 and the lowest (7) in the 4th quarter FY 87.

4.c. For the period of FY 85 through FY 88, 67% of EPA's cases were penalty AOs (22) compared to all AO/referrals (33); and 21% of the states' cases were penalty AOs (26 -- obtained only through consent process) compared to all AOs/referrals (123). However, there were 88 non-penalty State AOs. No authorized states have AO authority with penalty provisions.

4.d. For the last four years, five (15%) of EPA's cases were referrals to 28 AOs; and nine (7%) of the states cases were referrals to 114 AOs. EPA has 13% of the TSDFs, 36% of the referrals, and 46% of the penalty AOs.

4.e. NOTE: Regarding inspections, some facilities require two or more visits for compliance follow-up and this report does not contain such actual data for analysis and therefore some generalizations were used.

Over the last three years, EPA's average number of inspections is 58 per year of which 12% had violations, or 10% of the total universe. There were eight cases per year -- or 67% of the violations resulted in an enforcement action (formal orders). The states average number of inspections (same NOTE as above) is 187 per year, or 178% of their universe of facilities, of which 63 (33.5%) had violations. There were an average of 30 cases per year -- or 47% of the violations resulted in an enforcement action (formal orders). (Class II violations are usually only pursued via a Warning Letter and such data were not used in this report.)

5. OTHER FINDINGS

5.a. Section 3013 (monitoring, analysis and testing) is a useful tool to quickly determine the extent and type of contamination, especially, where Section 3008 (h) may not apply. Section 3013 Orders were issued to three facilities in FY 88.

5.b. Section 7003 provides relief in imminent hazard situations by allowing for immediate implementation of interim corrective measures, and this technique was used for two large facilities in FY 88 (LARCO and Syntex).

5.c. Many RCRA AO's are not for violations, but are corrective action orders.

6. GRAPHS AND CHARTS (SEE ATTACHMENT E)

F. AIR COMPLIANCE PROGRAM

1. INTRODUCTION

1.a. The program's authority comes from the Clean Air Act (CAA) of 1977.

1.b. Reauthorization of the CAA is likely to occur this year.

2. ENFORCEMENT HIGHLIGHTS

2.a. Ninety-one percent of the beginning-of-year Significant Violators (SVs) were resolved during the year, compared to 80 percent in FY 87. The national average in FY 87 was less than 50 percent.

2.b. Five referrals and six Administrative Orders were completed in FY 88 (compared to two and one, respectively in FY 87).

2.c. Comprehensive NAAS audits conducted in three states including NESHAP asbestos program for the first time. Identified previously overlooked problems.

2.d. Fifty-eight overview inspections were conducted in FY 88, compared to forty in FY 87. Also, inspection guidance was prepared for State/EPA use.

3. CONCLUSIONS

3.a. The program appears to manage an effective compliance process (see the program's data/graphs Attachment F). It is believed, however, that more data (and perhaps new measures in addition to those used in this report) over time are needed to make a better assessment of the program's effectiveness.

3.b. For EPA, FY 88 was the most productive year of the last four regarding number of inspections and formal enforcement actions. In addition, the compliance rate was the highest for the four-year period, indicating more effective state compliance programs. This reflects an overall strengthening of the program that took place during FY 88.

3.c. Both EPA and states do an excellent job of managing their "dynamic" SVs.

4. TRENDS

NOTE: For FY 88, the universe of operating "major" facilities that the states regulated was 858, plus "minor" facilities. EPA has oversight responsibility for the total universe of facilities, but usually concentrates on majors. Also, some facilities require two or more visits for compliance follow-up and this report does not contain such actual data for analysis and therefore some generalizations were used.

4.a. For FY 88, EPA completed 58 oversight inspections (7% of the universe of major facilities -- 2-3% required by Headquarters guidance) of which six (10%) had violations. There were 11 enforcement actions. The states completed 516 (60%) inspections of the universe of majors; 52 (10%) had violations; and 32 enforcement actions were taken.

4.b. For the last four years, EPA performed an average of 44 inspections per year, resulting in an average of eight (17%) violations per year. The highest percent of violations to inspections occurred in FY 87 (30%) and the lowest in FY 88 (10%). The states performed an average of 596 inspections per year. The highest percent (10%) of violations to inspections occurred in FY 88.

4.c. For FY 87 through FY 88, EPA had the lead only on one Significant Violator (SV); and the states had the lead on an average of 4 "dynamic" SVs per quarter -- the highest count (6) was in 1st quarter FY 87 and the lowest (2) occurred in the 2nd quarter of FY 87 and FY 88.

4.d. For FY 85 through 88, all of EPA's cases and the states were against major facilities. For EPA, 9 (43%) were AOs, and 12 (57%) were referrals. For the states 132 (86%) were AOs and 22 (14%) were referrals. EPA and most states only collect penalties via referrals (they cannot collect them via AO process). EPA had 21 (61%) cases in comparison to 31 violations. The states had 154 cases (80%) in comparison to 194 violations.

5. OTHER FINDINGS

5.a. The program's new Compliance Monitoring Strategy is being implemented throughout the region.

5.b. The program holds monthly meetings with Regional Counsel.

5.c. The SV report also tracks compliance with enforcement actions and payment of penalties.

6. GRAPHS AND CHARTS (SEE ATTACHMENT F)

G. TOXIC SUBSTANCE CONTROL ACT (TSCA)

and

FEDERAL INSECTICIDE FUNGICIDE RODENTICIDE ACT (FIFRA)

1. INTRODUCTION

1.a. No state has primacy for TSCA; however, there is a Cooperative Agreement with North Dakota to do PCB inspections and a Cooperative Agreement with Colorado to do asbestos inspections (for violations found in both states, enforcement actions are taken by EPA).

1.b. All states in Region VIII, except Wyoming, have primacy for FIFRA.

2. PROGRAM HIGHLIGHTS

2.a. Region VIII had the fourth highest number of TSCA administrative complaints of all regions in FY 88, which was accomplished with only the eighth highest staffing level of the ten regions.

2.b. The Region VIII asbestos-in-schools (AIS) case settlement approach resulted in getting asbestos abatement accomplished for most cases, although such abatement was not required by the regulations. In return for getting this significant environmental improvement, the cases were settled for approximately 8% of the original proposed penalty amount. This regional settlement policy also resulted in favorable settlements without going to hearing, thereby saving a large amount of EPA and legal and technical personnel resources.

3. CONCLUSIONS

3.a. The Region VIII TSCA/FIFRA Programs appear to manage effective compliance processes (see the program's data/graphs Attachment G), but more data over time are needed to confirm this.

In the TSCA Program, on the average, there is approximately one enforcement action taken to every two violations (but see below Section 4. Trends - NOTE); in the FIFRA Program, there is nearly a one to one ratio.

3.b. During the past several years it became obvious to EPA and the states that pesticides enforcement data were not being reported by the various states in a consistent manner.

Accordingly, the State-FIFRA Issues Research and Evaluation Group (SFIREG) established a Committee on Uniform Reporting. This committee plans to complete its work in the next few months. Hopefully, agreement can be reached on a new policy on uniform reporting for FY 1990 and beyond. In the meantime, lack of state data makes EPA's oversight of the states more difficult.

4. TRENDS

TSCA

4.a. For FY 85 through FY 88, the average number of facilities inspected by EPA (including CO ASB and ND PCB inspections) is 412 per year; 221 per year (54%) are asbestos inspections, 153 per year (37%) are PCB inspections, and 38 per year (9%) are other types of inspections.

4.b. For the last four years, the average number of violations is 165 per year, or 40% of the inspections find violations. On the average, 19% of the inspections result in enforcement actions (79), or 48% of the violations result in enforcement actions. On the average, 78 are Administrative Complaints and less than one case per year is a referral.

FIFRA

4.c. For FY 85 through FY 88, an average of 276 facilities were inspected per year; 33 (12%) had violations, and 31 (11%) had enforcement actions taken against them. Of the violations, 95% had enforcement actions, of which four (3%) cases were referrals, and 120 (97%) cases were penalty AOs.

5. OTHER FINDINGS

5.a. There is appropriate use of the Neutral Inspection Plan.

5.b. All inspections are enforcement-oriented (not technical assistance).

5.c. There is a good working relationship between program and the attorneys.

5.d. The program is willing to enforce its statutes and regulatory requirements.

5.e. The program effectively use its AARP employees.

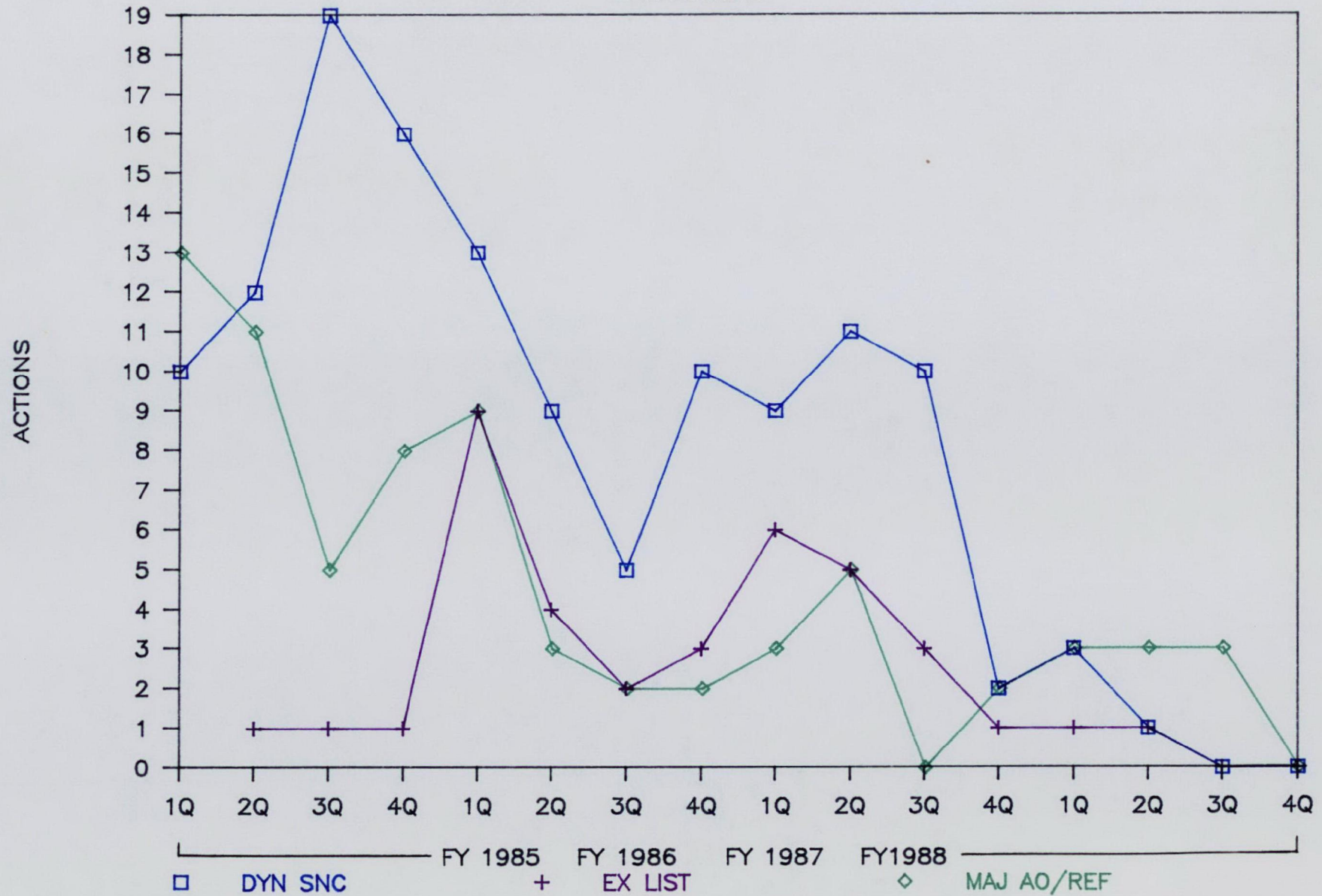
5.f. The program has a strong inspector training program.

5.g. Compliance rates are impossible to calculate; violations are identified in response to complaints.

