



Human Affairs Research Centers
P.O. Box C 5395
4000 N.E. 41st Street
Seattle, Washington 98105-5426
Telephone (206) 525-3130
Cable HARCSEA

1-11-88

Dear Loren and Gene:

Attached is a draft of the industry survey guide. It is intended to be used as a checklist to structure an interview discussion with key personnel (e.g., EAP Director) in each organization, and to ensure all important topics are discussed. Therefore, it is important that it has all pertinent topics listed.

I'd very much appreciate your comments on this draft, especially in terms of its content -- are there any important topics missing? I can be reached at (206) 525-3130 ext 400.

Thanks very much. I look forward to hearing from you.

Lise Saar

A handwritten signature in cursive script, appearing to read "Lise Saar", written over the printed name.

(Define FFD and EAP. Throughout discussion, ask interviewee to explain and describe.)

I. Policy

Does your company have a policy on fitness for duty issues? [obtain, if possible] Is it written? To whom does it apply?

What is your company policy? Does it address:

alcohol?

drugs?

(illegal? legal drugs used for nonmedical purposes? Does it address use, possession, sale? On and off the worksite?)

other?

What factors led to your present policy? (past problems, legal considerations, union activities,....)

What is your policy regarding contractors? How is this communicated?

To what extent do union activities affect your company's policy?

To what extent do you consider company image, ability to recruit, community relations, etc. when considering policies? How so?

Do you have policies that encourage the reporting of FFD concerns? Describe.

II. Employee Assistant Programs (EAPs)

Does your organization have an EAP? Is it in-house or contracted?

What does your EAP cover: drugs? alcohol? psychological/emotional? family/marital? stress? legal? financial?

Does your program focus on...

prevention?

detection (testing)?

employee/supervisor education/awareness (e.g., training)?

treatment?

Have you identified certain employee groups as higher risk in some areas?

Why, when, and how was your EAP program started? How does upper management support the program?

Is your program for all employees? contractors?

How can employees be referred to your EAP (i.e., supervisory, self, co-worker, family, union, medical)? How are they most frequently referred? Are there job-jeopardy referrals by supervisors (go or lose job)?

How is the confidentiality issue handled?

- supervisors reporting?
- coworkers reporting?
- self-referrals?
- other methods of referral?

Are outside agencies used? For what?

Do you have forced rehabilitation? For what types of problems? What proof is required for forced rehabilitation?

How much time is given for rehabilitation? What if an employee does not improve?

Is there follow-up after rehabilitation or after-care program?

What costs are associated with your program? (e.g., cost to rehabilitate an employee?) How are these paid? Insurance coverage provided?

What is the role of an EAP in an effective FFD program?

III. Drugs: Preventing, Detecting, Testing

What does your company do for:

- preventing drug use?
- detecting drug use?
- determining reasons for use (e.g. job factors)?

Are there searches in the workplace for drugs?, investigations (undercover)? a reporting mechanism?

Do you test (chemical testing body fluids) for drugs? If yes...

Why do you have it? When was it started?

* What drugs? (marijuana, cocaine, others? prescription drugs?)

What method is used (e.g. assays)?

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What is done if an employee is determined to be unfit for duty? * What constitutes impairment?

IV. Information and Training

Have employees and supervisors been provided with information on your company's FFD, EAP, drug policies and programs?

How so?

What medium is used (i.e., pamphlets, seminars,...)?

What information is provided (i.e., kinds of drugs, what constitutes drug abuse, recognition of abuse in oneself and others, etc.)?

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Have your programs/policies met your needs? How so?

What are the indicators of their effectiveness? e.g., have there been improvements in:

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use of sick leave?

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Do you find any of these regulations inappropriate, restrictive, etc.?

Have any of these regulations (as they pertain to your company) changed recently?

Have any of these resulted in your organization having programs/policies that you may not have otherwise?

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Do you have any new policies or programs under consideration related to employee fitness for duty? What is the impetus for this (legal, want to improve, etc.)?