6. GRAPHS AND CHARTS (SEE ATTACHMENT G)

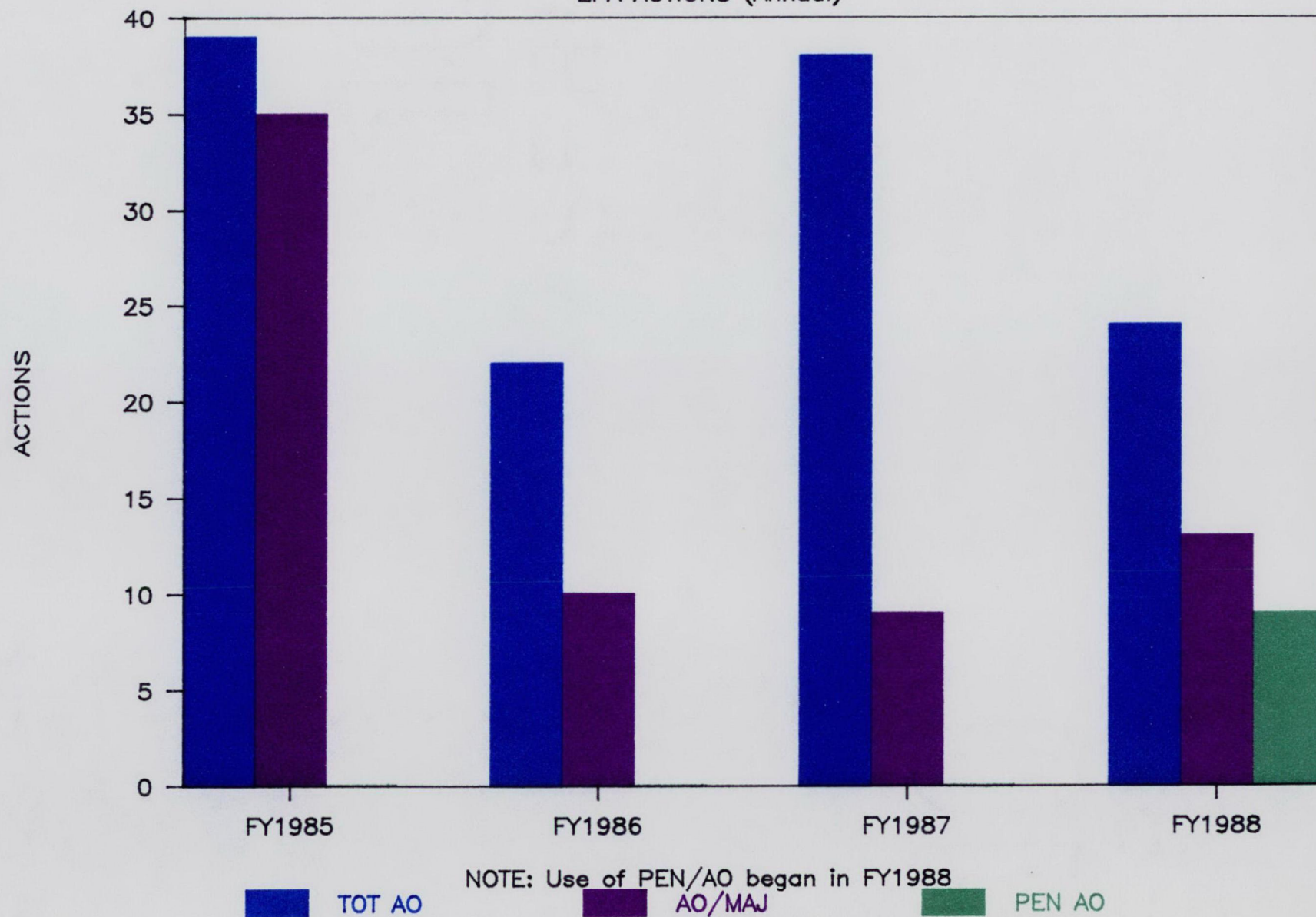
NPDES ENFORCEMENT ACTIONS

EPA ACTIONS



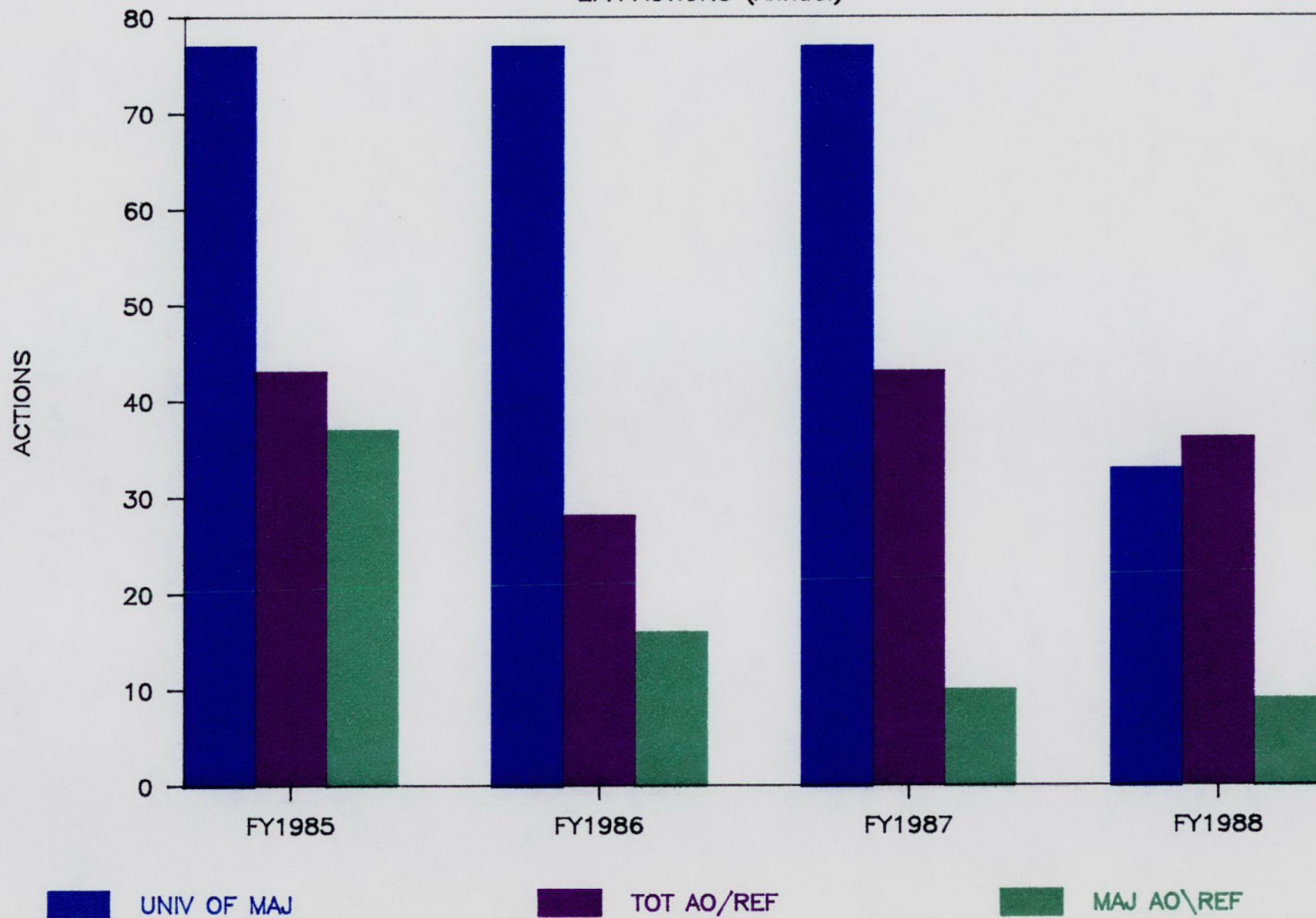
NPDES ENFORCEMENT ACTIONS

EPA ACTIONS (Annual)



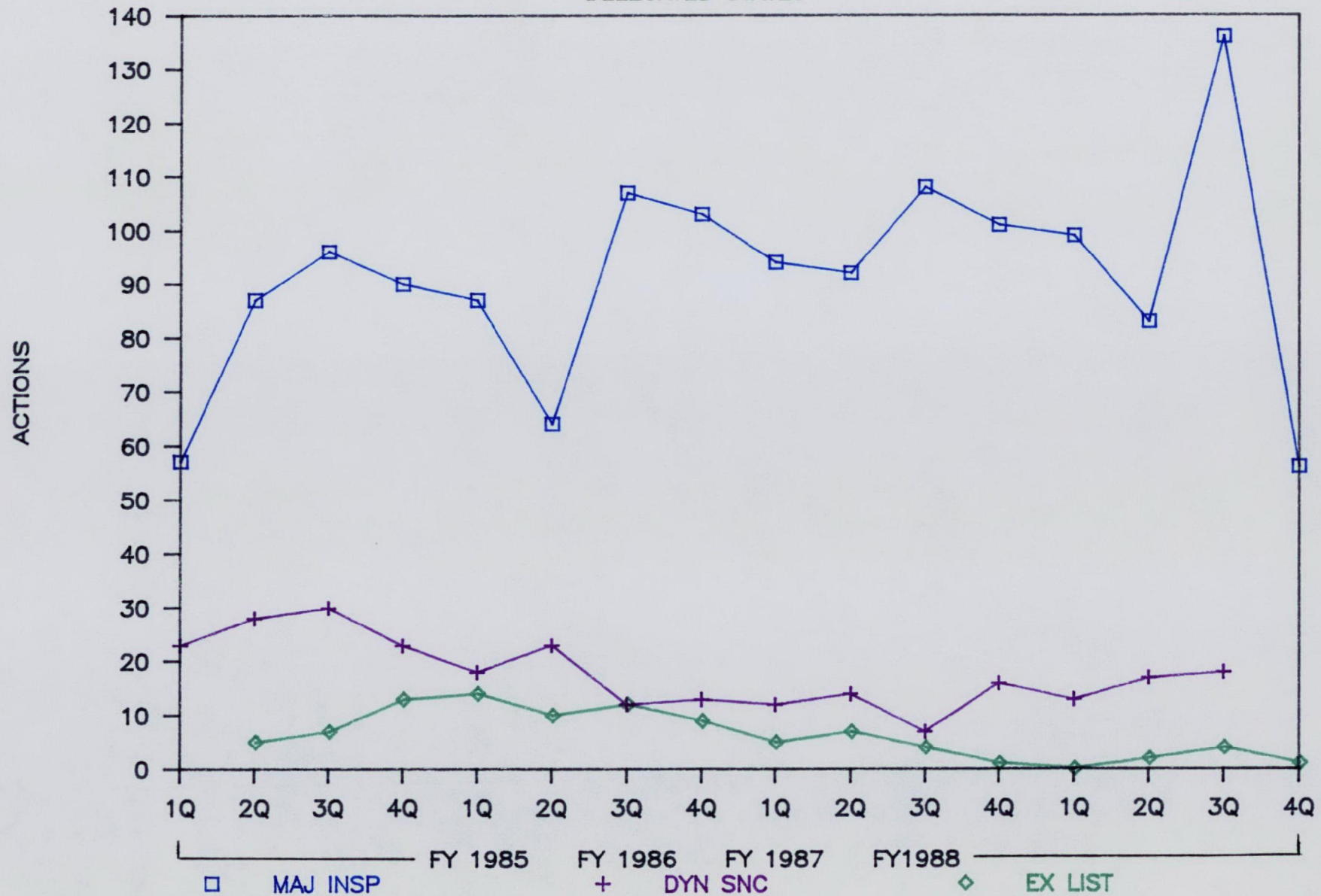
NPDES ENFORCEMENT ACTIONS

EPA ACTIONS (Annual)



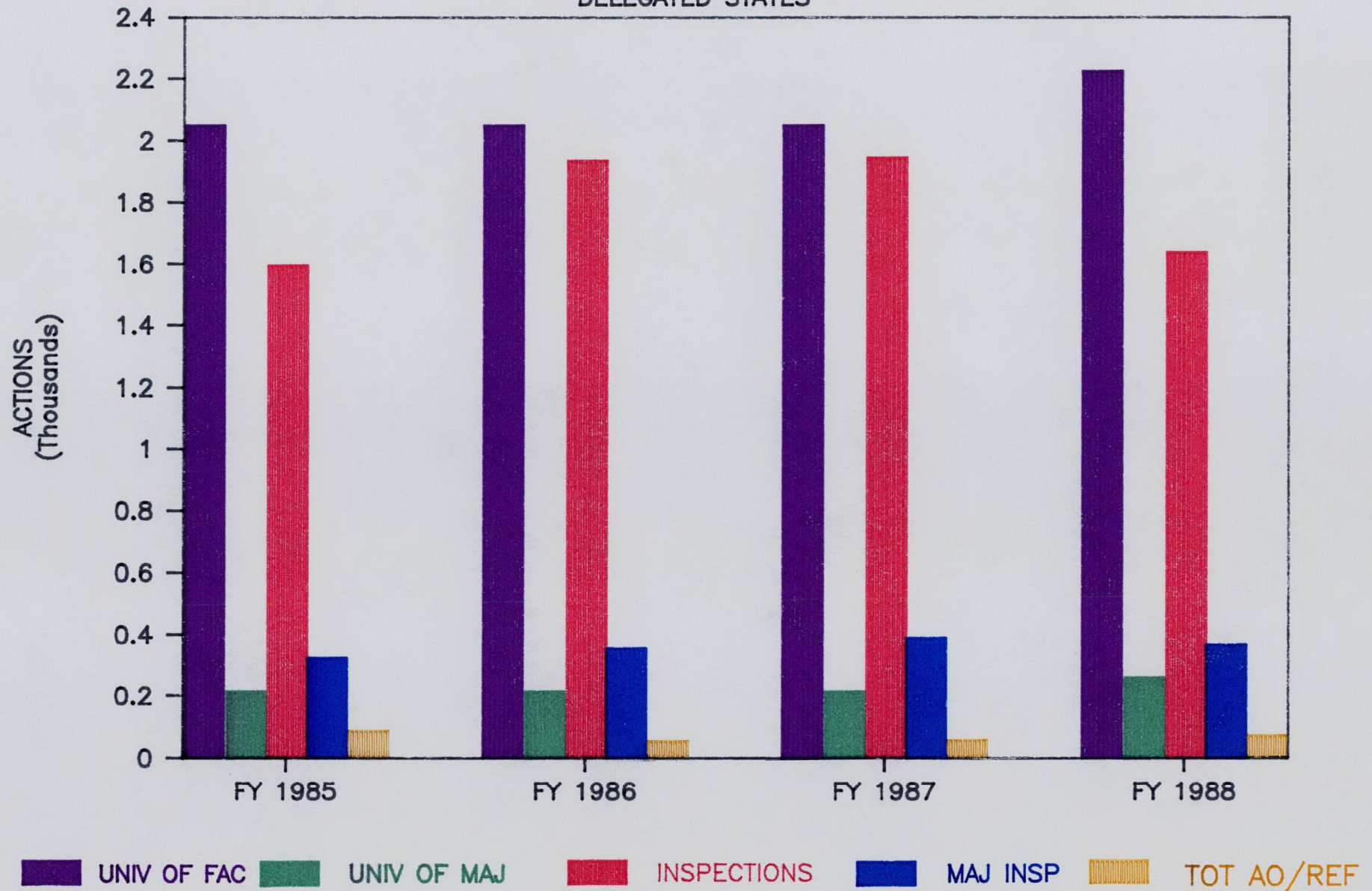
NPDES ENFORCEMENT ACTIONS

DELEGATED STATES



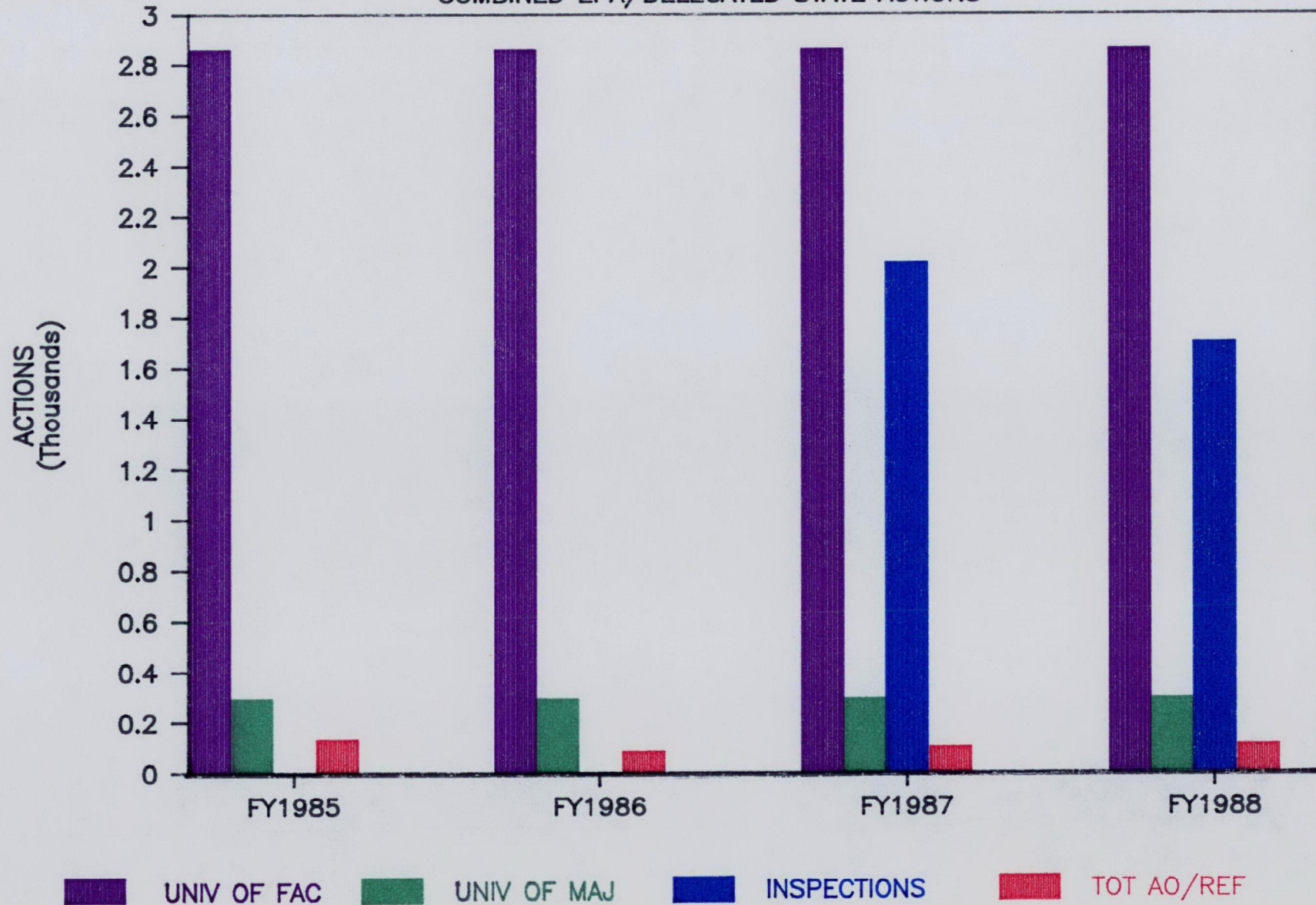
NPDES ENFORCEMENT ACTIONS

DELEGATED STATES



NPDES ENFORCEMENT ACTIONS

COMBINED EPA/DELEGATED STATE ACTIONS



NO EPA INSPECTION DATA FOR FY1985 OR FY1986

NPDES ENF. ACTIONS
EPA ACTIONS

	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
UNIV OF FAC					808					808					808					634
UNIV OF MAJ					77					77					77					33
INSPECTIONS	DATA NOT AVAILABLE				0	DATA NOT AVAILABLE				0	20	19	22	9	70	11	14	22	14	61
B.O.Y. SNC	N/A					16					10					2				
DYN SNC	10	12	19	16		13	9	5	10		9	11	10	2		3	1	0		
EX LIST		1	1	1		9	4	2	3		6	5	3	1		1	1	0	0	
TOT AO/REF					43					28					43					36
PEN AO	N/A				0	0	0	0	0	0	0	0	0	0	0	0	0	2	7	9
MAJ AO/REF	13	11	5	8	37	9	3	2	2	16	3	5	0	2	10	3	3	3	0	9
AO/MAJ	13	11	5	6	35	4	3	2	1	10	3	5	0	1	9	3	3	3	4	13
TOTAL REF					4					6					5					3
TOT AO					39					22					38					24
REF/MAJ	0	0	0	2	2	5	0	0	1	6	0	0	0	1	1	0	0	1	0	1
% NOT IN SNC	90	87	86	88		91	93	95	93		94	92	94	94		95	94	95		

ASSUMED UNIV. OF PERMITTEES & MAJORS WAS THE SAME AS SEPT. 30, 1988 NUMBER.
ENF. ACTIONS MAY INCLUDE PRETREATMENT CASES.
INSP. INCLUDES CSI, PAI, CEI & OVERSIGHT.

NPDES ENF. ACTIONS DELEGATED STATES																				
FY 1985						FY 1986					FY 1987					FY 1988				
1Q	2Q	3Q	4Q	TOTAL		1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
UNIV OF FAC				2055						2055					2055					2229
UNIV OF MAJ				220						220					220					264
INSPECTIONS	337	341	490	431	1599	397	376	580	589	1942	412	483	522	534	1951	335	437	597	273	1642
MAJ INSP	57	87	96	90	330	87	64	107	103	361	94	92	108	101	395	99	83	136	56	374
B.O.Y. SMC	N/A					23					13					16				
DYN SMC	23	28	30	23		18	23	12	13		12	14	7	16		13	17	18		
EX LIST		5	7	13		14	10	12	9		5	7	4	1		0	2	4	1	
TOT AO/REF				93					59					64						78
TOT AO	16	23	17	15	71	10	10	10	11	41	11	10	12	19	52	9	14	24	10	57
TOTAL REF				22					18					12		6	4	5	6	21

ASSUMED UNIV. OF PERMITTEES & MAJORS WAS THE SAME AS SEPT. 30, 1988 NUMBER.
 COLO. HAS ADMIN. PENALTY AUTHORITY & ISSUED PENALTY ORDERS. EPA DOES NOT TRACK THESE NUMBERS.
 ENF. ACTIONS MAY INCLUDE PRETREATMENT CASES.
 UTAH INCLUDED AS OF 1ST QTR FY 1988.

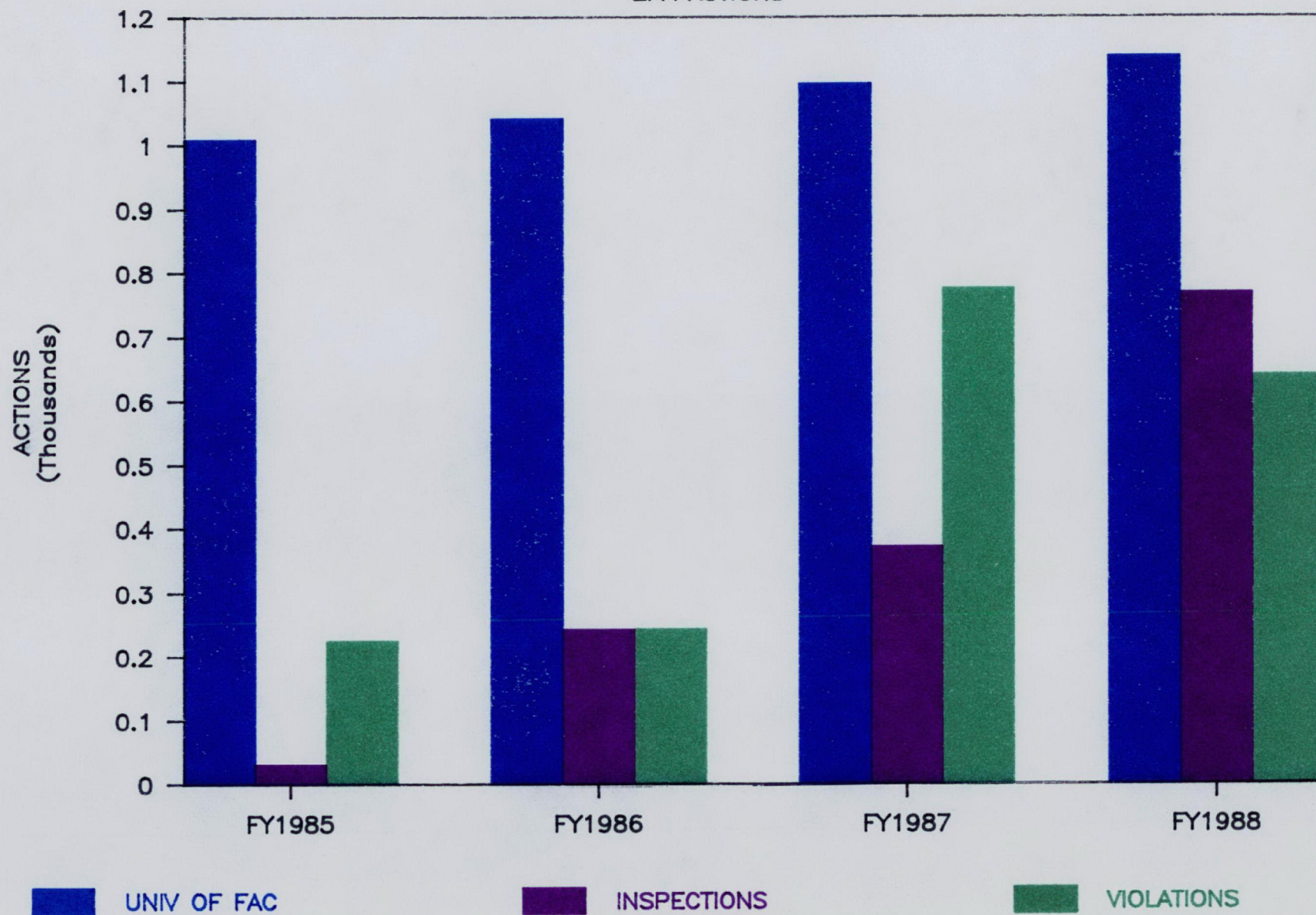
NPDES ENF. ACTIONS
COMBINED EPA/DELEGATED STATE ACTIONS

	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
UNIV OF FAC					2863					2863					2863					2863
UNIV OF MAJ					297					297					297					297
INSPECTIONS	DATA NOT AVAILABLE				0	DATA NOT AVAILABLE				0	432	502	544	543	2021	346	451	619	287	1703
B.O.Y. SNC	N/A					39					23					18				
DYN SNC	33	40	49	39		31	32	17	23		21	25	17	18		16	18	18		
EX LIST		6	8	14		23	14	14	12		11	12	7	2		1	3	4	1	
TOT AO/REF					136					87					107					114
TOT AO					110					63					90					81
TOTAL REF					26					24					17					24
% NOT IN SNC	90	87	86	88		91	93	95	93		94	92	94	94		95	94	95		

ASSUMED UNIV. OF PERMITTEES & MAJORS WAS THE SAME AS SEPT. 30, 1988 NUMBER.
INSP. INCLUDES CSI, PAI, CEI & OVERSIGHT.
ENF. ACTIONS MAY INCLUDE PRETREATMENT CASES.

UIC ENFORCEMENT ACTIONS

EPA ACTIONS



UIC ENF. ACTIONS
EPA ACTIONS

	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT
UNIV OF FAC					1007					1041					1095					1137
UNDELEGATED																				
INSPECTIONS		8	9	12	29	100	0	0	142	242	150	0	132	89	371	245	0	522		767
VIOLATIONS					224					243	0	595	4	175	774	92	72	116	359	639
DYN SNC	N/A					N/A					0	1	1	2		0	0	3	12	
EXC LIST	N/A					N/A					0	0	0	0		0	0	0		
TOT AO/REF	0	1	0	0	1	0	0	0	2	2	0	0	1	4	5					11
PEN AO	N/A					N/A					0	0	1	3	4	0	5	3	0	8
MAJ AO/REF	0	1	0	0	1	0	0	0	2	2	0	0	1	4	5	0	5	3	0	8
TOT AO	N/A					N/A					0	0	1	3	4	0	5	3	0	8
TOTAL REF	0	1	0	0	1	0	0	0	2	2	0	0	0	1	1	0	0	0	3	3

UNIV OF FAC IS CLASS II OIL & GAS WELLS ONLY
CLASS V WELLS (5303 TOTAL) WERE ADDED TO INVENTORY IN 1986
CLASS V WELLS NOT YET ACTIVELY REGULATED.

UIC ENF. ACTIONS
STATE ACTIONS

	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT
UNIV OF FAC					0					0					0			13479		13479
INSPECTIONS					0					0					0			5683		5683
VIOLATIONS																		377		
DYN SNC	N/A					N/A					0	2	1	4		0	4	3		
EXC LIST	N/A					N/A					0	0	0	0		0	0	0		
TOT AO/REF	0	0	0	0	0	0	0	0	0	0	0	0	0	3	3			364		364
PEN AO	N/A					N/A					0	0	0	0	0					0
MAJ AO/REF	0	0	0	0	0	0	0	0	0	0	0	0	0	3	3					0
TOT AO	N/A										0	0	0	3	3					0
TOTAL REF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0					0