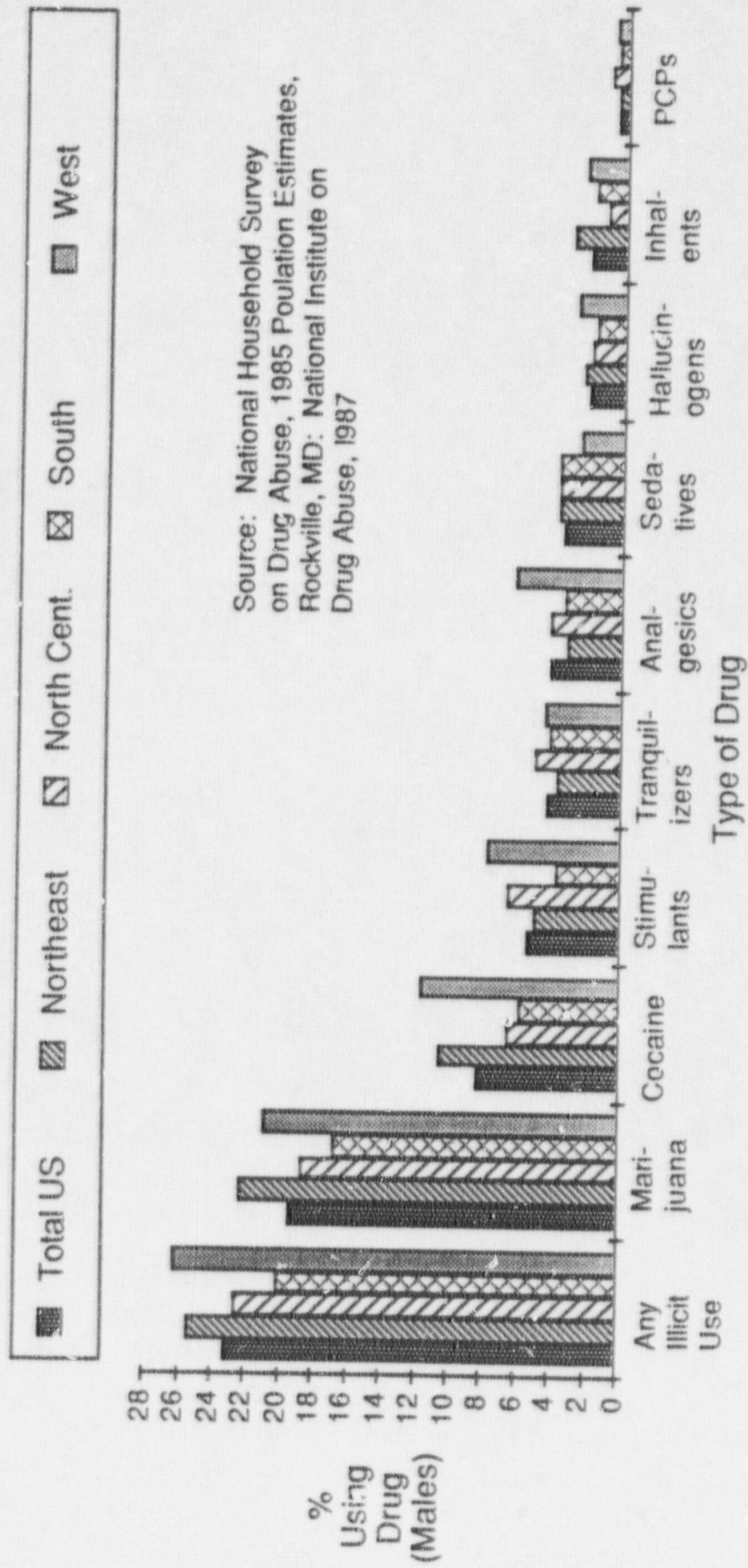
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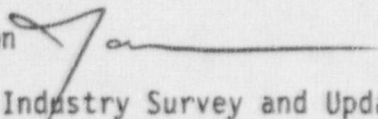