FY88 TOT AO/REF INCLUDES ALL ACTIONS AS DEFINED BY SPMS
THIS INCLUDES AO, NOV, SHUT-INS, AND PIPELINE SEVERANCE

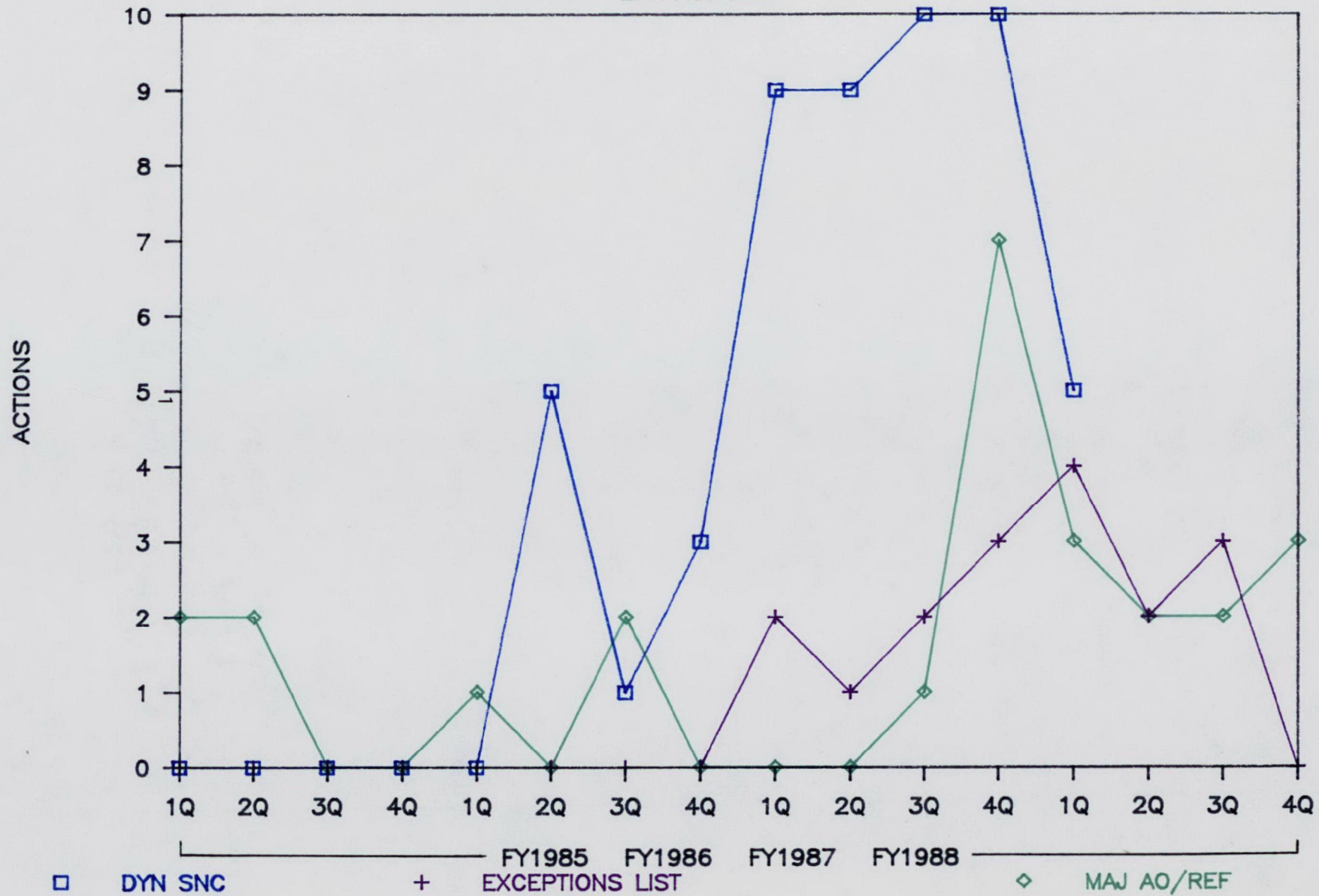
UIC ENF. ACTIONS
COMBINED EPA/STATE ACTIONS

	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT
UNIV OF FAC					1007					1041					1095					14616
INSPECTIONS	0	8	9	12	29	100	0	0	142	242	150	0	132	89	371	245	0	6205	0	6450
VIOLATIONS					224					243		595	4	175	774	92	72	493	359	639
DYN SNC	N/A					N/A					0	3	2	6	0	0	0	6	12	0
EXC LIST	N/A					N/A					0	0	0	0	0	0	0	0	0	0
TOT AO/REF	0	1	0	0	1	0	0	0	2	2	0	0	1	7	8	0	0	364		375
PEN AO	N/A					N/A					0	0	1	3	4	0	5	3		8
MAJ AO/REF	0	1	0	0	1	0	0	0	2	2	0	0	1	7	8	0	5	3		8
TOT AO	N/A					N/A					0	0	1	6	7	0	5	3		8
TOTAL REF	0	1	0	0	1	0	0	0	2	2	0	0	0	1	1	0	0	0		3

FY88 TOT AO/REF INCLUDES ALL ACTIONS AS DEFINED BY SPMS
THIS INCLUDES AO, NOV, SHUT-INS, AND PIPELINE SEVERANCE

PWSS ENFORCEMENT ACTIONS

EPA ACTIONS



PWSS ENF. ACTIONS
EPA ACTIONS

FY 1985						FY 1986					FY 1987					FY 1988										
1Q	2Q	3Q	4Q	TOT		1Q	2Q	3Q	4Q	TOT		1Q	2Q	3Q	4Q	TOT		1Q	2Q	3Q	4Q	TOT				
UNIV OF FAC					7443						7121						7416					7495				
UNDELEGATED					873						837						826					809				
UNIV OF MAJ					3003						2903						2972					3044				
UNDEL MAJ					332						328						316					317				
INSPECTIONS DATA NOT AVAILABLE																										
MAJ INSP						5005					10081230					0202426										
VIOLATIONS					454						468						534					373				
MAJ IN VIOL					117						165						164					125				
DYN SNC N/A						513					991010					5										
EXC LIST N/A						N/A					2123					4230										
TOT AO/REF					22004	102003					00178					322310										
PEN AO N/A						N/A					00000					00011										
MAJ AO/REF					22004	102003					00178					322310										
AO/MAJ					12003	10001					00178					322310										
TOTAL REF					10001	002002					00000					00000										
REF/MAJ					10001	002002					00000					00000										
COMP RATE					64.7%						49.7%						48.1%						60.1%			

PWSS ENF. ACTIONS
PRIMACY STATES' ACTIONS

	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT
UNIV OF FAC					6570					6284					6590					6686
UNIV OF MAJ					2671					2575					2656					2727
INSPECTIONS (DATA NOT AVAILABLE)					0					0					0					0
MAJ INSP					0	293	278	719	463	1753	272	173	*	495	940	172	152	533		857
VIOLATIONS					2688					2772			*		2503					1775
MAJ IN VIOL					1168					1105			*		1076					780
DYN SNC	N/A						44	23	18		25	15	7	12		14				
EXC LIST	N/A					N/A					11	12	7	15		8	2	7	5	
TOT AO/REF	0	0	0	0	0	0	0	0	0	0	2	1	*	4	7	10	7	13		30
PEN AO	N/A					N/A					0	0	0	0	0	0	0	0		0
MAJ AO/REF	0	0	0	0	0	0	0	0	0	0	2	1	*	4	7	10	7	13		30
AO/MAJ	0	0	0	0	0	0	0	0	0	0	0	0	0	4	4	9	2	9		20
TOTAL REF	0	0	0	0	0	0	0	0	0	0	2	1	*		3	1	5	4		10
REF/MAJ	0	0	0	0	0	0	0	0	0	0	2	1	*		3	1	5	4		10
COMP RATE					56.3%					57.1%					59.5%					71.4%

*UNAVAILABILITY OF FY87 3RD QTR DATA MAKES TOTALS LOW
FY88 COMP RATE INVALID DUE TO LACK OF 4TH QTR DATA

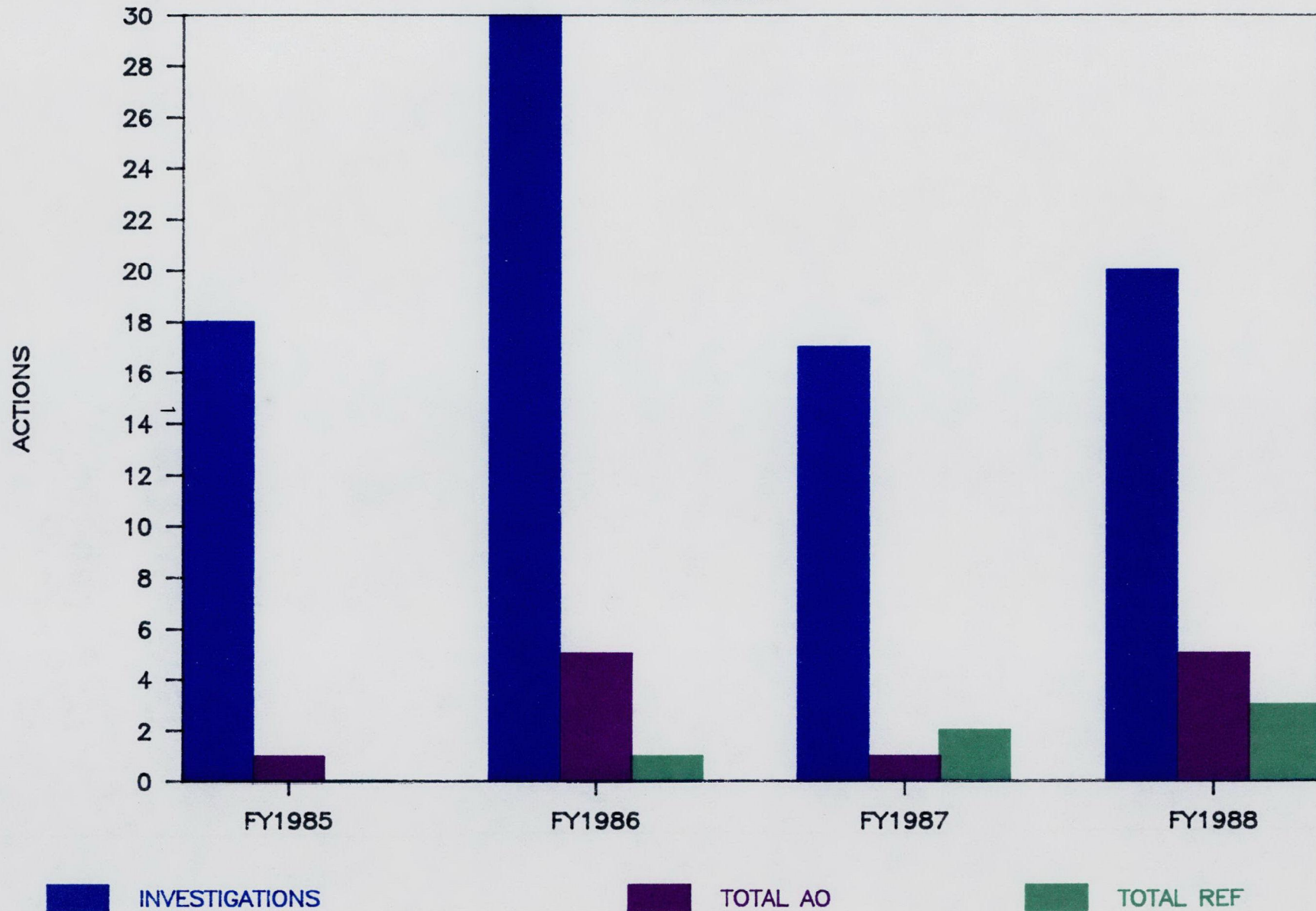
PWSS ENF. ACTIONS
COMBINED EPA/STATE ACTIONS

	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT	1Q	2Q	3Q	4Q	TOT
UNIV OF FAC					7443					7121					7416					7495
UNIV OF MAJ					3003					2903					2972					3044
INSPECTIONS (DATA NOT AVAILABLE)																				
MAJ INSP						293	283	719	463	1758	282	173	8	507	970	172	154	533	24	883
VIOLATIONS					3142					3240					3037					2148
MAJ IN VIOL					1285					1270					1240					905
DYN SNC	N/A						49	24	21		34	24	17	22		19				
EXC LIST	N/A					N/A					13	13	9	18		12	4	10	5	
TOT AO/REF	2	2	0	0	4	1	0	2	0	3	2	1	1	11	15	13	9	15	3	40
PEN AO	N/A					N/A					0	0	0	0	0	0	0	0	1	1
MAJ AO/REF	2	2	0	0	4	1	0	2	0	3	2	1	1	11	15	13	9	15	3	40
AO/MAJ	1	2	0	0	3	1	0	0	0	1	0	0	1	11	12	12	4	11	3	30
TOTAL REF	1	0	0	0	1	0	0	2	0	2	2	1	0	0	3	1	5	4	0	10
REF/MAJ	1	0	0	0	1	0	0	2	0	2	2	1	0	0	3	1	5	4	0	10
COMP RATE					57.2%					56.3%					58.3%					70.3%

UNAVAILABILITY OF 3RD QTR FY87 DATA MAKES TOTALS LOW
UNAVAILABILITY OF 4TH QTR FY88 PRIMACY STATE DATA MAKES TOTALS LOW
FY88 COMP RATE INVALID DUE TO LACK OF 4TH QTR PRIMACY STATE DATA

404 ENFORCEMENT ACTIONS

EPA ACTIONS

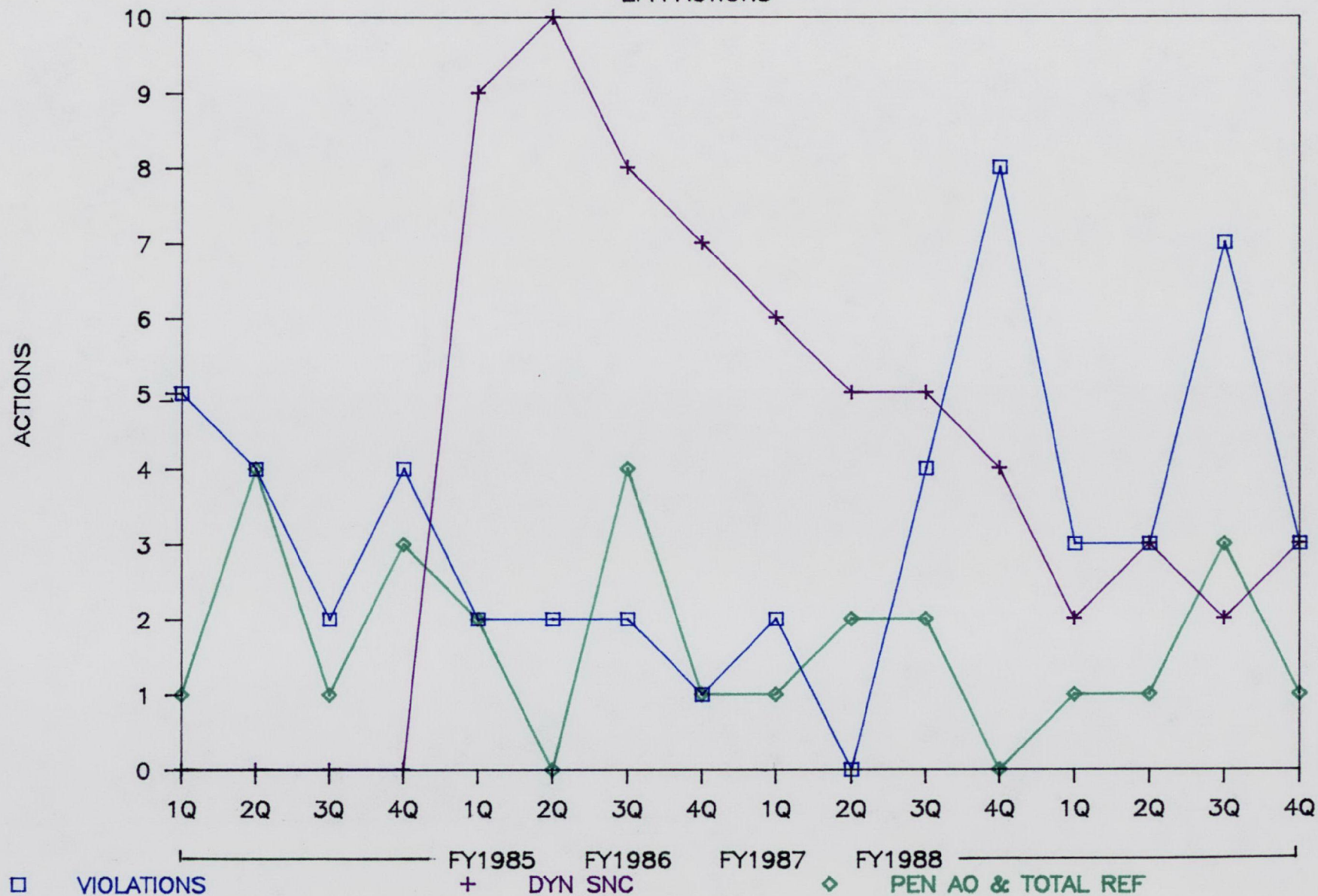


404 ENF. ACTIONS
EPA ACTIONS

	1Q	2Q	FY 1985		TOT	1Q	2Q	FY 1986		TOT	1Q	2Q	FY 1987		TOT	1Q	2Q	FY 1988		TOT
			3Q	4Q				3Q	4Q				3Q	4Q				3Q	4Q	
INVESTIG			9	9	18	12	10	2	6	30	4	3	4	6	17					20
TOT AO/REF	0	1	0	0	1	3	1	2	0	6	0	1	0	2	3	0	2	5	1	8
TOT AO	0	1	0	0	1	2	1	2	0	5	0	1	0	0	1	0	2	3	11	5
TOTAL REF	0	0	0	0	0	1	0	0	0	1	0	0	0	2	2	0	0	2	1	3

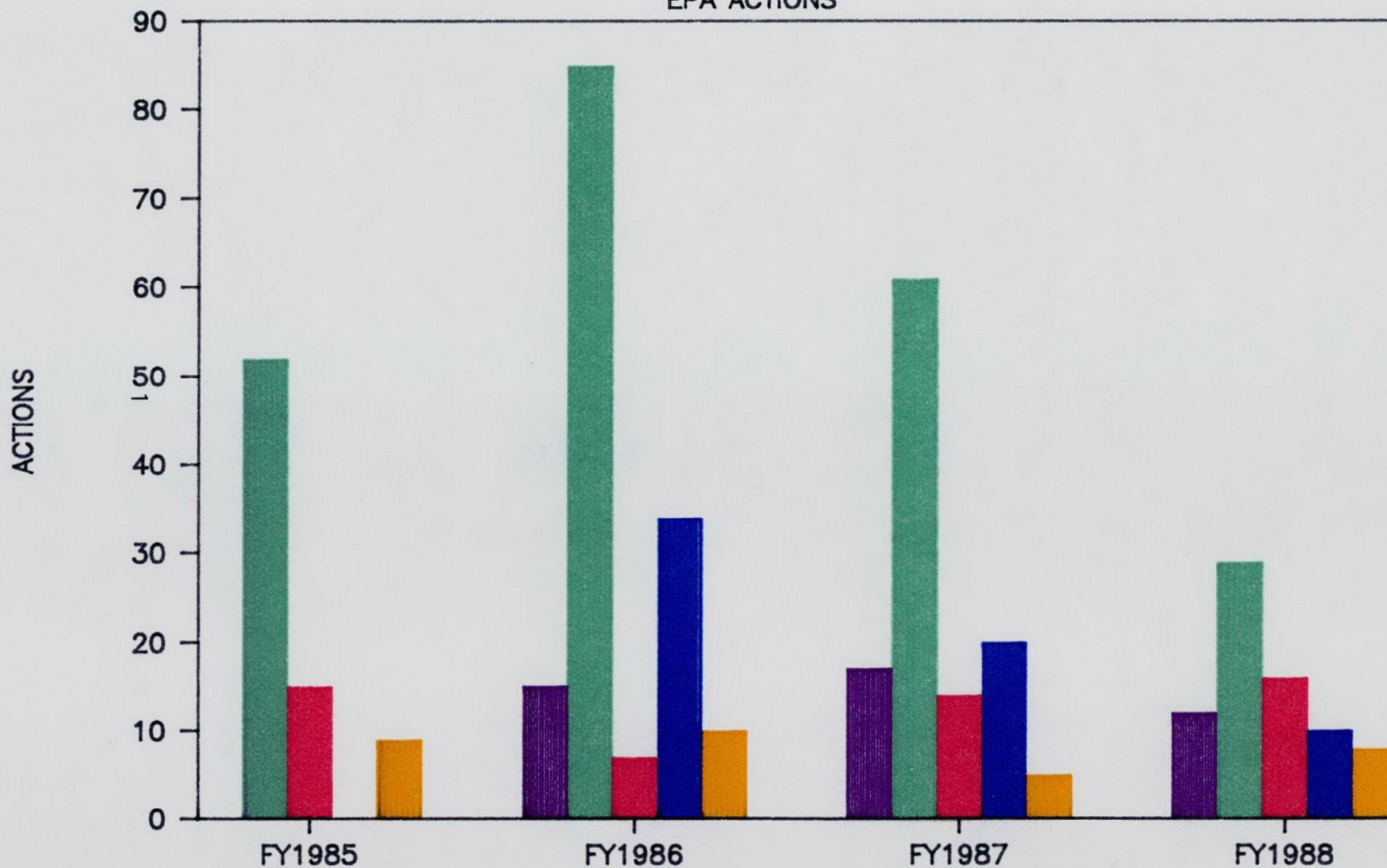
RCRA ENFORCEMENT ACTIONS

EPA ACTIONS



RCRA ENFORCEMENT ACTIONS

EPA ACTIONS

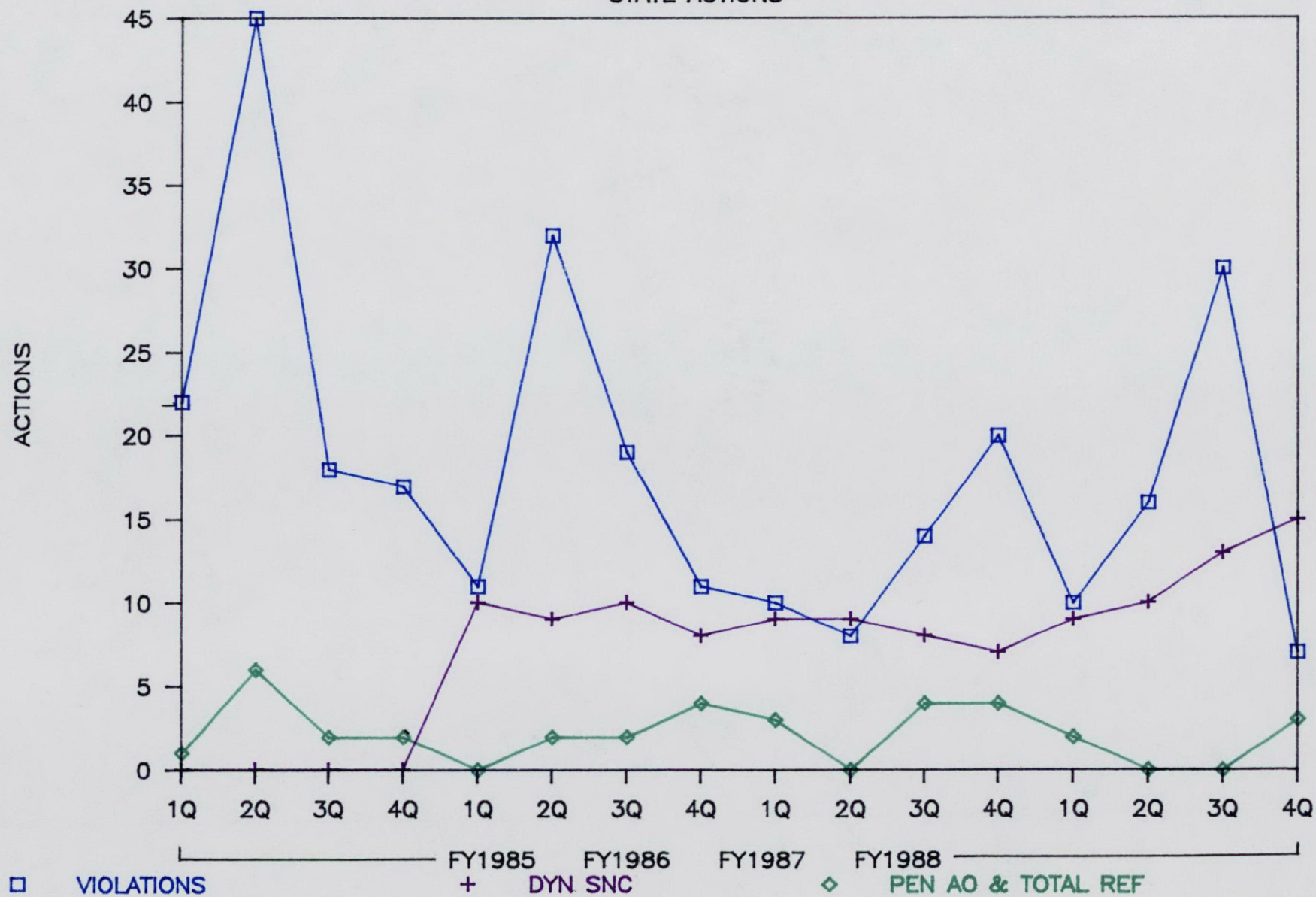


*NOTE — NO UNDELEGATED DATA FOR FY85

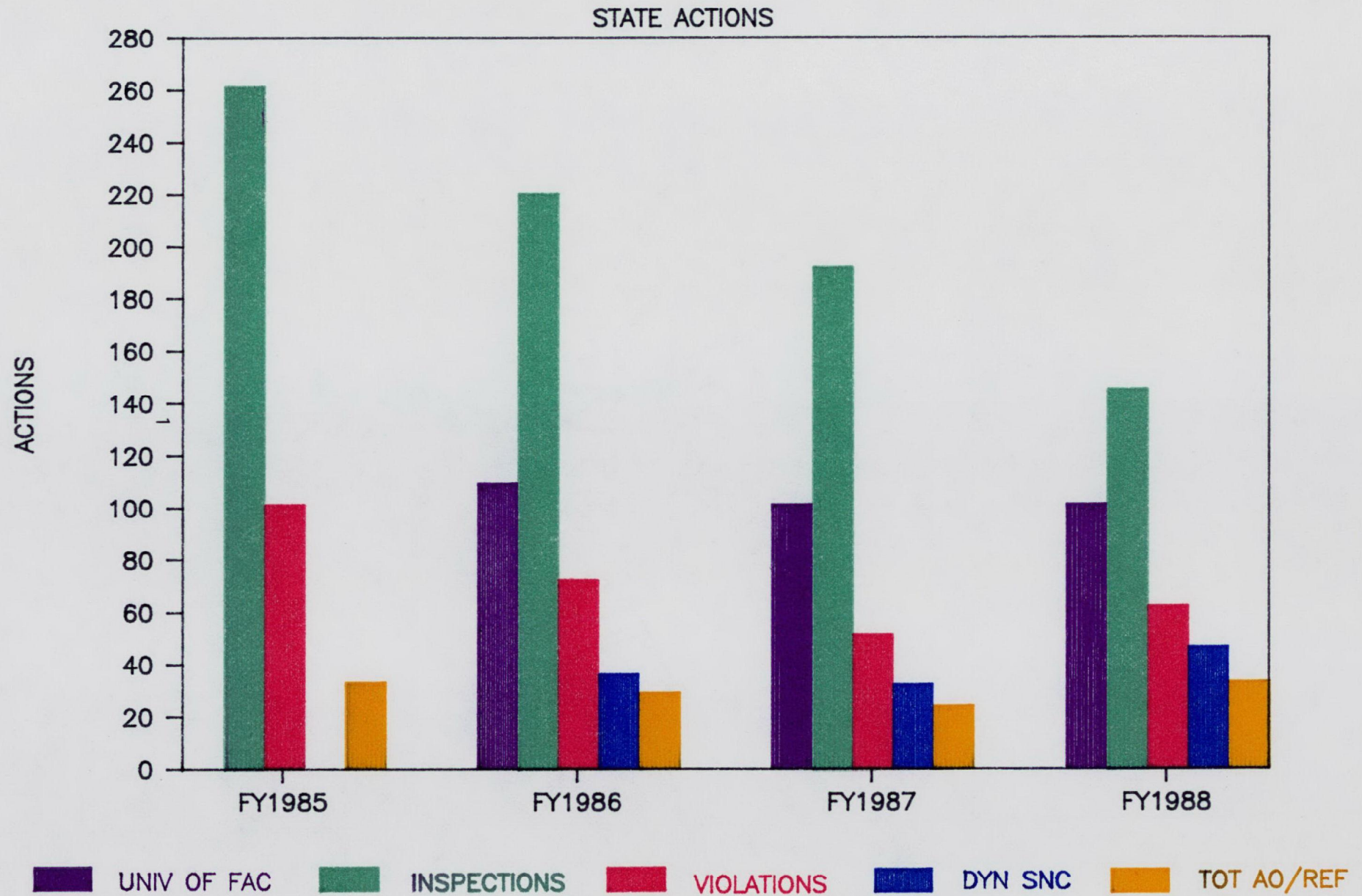
UNIV OF FAC INSPECTIONS VIOLATIONS DYN SNC TOT AO/REF

RCRA ENFORCEMENT ACTIONS

STATE ACTIONS

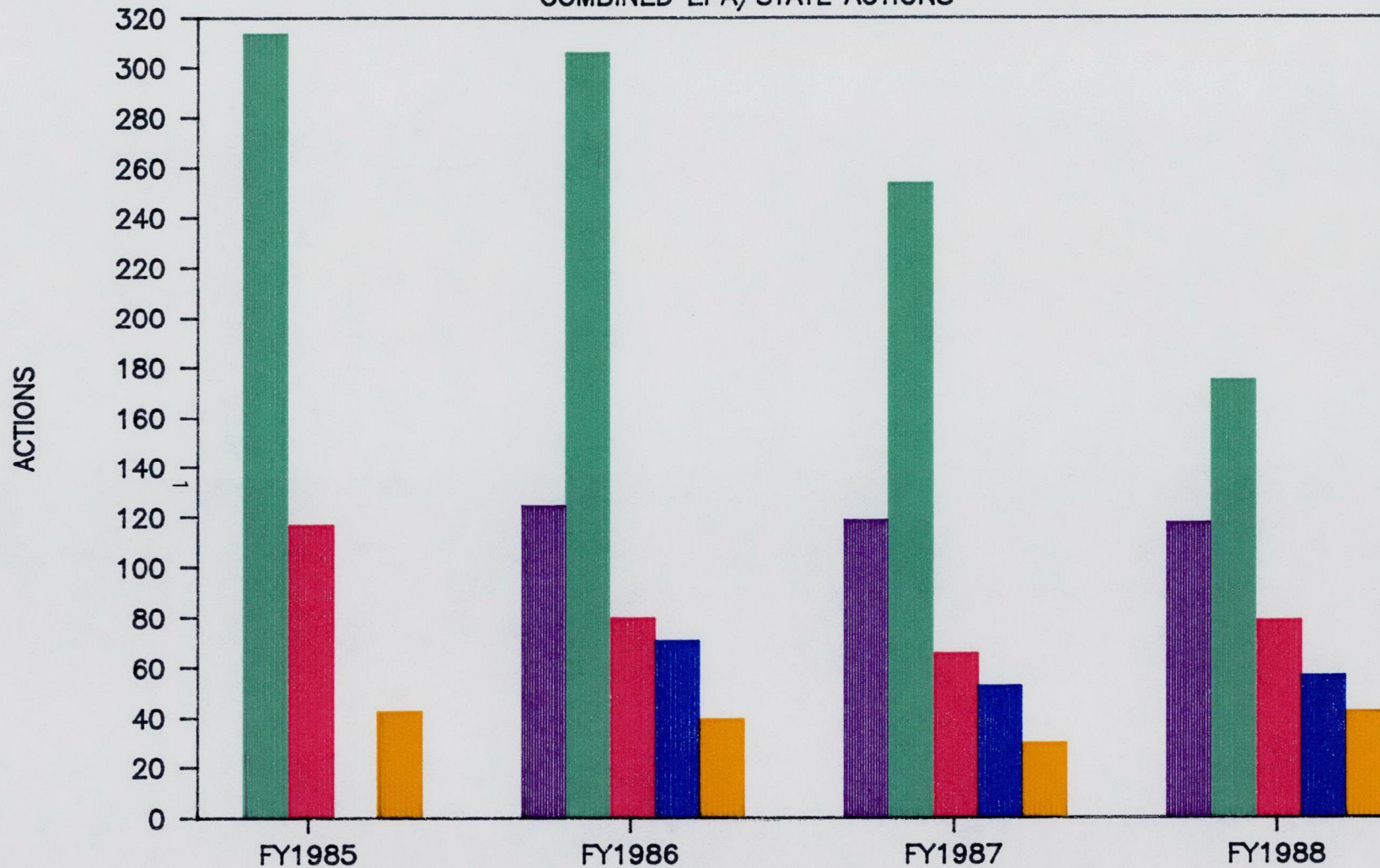


RCRA ENFORCEMENT ACTIONS



RCRA ENFORCEMENT ACTIONS

COMBINED EPA/STATE ACTIONS



* NOTE - NO DYN SNC DATA FOR FY85

UNIV OF FAC INSPECTIONS VIOLATIONS DYN SNC TOT AO/REF

RCRA ENF. ACTIONS
EPA ACTIONS

SERIES	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
UNIV OF FAC	DATA NOT AVAILABLE									125					119					118
UNDELEGATED	DATA NOT AVAILABLE									15					17					16
INSPECTIONS	16	13	11	12	52	8	40	16	21	85	7	14	22	18	61	2	6	15	6	29
VIOLATIONS	5	4	2	4	15	2	2	2	1	7	2	0	4	8	14	3	3	7	3	16
B.O.Y. SNC	N/A					9					8					2				
DYN SNC	N/A					9	10	8	7		6	5	5	4		2	3	2	3	
TOT AO/REF	1	4	1	3	9	2	2	4	2	10	1	2	2	0	5	1	1	5	2	9
PEN AO	1	3	1	3	8	2	0	3	1	6	0	2	1	0	3	1	0	3	1	5
TOTAL REF	0	1	0	0	1	0	0	1	0	1	1	0	1	0	2	0	1	0	11	1
UNIVERSE IS TOTAL # OF TSDF IN REGION																				

RCRA ENF. ACTIONS