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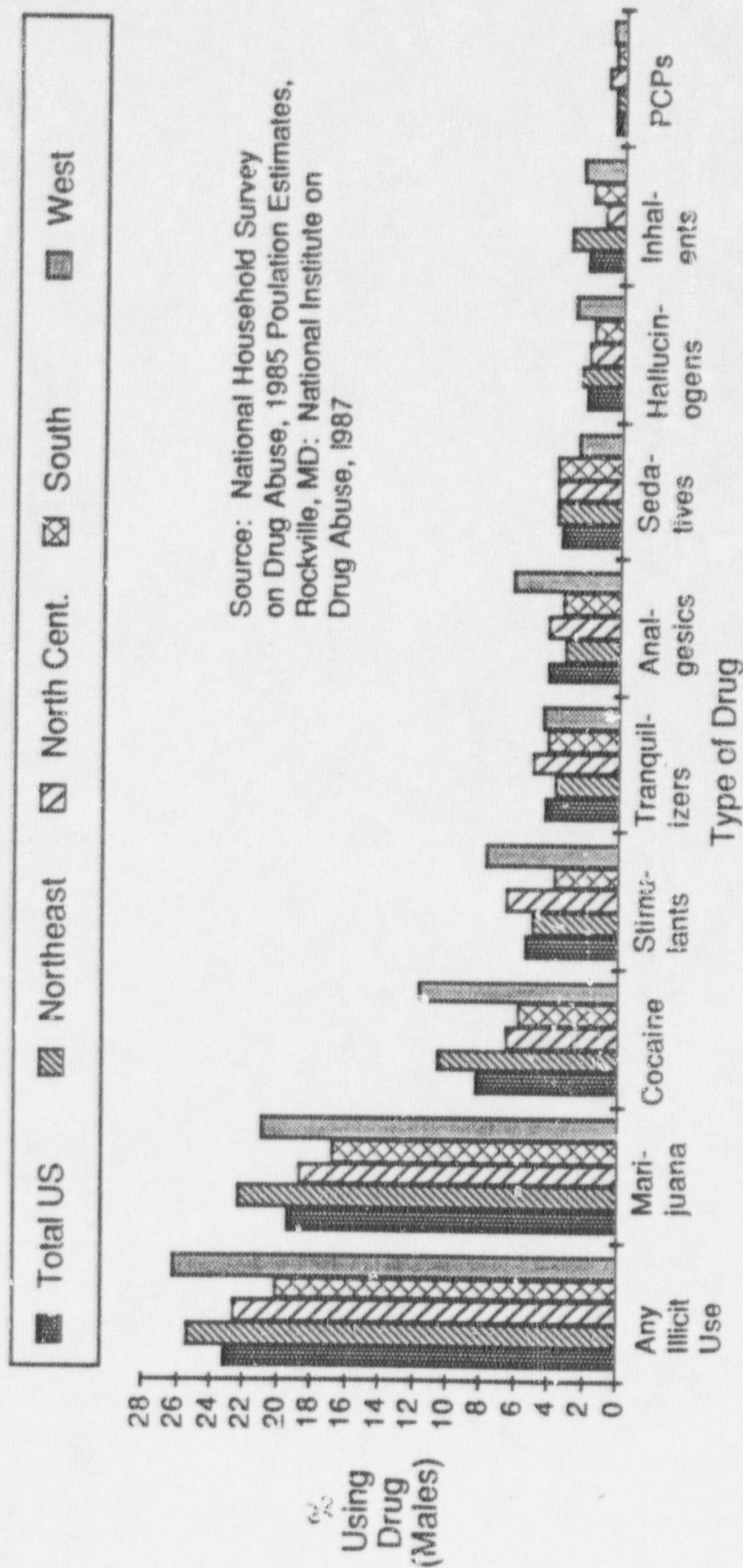
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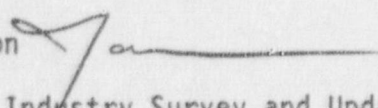




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~~89-09-11082~~ 13PP

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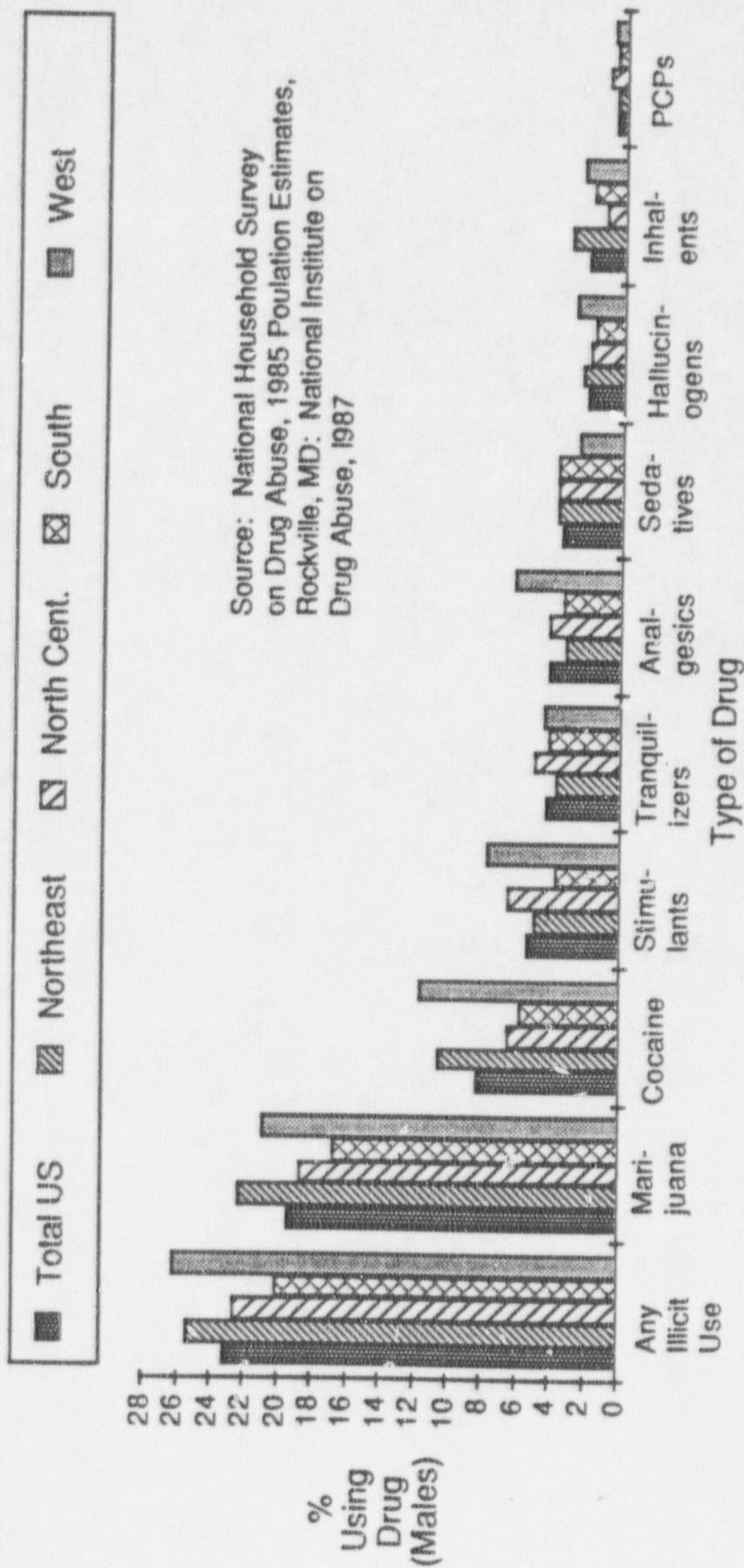
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Are written guidelines available for supervisors, others?