STATE ACTIONS

SERIES	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
UNIV OF FAC	DATA NOT AVAILABLE					110					102					102				
INSPECTIONS	42	108	45	67	262	54	61	58	48	221	43	38	52	60	193	33	34	60	19	146
VIOLATIONS	22	45	18	17	102	11	32	19	11	73	10	8	14	20	52	10	16	30	7	63
B.O.Y. SNC	N/A					13					14					8				
DYN SNC	N/A					10					9					9				
TOT AO/REF	2	13	9	10	34	1	11	8	10	30	9	5	8	3	25	6	4	10	14	34
PEN AO	1	5	2	1	9	0	2	1	3	6	3	0	1	3	7	2	0	0	2	4
TOTAL REF	0	1	0	1	2	0	0	1	1	2	0	0	3	1	4	0	0	0	1	1

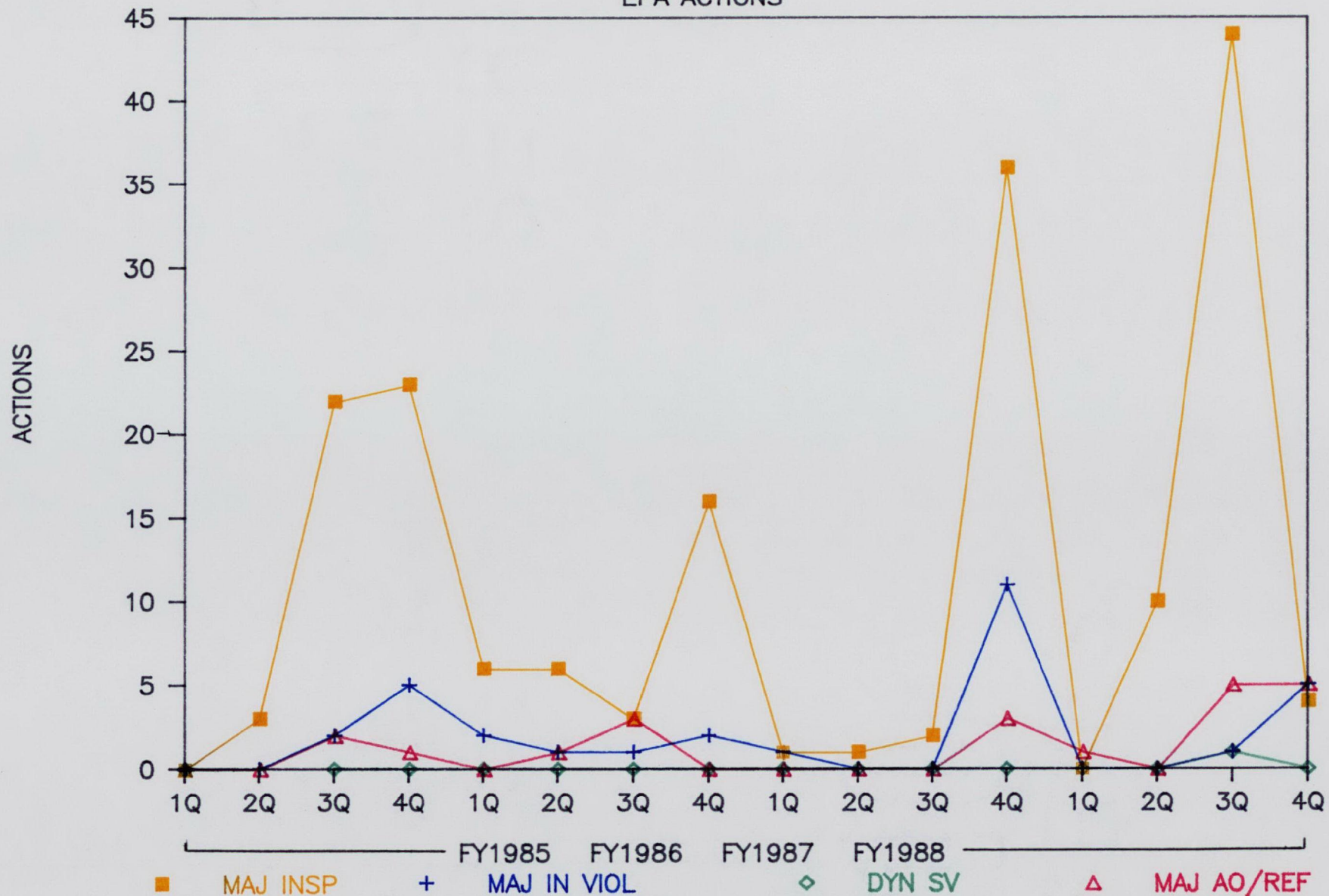
UNIVERSE IS TOTAL # OF TSDF MINUS WYOMING

RCRA ENF. ACTIONS
COMBINED EPA/STATE ACTIONS

SERIES	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
UNIV OF FAC DATA NOT AVAILABLE										125					119					118
INSPECTIONS	58	121	56	79	314	62	101	74	69	306	50	52	74	78	254	35	40	75	25	175
VIOLATIONS	27	49	20	21	117	13	34	21	12	80	12	8	18	28	66	13	19	37	10	79
B.O.Y. SNC N/A						22					22					10				
DYN SNC N/A						19	19	18	15		15	14	13	11		11	13	15	18	
TOT AO/REF	3	17	10	13	43	3	13	12	12	40	10	7	10	3	30	7	5	15	16	43
PEN AO	2	8	3	4	17	2	2	4	4	12	3	2	2	3	10	3	0	3	3	9
TOTAL REF	0	2	0	1	3	0	0	2	1	3	1	0	4	1	6	0	1	0	1	2

AIR ENFORCEMENT ACTIONS

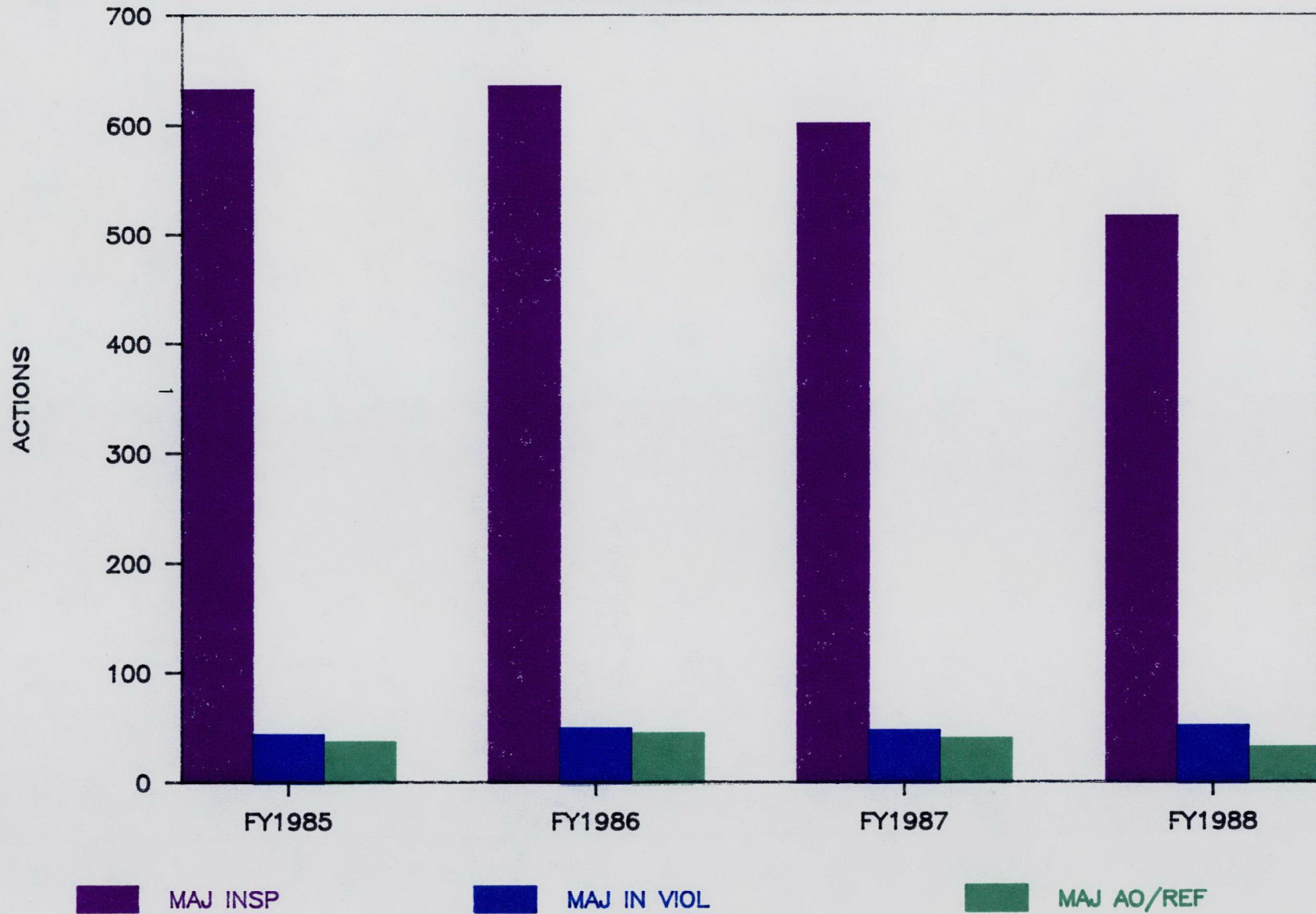
EPA ACTIONS



NOTE: DYN SNC DATA AVAILABLE FOR ONLY FY1987 & FY1988

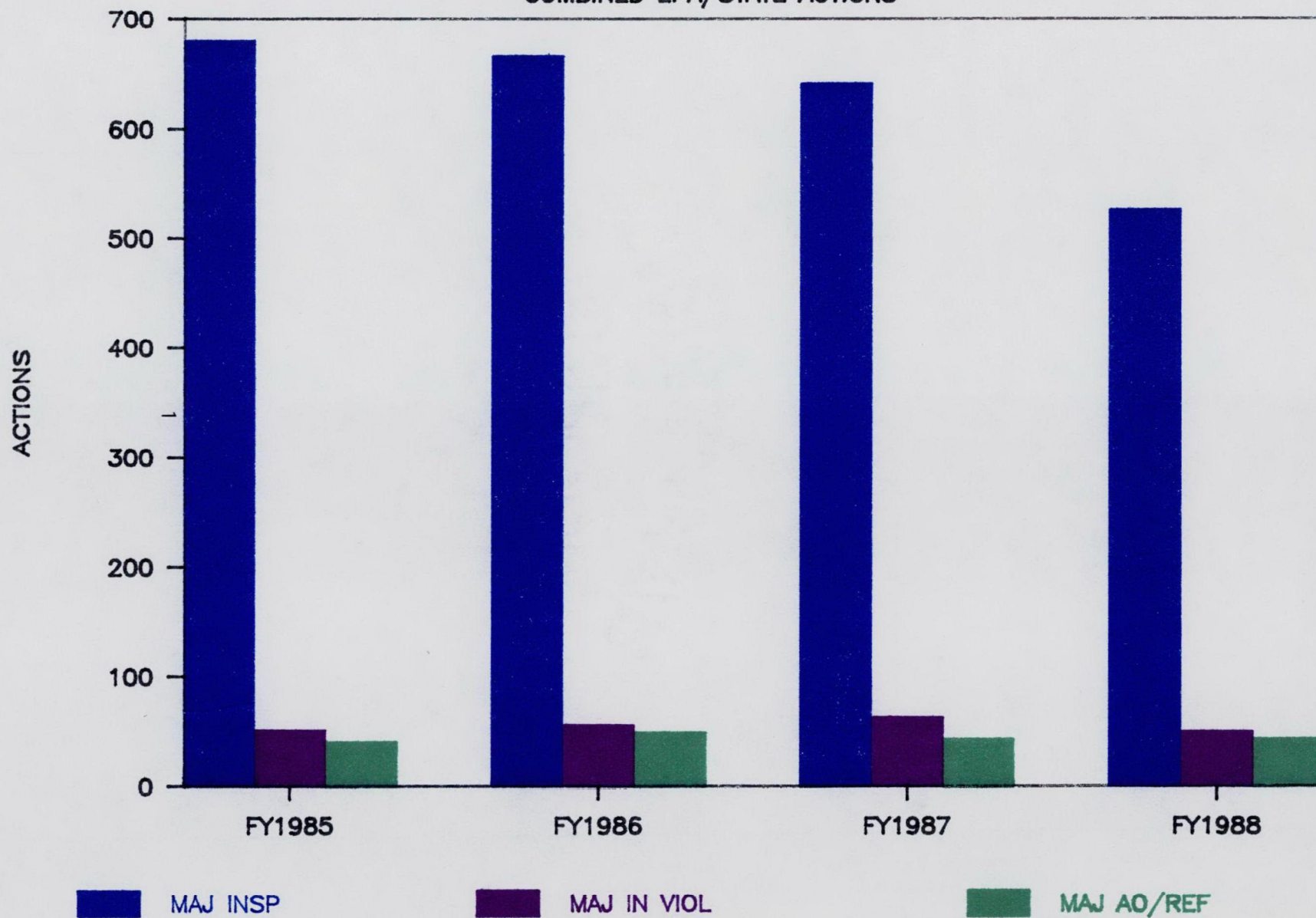
AIR ENFORCEMENT ACTIONS

DELEGATED STATE ACTIONS



AIR ENFORCEMENT ACTIONS

COMBINED EPA/STATE ACTIONS



AIR ENF. ACTIONS
EPA ACTIONS

SERIES	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
UNIV OF MAJ	DATA NOT AVAILABLE					DATA NOT AVAILABLE					DATA NOT AVAILABLE					858				
MAJ INSP	0	3	22	23	48	6	6	3	16	31	1	1	2	36	40	0	10	44	4	58
MAJ IN VIOL	0	0	2	5	7	2	1	1	2	6	1	0	0	11	12	0	0	1	5	6
B.O.Y. SV	DATA NOT AVAILABLE										7					2				
DYN SV	DATA NOT AVAILABLE					DATA NOT AVAILABLE					0	0	0	0		0	0	1	0	
MAJ AO/REF	0	0	2	1	3	0	1	3	0	4	0	0	0	3	3	1	0	5	5	11
AO/MAJ	0	0	0	0	0	0	0	2	0	2	0	0	0	1	1	0	0	5	1	6
REF/MAJ	0	0	2	1	3	0	1	1	0	2	0	0	0	2	2	1	0	0	4	5

UNIVERSE, INSP, VIO, AND SNC DO NOT INCLUDE ASBESTOS D&R SOURCES; AO & REF DO INCLUDE THEM.

AIR ENF. ACTIONS
DELEGATED STATE ACTIONS

SERIES	FY 1985					TOTAL	FY 1986					TOTAL	FY 1987					TOTAL	FY 1988					TOTAL
	1Q	2Q	3Q	4Q	1Q		2Q	3Q	4Q	1Q	2Q		3Q	4Q	1Q	2Q	3Q		4Q					
UNIV OF MAJ	DATA NOT AVAILABLE						DATA NOT AVAILABLE						DATA NOT AVAILABLE											858
MAJ INSP						632						635						601						516
MAJ IN VIOL						44						50						48						52
B.O.Y. SV	STATES DO NOT TRACK												15						10					
DYN SV	STATES DO NOT TRACK												6243						4234					
MAJ AO/REF	7	9	10	11	37	25	11	6	3	45	13	9	6	12	40	10	4	6	12	32				
AO/MAJ	7	9	9	10	35	23	8	5	1	37	13	7	6	9	35	8	3	4	10	25				
REF/MAJ	0	0	1	1	2	2	3	1	2	8	0	2	0	3	5	2	1	2	2	7				

UNIVERSE, INSP, VIO AND SNC DO NOT INCLUDE ASBESTOS D&R SOURCES; AO & REF DO INCLUDE THEM.

* Includes Class B source inspection. This is misleading source the majority of B source are not tracked in CDS.

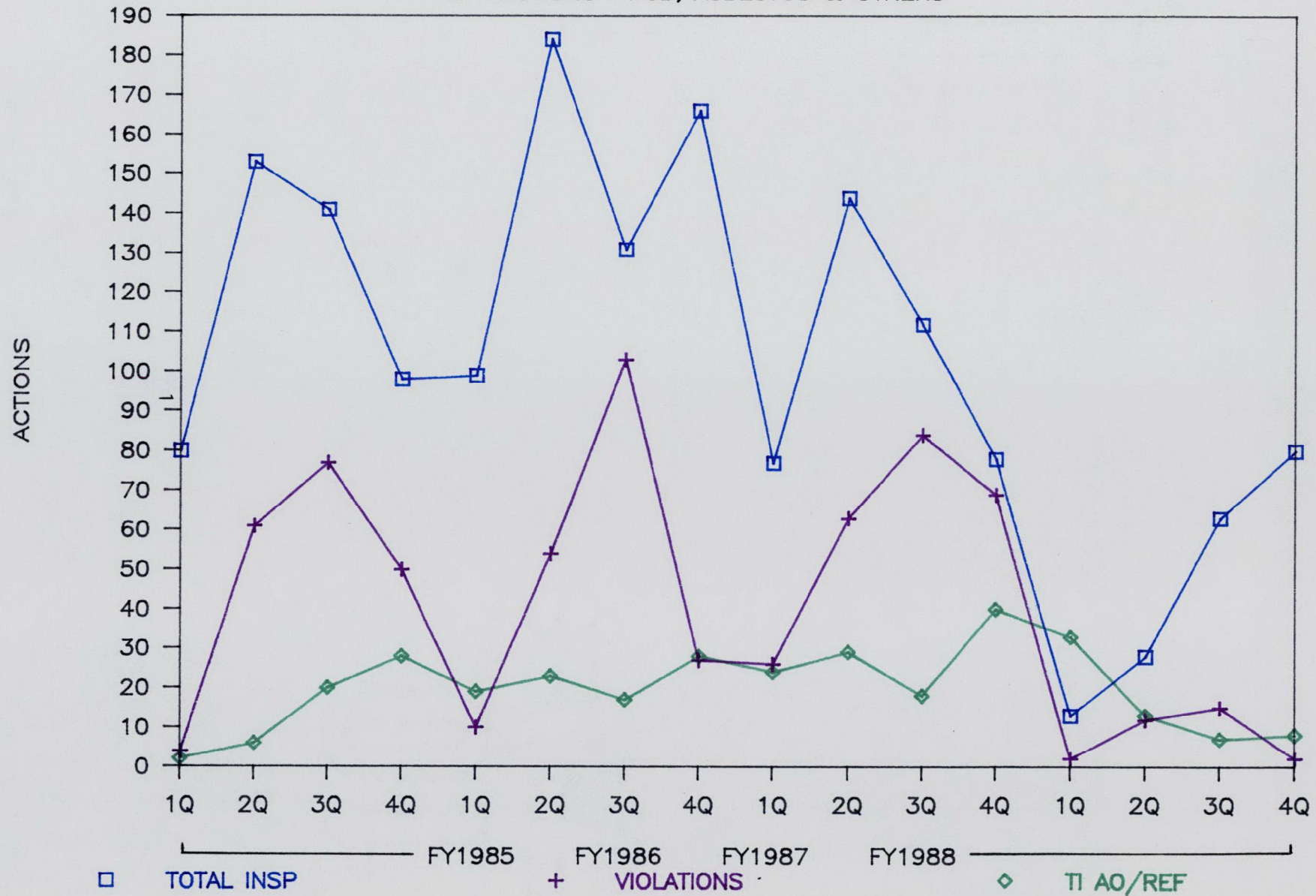
AIR ENF. ACTIONS
COMBINED EPA/STATE ACTIONS

SERIES	FY 1985					TOTAL	FY 1986					TOTAL	FY 1987					TOTAL	FY 1988					TOTAL
	1Q	2Q	3Q	4Q	1Q		2Q	3Q	4Q	1Q	2Q		3Q	4Q	1Q	2Q	3Q		4Q					
UNIV OF MAJ	DATA NOT AVAILABLE						DATA NOT AVAILABLE						DATA NOT AVAILABLE											858
MAJ INSP					680					666					641					574				
MAJ IN VIOL					51					56					60					58				
B.O.Y. SV	DATA NOT AVAILABLE						DATA NOT AVAILABLE						22						12					
DYN SV	DATA NOT AVAILABLE						DATA NOT AVAILABLE						6 2 4 3						4 2 3 4					
MAJ AO/REF	7	9	12	12	40	25	12	9	3	49	13	9	6	15	43	11	4	11	17	43				
AO/MAJ	7	9	9	10	35	23	8	7	1	39	13	7	6	10	36	8	3	9	11	31				
REF/MAJ	0	0	3	2	5	2	4	2	2	10	0	2	0	5	7	3	1	2	6	12				

UNIVERSE, INSP, VIO AND SNC DO NOT INCLUDE ASBESTOS D&R SOURCES; AO & REF DO INCLUDE THEM.
EPA INSP. & VIO INCLUDE MAJORS ONLY; STATE DATA INCLUDE MINORS
ALL ENF. ACTIONS ARE AGAINST MAJORS.

TSCA ENFORCEMENT ACTIONS

EPA ACTIONS -PCB, ASBESTOS & OTHERS



TSCA ENF. ACTIONS
EPA ACTIONS

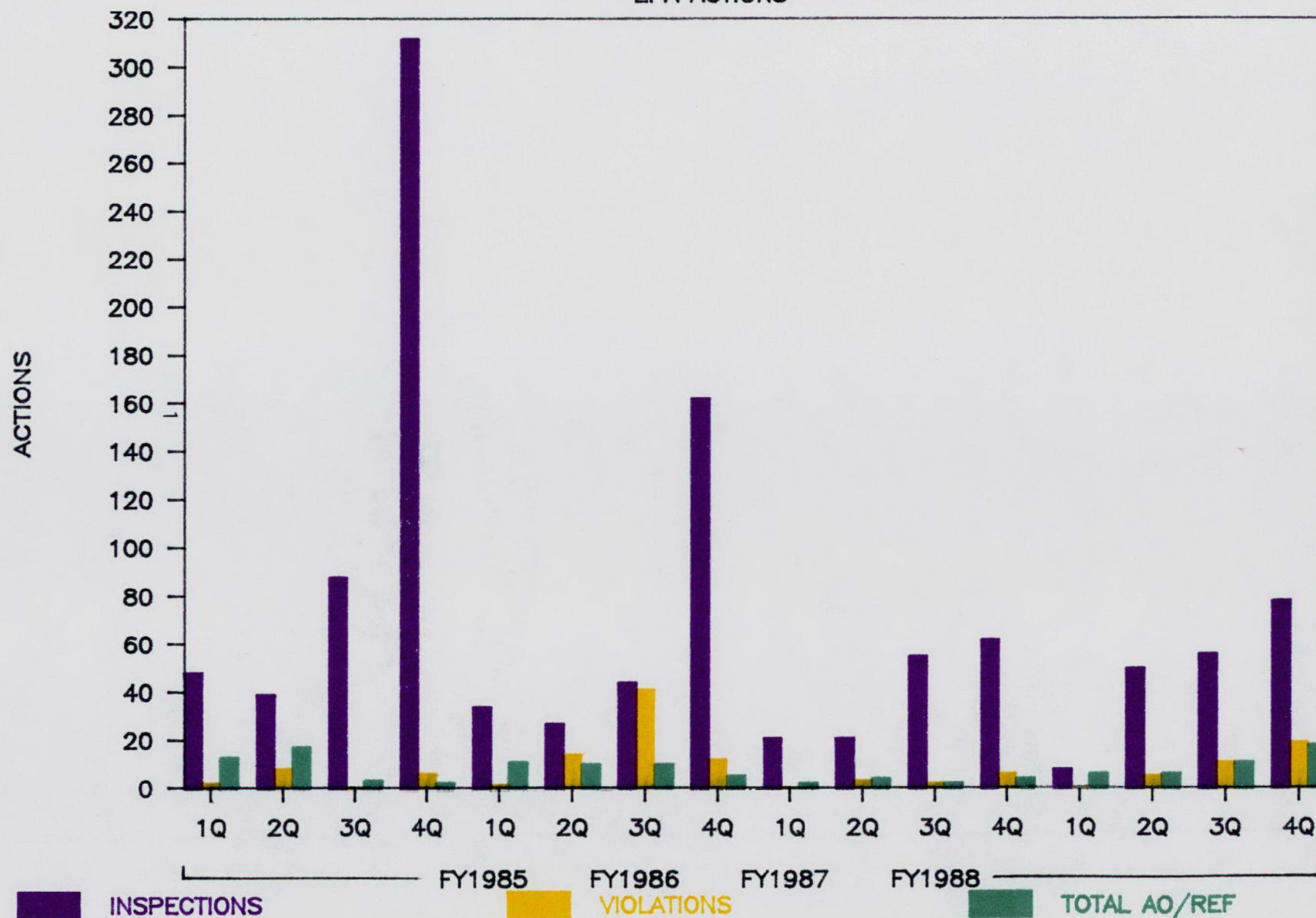
SERIES	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
INSP ASB	30	84	69	15	198	53	74	37	68	232	35	55	51	4	145	0	8	28	22	58
CO ASB						0	13	48	16	77	20	38	42	41	141	0	0	0	32	32
INSP PCB	50	63	54	28	195	46	72	39	45	202	15	21	10	22	68	9	13	17	6	45
ND PCB						0	0	6	19	25	7	17	9	11	44	1	0	12	20	33
INSP OTHER	0	6	18	55	79	0	25	1	18	44	0	13	0	0	13	3	7	6	0	16
TOTAL INSP	80	153	141	98	472	99	184	131	166	580	77	144	112	78	411	13	28	63	80	184
VIOLATIONS	4	61	77	50	192	10	54	103	27	194	26	63	84	69	242	2	12	15	2	31
TI AO/REF	2	6	20	28	56	19	23	17	28	87	24	29	18	40	111	33	13	7	8	61
ADM COMPLAINT	2	6	20	27	55	18	22	17	28	85	24	29	18	40	111	33	13	7	8	61
TOTAL REF	0	0	0	1	1	1	1	0	0	2	0	0	0	0	0	0	0	0	0	0

THE PROGRAM HAS HAD COOPERATIVE AGREEMENTS WITH CO (ASB) AND ND (PCB) TO PERFORM INSPECTIONS SINCE FY 1986

DYN SNC = (B.O.Y. SNC + ADM COMPLAINTS) - CASES CLOSED

FIFRA ENFORCEMENT ACTIONS

EPA ACTIONS



FIFRA ENF. ACTIONS
EPA ACTIONS

SERIES	FY 1985					FY 1986					FY 1987					FY 1988				
	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL	1Q	2Q	3Q	4Q	TOTAL
INSPECTIONS	48	39	88	312	487	34	27	44	162	267	21	21	55	62	159	8	50	56	78	192
VIOLATIONS	2	8	0	6	16	1	14	41	12	68	0	3	2	6	11	0	5	11	19	35
TOT AO/REF	13	17	3	2	35	11	10	10	5	36	2	4	2	4	12	6	6	11	18	41
PEN AO	13	17	3	2	35	11	10	10	5	36	1	4	1	4	10	6	6	11	16	39
TOTAL REF	0	0	0	0	0	0	0	0	0	0	1	0	1	0	2	0	0	0	2	2

APPENDIX I.