Who is trained in company FFD policies and procedures (managers? supervisors? security guards?) Does this training focus on...

What to do if (suspect) someone unfit for duty?
how to document deteriorating job performance?
how to recognize problems? indicators of problems?

What indicators are used? (e.g., Physical signs, mood alterations, actions, absenteeism, accidents, work patterns, relationship to others on the job)?

Do contractors receive FFD information and/or training?

V. Program Effectiveness

* What constitutes an effective FFD program? An effective EAP program? An effective drug program?

Have your programs/policies met your needs? How so?

What are the indicators of their effectiveness? e.g., have there been improvements in:

quitting/turnover?
use of sick leave?
personal leave?
timing and length of breaks?
rationales of absences?
accidents, toxic exposures, injuries?
overtime required to accomplish task?
productivity?
health care costs?
equipment replacement and repair?
theft?
violence?
terminations/suspensions/discipline?
arrests?
other indicators of effectiveness?

Have you encountered any implementation problems with your programs/policies? Any unexpected negative or positive outcomes?

Are there unique needs or issues for your organization regarding EAP or FFD?

If you have drug testing, has it reduced drug abuse? How do you know this? Any other effects?

What are the strengths and weaknesses of drug testing versus observation methods (e.g., supervisory observation of behavioral indicators)?
How do you assure supervisors actually carry out behavioral observation?

VI. Trends and the Future

To what extent (and how) do the following affect what you do generally for fitness for duty, or specifically for drug issues in the workplace?

federal laws/regulations
state laws/regulations
union contracts/agreements

Do you find any of these regulations inappropriate, restrictive, etc.?

Have any of these regulations (as they pertain to your company) changed recently?

Have any of these resulted in your organization having programs/policies that you may not have otherwise?

Have your policies changed recently? Why? When? How?

Do you have any new policies or programs under consideration related to employee fitness for duty? What is the impetus for this (legal, want to improve, etc.)?