A. SUMMARY OF REGION VIII ENFORCEMENT PROGRAM'S ADMINISTRATIVE ORDER/REFERRAL ACCOMPLISHMENTS

EPA REGION VIII					
PROGRAM	FY	REF's	AO's	TOTAL	COMMENTS
NPDES & PRETRIMNT	1985	4	39	43	
	1986	6	22	28	
	1987	5	38	43	
	1988	3	24	27	
AIR:	1985	3	0	3	
	1986	2	2	4	
	1987	2	1	3	
	1988	5	6	11	
RCRA:	1985	1	8	9	
	1986	1	9	10	
	1987	2	3	5	
	1988	1	8	9	
TSCA:	1985	1	55	56	
	1986	2	85	87	
	1987	0	111	111	
	1988	0	61	61	DECREASE DUE TO AHERA
FIFRA:	1985	0	35	35	
	1986	0	36	36	
	1987	2	10	12	
	1988	2	39	41	
UIC:	1985	1		1	
	1986	2		2	
	1987	1	4	5	NEW AO AUTHORITY
	1988	3	8	11	
PWSS:	1985	1	3	4	
	1986	2	1	3	
	1987	0	8	8	NEW AO AUTHORITY
	1988	0	10	10	
404:	1985	0	1	1	
	1986	1	5	6	
	1987	2	1	3	
	1988	3	5	8	
<hr/>					
TOTALS:	1985	11	141	152	
	1986	16	160	176	
	1987	14	176	190	
	1988	17	161	194	

B.

COMBINED EPA/STATE INSEPCIONS

PROGRAM	FY85	FY86	FY87	FY88	NOTES
	TOTAL	TOTAL	TOTAL	TOTAL	
NPDES	1599	1942	2021	1703	For FY87 and '86 only state data were available; for EPA most violations result from the facility generated monitoring data not inspections.
UIC	29	242	371	6450	State data not available for FY85, '86, '87 and only for the 3rd quarter FY88; no EPA 1st quarter FY85 and 4th quarter FY88 data.
PWS	N/A	1758	507	883	The data represent sanitary surveys that are technical assistance in nature instead of enforcement related inspections.
404	12	30	17	20	404 program performs investigations instead of inspections; the 1st/2nd quarter FY85 data are missing.
RCRA	314	306	254	175	
AIR	680	666	641	574	
TSCA	472	478	226	119	
FIFRA	487	267	159	192	
TOTALS	3593	5689	4196	10116	The 404, TSCA and FIFRA programs only include EPA data.

C.

COMBINED EPA/STATE VIOLATIONS

PROGRAM	FY85	FY86	FY87	FY88	NOTES
	TOTAL	TOTAL	TOTAL	TOTAL	
NPDES	--	--	--	--	(--) Data were not available.
UIC	224	243	774	639	(--) Only 3rd quarter FY88 State data were available.
PWS	3142	3240	3037	2148	
404	--	--	--	--	(--) Data were not available.
RCRA	117	80	66	79	
AIR	51	56	60	58	
TSCA	192	194	242	31	
FIFRA	16	68	11	35	
TOTALS	3742	3881	4190	2990	

D.

COMBINED EPA/STATE "DYNAMIC" SIGNIFICANT NON-COMPLIERS (SNC)

PROGRAM	FY85	FY86	FY87	FY88	AVERAGE/QTR	NOTES
	1Q12Q13Q14Q	1Q12Q13Q14Q	1Q12Q13Q14Q	1Q12Q13Q14Q		
NPDES	33140149139	21132117121	21125117118	161181181--	26	
UIC	--1--1--1--	--1--1--1--	201 31 21 6	01 41 6112	7	
PWS	--1--1--1--	--149124121	34124117122	191--1--1--	26	
AIR	--1--1--1--	--1--1--1--	61 21 71 3	41 21 41 4	4	The Program uses Significant Violation (SV) instead of SNC.
RCRA	--1--1--1--	19119118115	15119112120	11113115118	16	

(--) data were unavailable for a number of reason e.g., the program reporting requirements lag 1 or 2 quarters for submission of data or some programs did not use the SNC concept until FY87.
404, TSCA and FIFRA do not use a definition for SNC.

E.

COMBINED EPA/STATE EXCEPTIONS LIST

PROGRAM	FY85	FY86	FY87	FY88	AVERAGE/QTR	NOTES
	1Q12Q13Q14Q	1Q12Q13Q14Q	1Q12Q13Q14Q	1Q12Q13Q14Q		
NPDES	--1 71 9115	32118116115	171171101 3	21 41 41 1	11	
UIC	--1--1--1--	--1--1--1--	01 01 01 0	01 01 01 -	0	
PWS	--1--1--1--	--1--1--1--	131131 9118	121 41101 5	11	Exceptions List approach applies to these programs only.

(--) Data were unavailable based on when the programs initiated the use of
the definition of Exceptions List or the program reporting requirements.

F.

COMBINED ADMINISTRATIVE ORDERS AND REFERRALS

PROGRAM	FY85	FY86	FY87	FY88	NOTES
TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	
NPDES	136	87	107	114	
UIC	1	2	8	--	(--) The UIC States data include such enforcement actions as shut-ins of wells and pipe severeness; 4th quarter FY88 data were unavailable.
PWS	4	3	15	40	
404	1	6	3	8	
RCRA	43	40	30	43	
AIR	40	49	43	43	
TSCA	56	87	111	61	
FIFRA	35	36	12	41	
TOTALS	316	310	329	350	The 404, TSCA and FIFRA data only pertain to EPA enforcement actions.

APPENDIX II.

SUMMARY of ENFORCEMENT PROGRAMS' RESPONSE to QUESTIONNAIRE

The information was obtained to provide insight to the DRA regarding the similarities and differences in the various EPA enforcement programs.

A.	PROGRAM	DEL. STATES	ADMIN. PEN. AUTH.	STATE ADMINISTRATIVE AUTH.	STATE ADMIN. PEN. AUTH.	STATES THAT HAVEN'T TAKEN AN ENF. ACTION W/PENALTY.
	NPDES	All but S.D.	Yes	All 6 states have Admin. Auth. They haven't accepted the concept of recovery of at least the economic benefit of non-compl.	Only Colorado	All have; WY in last 2 yrs has generally ceased init. new pen. actions -- UT hasn't taken a pen. act. since receiving deleg. in 7/87.
	PWS	All but WY	Yes	All but MT	None	N.D. - deleg. '78 S.D. - deleg. '83
	UIC	Fully deleg - ND, UT, WY Partially deleg - CO, SD Not Deleg - MT	Yes	All primacy states have	Some	All have (shutting-in an inject. well is a pen. -- an economic loss)
	404	N/A	Yes - anticipating its use in FY 89	N/A	N/A	N/A
	RCRA	All but WY	Yes	All but WY	None	MT. only once or twice S.D. once
	AIR	All Programs in all States	No	None	All	All have
	TSCA/ FIFRA	N/A	N/A	N/A	N/A	N/A

B.	PROGRAM	ADMINISTRATIVE REQUIREMENTS	IMPEDIMENTS TO EPA LITIGATION	<u>DISTINCENTIVES</u>	PROGRAM/REG. COUNSEL MTGS
	NPDES	Sampling, reporting and for some facilities biomonitoring reporting, compliance/noncompliance w/schedule milestones, recordkeeping.	Lack of favorable precedent setting cases for POTW viol. of Pretmt., requirements. Lack of favorable case law on new AO auth.		Bi-weekly
	PWS	Reporting and recordkeeping (very few actions result from violations pertaining only to these requirements.)		Reduction in SNC's results in a cut in FTE's.	Bi-weekly
	UIC	Comprehensive reporting planning and monitoring requirements - DI: 10% to 15% of enf. actions result from failure to comply - States: 1% of enf. actions result from failure to submit reports.	Seriousness of vio. hard to convey to non-technical officials (i.e., NEIC special agents)	Reduction of SNC's results in a cut in FTE's National compliance philosophy emphasizes public outreach, field presence and compliance monitoring over enf.	Monthly Review of enf. actions and status performance. Bi-weekly
	404	Reporting requirement depending on permit.	Responsibility shared with COE. DOJ gives 404 low priority. US Atty reluctant to task crim. cases.		
	RCRA	Biennial rpts and liability insurance.			Bi-weekly
	AIR	Range from none to quarterly excess emission reports depends on the program (SIP, NSPS, PSD, NESHAP)	All penalty cases must go through DOJ need admin. penalty authority.		Monthly
	TSCA/ FIFRA	ASB - recordkeeping PCB - Annual reports - quarterly inspections and records = results in 30/40% of enf. actions.			

C.	PROGRAM	<u>CONFIDENCE OF COMPLIANCE TRACKING SYSTEM</u>	<u>COMPLIANCE RATE DETERMINATION</u>
	NPDES	The program's QA program indicated a 89% accuracy rate based on analysis of check samples.	Maj discharges only: high confidence, because of level of oversight.
	PWS	High confidence in data but tracking confidence is low. Colorado has had continuing data management problems.	Comparison of # of systems in compl. to all PWS's of each type.
	UIC	Dir. Implementation states - totally dependable States - varies and overall quality is lackluster -- this is a priority area for the program.	Not calculated
	404	Not available	Not available
	RCRA	High and improving	Not available
	AIR	High and improving, but not readily capable of providing historical data.	Not calculated
	TSCA/FIFRA	N/A	Not calculated

D.	PROGRAM	CATEGORIES FACILITIES	SNC DEFINITION OR EQUIVALENT	EXCEPTIONS LIST DEFINITION	STRATEGY FOR NON-SNC
	NPDES	Majors (design flow > 1MGD or smaller facil. w/signif. WQ impact). Minors: There is no maj/min designation for indust. users for pretreatment.	Yes, per comprehensive program criteria.	Yes - facilities on 2 QNCR's	Qtrly Non-Compl. Rpt. (QNCR), which includes fac. in Reportable Non-Comp (RNC) (T&A don't apply). Occasionally, spec. nat'l initiatives are req., plus the del. states are free to address all viol.
	PWS	Major: Community PWS Minor: Non-Community PWS	Yes - a community Water System (CWS) that meets any of 11 criteria defined by the program.	Yes - if not addressed w/in required time period.	Yes - ident. of viol., initial informal notification, then warning letters threatening formal actions.
	UIC	Well Classification Scheme: Class IV wells-injecting HW into or above a USDW (banned). Class I wells - injecting indust/hazardous material below the lowermost USDW. All other well classes.	Yes - violations per well classification per program criteria.	Yes - the region sends to operators, letters on non-compl. & actions to achieve compliance. State: the Dir. negot. w/the region the action to be taken.	Yes - informal notice, then AO
	404	N/A	N/A	N/A	N/A
	RCRA	Treatment, Storage and Disposal Fac. (TSDF's)	TSDs w/high priority violations (HPV)	N/A	Yes - use time frames in 12/87 "Enf. Resp. Pol." Once order is in place, the compl. dates are then tracked.
	AIR	Class A sources (> 100 tons/yr emissions) Class B - Uncontrolled emissions (< 100 tons/yr)	Yes per program criteria.	Yes - unresolved after 120 days.	Yes, per SEA states will enforce and EPA may enforce against repeat violations outside of SV criteria.
	TSCA/ FIFRA	TSCA: PBC, ASB & other FIFRA: N/A	TSCA Enf. case is automatically SNC.	N/A	N/A

E.	PROGRAM	NEUTRAL INSP. SCHEMES	QA OF INSPECTIONS	SHOULD NEIC PERF. ANNUAL AUDITS OF R8/STATE INSP?
	NPDES	Yes	States do bulk of insp. ESD does approx. 2 oversight insp. of each state/year and provides states w/ written instructions. The prog. reviews SEA commitments, state files, and oversight of state insp.	ESD's oversight of state insp. seems adequate. NEIC oversight of ESD insp. is a possibility in the pretreatment prog.
	PWS	N/A	N/A	No - not needed ("poor field work has not been detrimental to our enforcement efforts")
	UIC	Yes	Oversight officers conduct joint insp. of state reg. fac. and visit states yearly.	No - the prog. feels confident in job being performed.
	404	N/A COE deals with permit compliance.	Review the insp. rpt. for completeness and determine whether the insp. led to a resolution of the action.	No - could be useful in training and tech. ass't on specific problems - focus on determining compl. with env. law.
	RCRA	N/A; statutory inspection requirements	Review of insp. rpts, and oversight insp. (See self appraisals)	No - not for routine insp.; NEIC can support region by performing adequate insp on special projects like US/PCI.
	AIR	Yes	SEA commitments met when insp. rpts. are approved by prog.	No - because of its criminal focus; the prog. follows Nat'l guidance and uses LOE contractor to make improvements.
	TSCA/ FIFRA	Yes	Supervisory review of all procedures and reports before initiating enf.	No