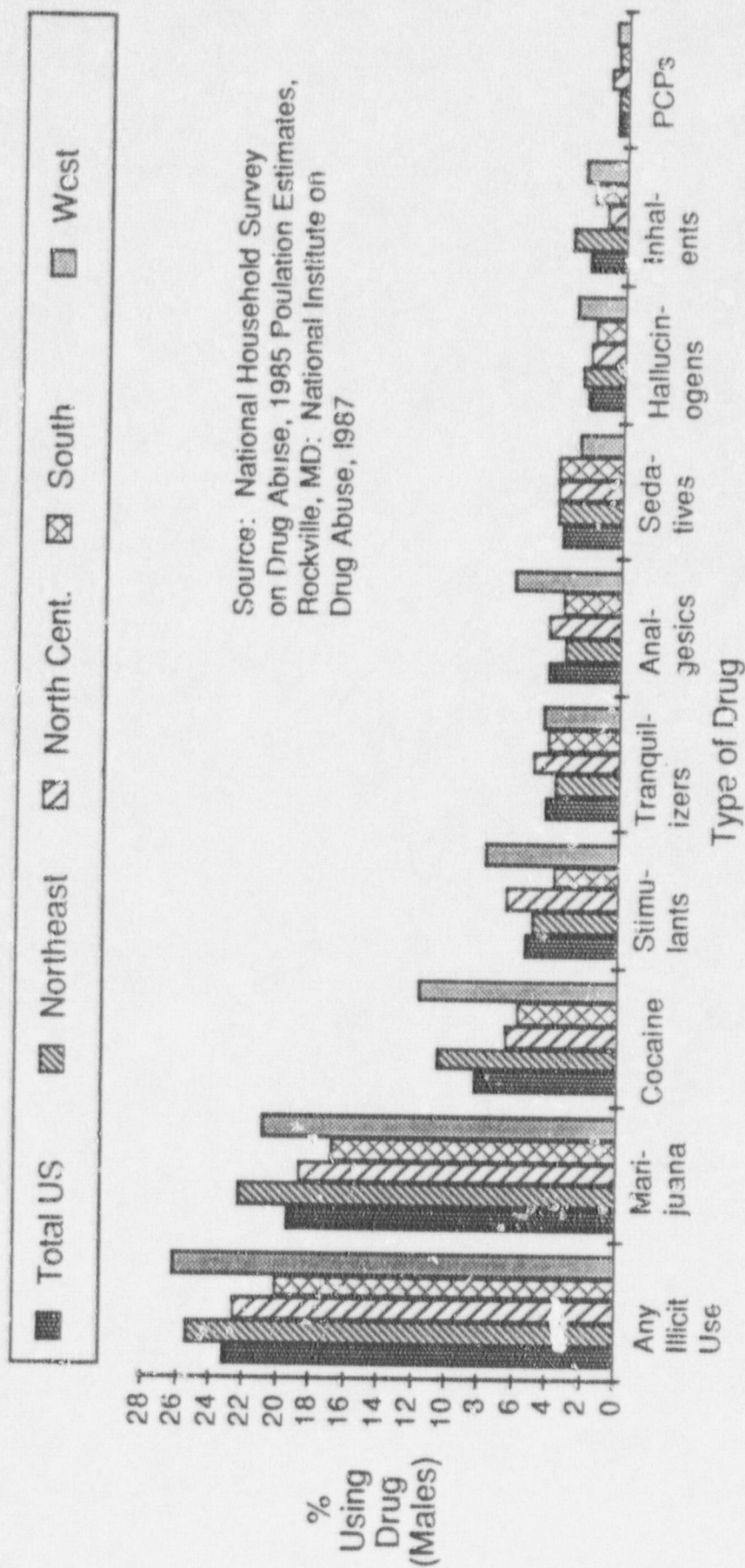
Do you foresee policy or program changes in the future?

Are drug/alcohol problems increasing, stabilizing, decreasing in your industry/organization.

Any estimates of cost of drug and alcohol abuse in your industry/organization?

* rule-making issues

**Figure 1: Percent of 1985 Male Population
Using Various Drugs Within Past Year,
By Region of the United States**



Ac 81-2

PDR

SUPPORTING STATEMENT FOR FINAL RULE
10 CFR PART 26
FITNESS-FOR-DUTY PROGRAMS
and the Related Changes to 10 CFR Part 2 (Enforcement Policy)

DESCRIPTION OF THE INFORMATION COLLECTION

a. Information to be Collected and Maintained

- (1) All licensees authorized to operate nuclear power reactors shall establish, implement, and retain on file for 5 years the records described below. Where there is a retention requirement different from 5 years it is so stated in the applicable section.

Section 26.20 requires that each licensee subject to this part establish and implement written policies and procedures designed to meet the general performance objectives and specific requirements of this part.

This requirement is necessary to inform affected individuals with sufficient detail on licensee rules, what is expected of them, and what consequences may result from lack of adherence to the policy. It also provides a description of programs which are available to personnel desiring assistance in dealing with drug problems that could adversely affect their performance and outlines procedures to be utilized in testing for drugs.

These records will be maintained until the license is terminated. Superseded records will only be retained for 3 years.

Section 26.21(b) requires that appropriate records of policy communications and awareness training are documented.

This ensures that persons assigned to activities within the scope of this part are provided with appropriate training so that they understand the methods that will be used to implement the policy, the personal and public health and safety hazards associated with abuse of drugs, the effects of prescription and over-the-counter drugs and dietary conditions on drug test results, and the role of the Medical Review Officer.

Section 26.22(c) provides for records of training for supervisors and other personnel to document the conduct of such training. This ensures the understanding of their role in the implementation of the fitness-for-duty program, to ensure that they are sufficiently skilled to detect conditions that arise from abuse or presence of drugs, and to ensure that the proper action is initiated.

Sections 26.23 and 26.70(b) These sections require that contractor personnel be subject to, and abide by, a fitness-for-duty program. Written agreements between licensees and their contractors will clearly show that the licensee is responsible to the Commission for maintaining an effective fitness-for-duty program. This section also permits the NRC to inspect, copy, take away any copies of any licensee or contractor documents related to implementation of the licensee's or contractor's fitness-for-duty program under the scope of the contracted activities.

The records applicable to these sections must be maintained for the life of the contract.

Section 26.24 requires chemical testing to provide the licensee a means to deter and detect substance abuse. In this regard the licensee shall implement chemical testing programs that will require:

- (1) Testing within 60 days prior to granting of unescorted access to protected areas;
- (2) Unannounced tests imposed in a random manner;
- (3) Testing for cause, i.e., as soon as possible following any observed behavior indicating possible substance abuse.
- (4) Follow-up testing on an unannounced basis to verify continued abstention from the use of substances covered under Part 26.

There are no reporting or recordkeeping requirements associated with Section 26.24.

Section 26.27(a) requires licensee prior to the initial granting of unescorted access to a protected area or the assignment to activities within the scope of this part to any person, to obtain a written statement from the individual as to whether activities within the scope of this part were ever denied the individual. This is accomplished by checking a few boxes on a form and signing the individual's name. A suitable inquiry is then conducted to verify the information. This will assist the licensee to determine if persons should be granted or denied unescorted access in accordance with a fitness-for-duty policy.

Section 26.27(d) requires licensee to notify NRC when an NRC employee may be under the influence of any substances, or otherwise unfit for duty. This ensures that the NRC can take appropriate actions as necessary.

Section 26.29(a) requires that each licensee subject to 10 CFR 26, who collects personal information on an employee for the purpose of complying with 10 CFR 26, shall establish and maintain a system of files and procedures for the protection of the personal information.

In order to ensure the protection of information the licensee shall not disclose the personal information collected and maintained to persons other than assigned medical review officials, other licensees legitimately seeking the information as required by this part for employment decisions and who have obtained a release from current or prospective employees or contractor personnel, NRC representatives, appropriate law enforcement officials, the subject or his or her representative, or to those licensee personnel who have a need to have access to the information in performing assigned duties.

These records are maintained until the license is terminated.

Section 26.71(a) requires each licensee to retain records of inquiries that result in the granting of unescorted access (i.e., background checks). These records must be maintained for 5 years because individuals can be denied unescorted access to the protected area or removed from activities within the scope of this rule for period of up to 5 years.

Section 26.71(b) requires that each licensee retain records of confirmed positive test results and the subsequent personnel actions. This permits the evaluation of program performance and to correct any program weaknesses so identified. These records also must be retained for 5 years for the same reasons provided above with Section 26.71(a).

Section 26.71(c) requires records of persons made ineligible for assignment to activities within the scope of this part who have been involved in the sale, use, or possession of illegal drugs while within a protected area of any nuclear power plant. This requires licensees to retain records of persons made ineligible for three years or longer until the Commission terminates each license under which the records were created. These records are needed to facilitate inquiries from other licensees to determine if a person had been made ineligible for assignment to activities within the scope of 10 CFR 26.

Section 26.71(d) requires each licensee to collect and compile fitness-for-duty program performance data. This data includes statistics pertaining to drug testing and management actions. This data will enable proper analysis and assist NRC staff in determining what actions need to be taken to correct program weaknesses. This data must be retained for 3 years.

Section 26.73 requires licensee to inform the NRC Operations Center by telephone within 24 hours of discovery of significant fitness-for-duty events. This will enable the NRC staff to evaluate the event and determine whether immediate actions by the staff are warranted.

Section 26.73(d) requires licensee to certify to NRC that their fitness-for-duty programs are implemented. This one time reporting requirement will provide to NRC the necessary background information that all programs are in place and implemented on schedule.

Section 26.80 requires licensee subject to this section to conduct an audit of their fitness-for-duty program nominally every 12 months and to retain audit report for 3 years. This audit will help ensure resolution of program weaknesses and help NRC determine what corrective actions are necessary.

Appendix A sets forth the minimum standards for alcohol and drug testing; it emphasized the procedures and records (chain-of-custody, quantity controls, etc.) for ensuring the integrity of the test results, and the process for reporting and evaluating test results. The Appendix is an adaptation of the HHS Testing Guidelines (53 FR 11970).

b. Numbers and Types of Respondents

The information collection requirements apply to sites* for licensees authorized to operate nuclear power reactors and plants under active construction, currently 81 sites. This is different from the 76 sites stated in the proposed rule because the NRC expanded the rule to cover the sites that are under active construction. That number is currently a total of five.

c. Reasonableness of the Schedule for Collecting Information

The information collections related to the 10 CFR Part 26 (Final Rule) are necessary to properly manage fitness-for-duty programs. The collection of information pertaining to significant fitness-for-duty events is necessary to permit timely evaluation of events that might become problems and that may require urgent response by the NRC staff so that the health and safety of the public will not be threatened.

A. JUSTIFICATION

1. Need for the Information Collections

The regulations in 10 CFR Part 26 (Enclosure 2) establish requirements for licensees authorized to operate nuclear power reactors to implement a fitness-for-duty program, the general objective of which is to provide a reasonable assurance that nuclear power plant personnel will perform their tasks in a reliable and trustworthy manner and are not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way adversely affects their ability to safely and competently perform their duties. Included in this general objective is the goal of achieving a drug-free workplace and a workplace free of the effects of such substances.

The NRC is adapting pertinent parts of the Health and Human Services (HHS) Guidelines concerning drug testing programs for application to the nuclear industry. These guidelines are stated in Subpart A of the rule.

This supporting statement is designed to provide a comprehensive overview of the information collection requirements contained in 10 CFR Part 26, Final Rule, and the provisions of the related Enforcement Policy. The information collection requirements fall into three categories:

- a. Written policies and procedures and associated records to facilitate proper management of the fitness-for-duty program. Included are records of training, program audits, contract provisions and certain protected information used to ensure that persons tested positive, removed for cause, or whose fitness for duty has been questioned, are not returned to safety sensitive positions until they have corrected their problem.
- b. Telephonic reports of significant fitness-for-duty events made within 24 hours of the event.

- c. Collection and analysis of fitness-for-duty program performance data.

Enforcement Policy (10 CFR Part 2, Appendix C)

The NRC is modifying its General Statement of Policy and Procedure for NRC Enforcement Actions, 10 CFR Part 2, Appendix C (Enforcement Policy) to reflect the Final Rule on Fitness-For-Duty Programs, 10 CFR Part 26. The changes to the Enforcement Policy are being published concurrently with the final rule. There are no reporting and recordkeeping burden involved with these changes. They are merely to put the licensee on notice about the enforcement policy associated with the fitness-for-duty programs.

The modifications to the Enforcement Policy are being made in Supplement VII "Miscellaneous Matters" to provide examples of violations of fitness-for-duty requirements. As with the examples in the other Supplements to the Enforcement Policy, the new examples are neither controlling nor exhaustive; nor do they establish new requirements. The examples are to be used as guidance in considering the severity levels of violations of requirements.

In developing the examples, the NRC notes that it is not the unfit person that establishes the violation but rather the licensee's failures, including those of its contractors and vendors, that create violation. For example, if the licensee has effectively implemented its fitness-for-duty program meeting NRC requirements and, based on behavior observation, identifies and removes a person not fit for duty, there may not be a regulatory violation.

2. NRC Response to OMB Questions stated on the February 3, 1989 OMB Clearance Approval Statement for the 10 CFR Part 26 Proposed Rule.

Question 1

"How these requirements conflict and conform to the Drug Free Workplace Act of 1988."

NRC Response

The Commission has compared the requirements of the Drug-Free Workplace Act to the requirements of its rule on Fitness-for-Duty and finds no inconsistency. Any licensee implementing 10 CFR Part 26 who may also be subject to Subtitle D should have no difficulty meeting the supplemental provisions of the latter concerning notification of the contracting agency of convictions of onsite criminal drug activities [Section 5152(a)(1)(D) of the Anti-Drug Abuse Act] for those employees within the scope of a program meeting the provisions of 10 CFR 26.

Question 2

"Could the testing rate be targeted according to the sensitivity of an individual's position.

NRC Response

The Commission considered several alternative testing rates and sampling procedures for the workforce to be tested. However, due to the sensitivity of all positions with unescorted access within the protected area of the plant, the Commission selected a testing method whereby about two-thirds of these workers are tested during the course of a given year on a random basis.

Question 3

"Could the testing rate be reduced following a prolonged period of negative test results."

NRC Response

The Commission cannot currently support reducing the testing rates, however, it will consider reducing the rates after several years based upon positive experience in the industry.

Question 4

"How will the NRC protect individuals from false-positive test results."

NRC Response

The NRC has adopted the provisions of the HHS Guidelines with some modifications to ensure the integrity and accuracy of test results using appropriate scientific methods and rigid chain-of-custody procedures at the site and in the testing laboratory. To protect the worker from inappropriate sanction due to any errors in the testing process, cross-reacting substances, or legitimate medical use of controlled substances, a Medical Review Officer (MRO) screens all presumed positive test results and may interview those individual who have tested positive with the GC/MS confirmatory test. To further limit the possibility of subversion of the integrity of the testing process, the NRC Guidelines require licensees to carefully select persons responsible for administering the testing program based upon the highest standards for honesty and integrity and to implement measures appropriate to ensure that these standards are maintained.

Additionally, for OMB's statistical records, please provide the data and analysis NRC used to choose the alternative testing rates."

The following alternatives rates and sampling procedures approaches were considered in the development of the final rule:

- ° Alternative A sets the two goals that at least 90 percent of the workforce be tested and that the testing rate for the already-tested population during a year not be set lower than a rate equal to 30 percent of the workforce. The disadvantage of this alternative is its complexity of administration and the provision of a lesser deterrent during part of the year.
- ° Alternative B requires testing at a rate equal to 300 percent of the workforce. The disadvantage of this alternative is the possible excessive disruption of work activities and the testing of a few individuals at a very high rate which may impact morale. The cost of this rate may be excessive given the reported low number of positive tests for testing rates at 100 percent per year or lower in the nuclear industry.
- ° A method whereby each worker is randomly assigned a day during the next 365 days on which to be tested, and then is randomly reassigned to a day in the following 365-day period. The worker could be tested several times in one year, but is guaranteed at least one test per year. This allows for testing of the entire workforce during any 365-day period and reduces the testing rate in comparison to Alternative B (estimated rate: 200 percent). However, there is a possibility that more workers may be selected for testing on a given day than the licensee has a capacity to test. The disadvantage of this alternative is the need to select testing dates well in advance and the security problems which may result.
- ° A method whereby all workers are subjected to unannounced testing once during the year, and random testing at a low rate (e.g., 25 percent, 50 percent) is also used during the year to assure ongoing deterrence.
- ° A method whereby random testing is conducted at a rate equal to approximately 100 percent of the workforce, resulting in about two-thirds of the workers being testing during the course of a given year. This is the alternative selected by the Commission and is reflected in the final rule.

3. Agency Use of Information

The NRC will use the required records and reports for one or more of the following purposes:

- a. To determine if there are problems requiring timely action by the NRC staff. NRC responses vary depending upon the circumstances but could include immediate telephone contact with the licensee to discuss event or travel to the site.
- b. To monitor compliance with 10 CFR Part 26.

- c. To perform empirical evaluations of this evolving discipline in support of any future considerations. This would include analysis of trends and lessons learned.

4. Reduction of Burden through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. Licensees are encouraged to provide the information by the most modern technique available.

5. Duplication With Other Collection of Information

The collection of information required by the final rule does not duplicate any other requirements for collection of information. It does replace NRC staff interpretation of 10 CFR 73.71 requirements for reporting safeguards events to include fitness-for-duty events (Regulatory Guide 5.62, Revision 1). See Office of Management and Budget Clearance Number 3150-0002.

6. Effort To Use Similar Information

Current reporting requirements contained in 10 CFR 73.71 do not provide the information necessary to gauge reliability of licensee's fitness-for-duty programs. The final rule supersedes and relaxes the 1-hour reporting period now required in 10 CFR 73.71 and provides clarification as to what incidents need to be reported.

7. Effort to Reduce Small Business Burden

The information collection required does not affect any small businesses.

8. Consequences of Less Frequent Collection

The reporting of significant events is limited to telephone reports on an "as-needed" basis. A frequency of approximately 6 months is established for collection, analysis and reporting of program performance data. These records are necessary to enable the licensee and the NRC to analyze and take appropriate actions necessary to correct program weaknesses and to take other corrective actions.

9. Circumstances Which Justify Variations From OMB Guidelines

Telephonic reports of significant events are to be made within 24-hours and are, therefore, a variation from OMB guidelines. This requirement is intended to provide further assurance that an event within the purview of the fitness-for-duty rule will not adversely affect the public health and safety.

10. Consultation Outside the NRC

The NRC received 378 comment letters on all aspects of the proposed rule, including the recordkeeping and reporting. These comments are addressed in the "Summary of Comments Section" of the final rule and in NUREG-1354 (Enclosure 4). Many commenters stated that the 24-hour reporting requirement is excessive. Other commenters posed minor questions on retention period for records documenting fitness-for-duty incidents. The NRC has maintained the 24-hour reporting deadline for fitness-for-duty events. This provision supersedes and relaxes the 1-hour reporting period required for the fitness-for-duty categories of events included in the safeguards events reported under 10 CFR 73.71. The retention period documenting confirmed positive test results and subsequent personal actions and records of inquiries that result in the granting of unescorted access (i.e., background checks) was increased from 3 to 5 years. The reason for 5 years is that individuals can be denied unescorted access to the protected areas or be removed from activities encompassed within the scope of this rule for periods of up to 5 years. Therefore, records must be maintained for proper administration of fitness-for-duty programs.

11. Confidentiality of Information

Section 26.29(a) requires each licensee to collect personal information for the purpose of complying with 10 CFR 26. However, the licensee is required to maintain a system of files and procedures for the protection of the personal information. Personal and sensitive information will not be reported to the NRC by the licensee. Under Section 26.25, Employee Assistance Program staff will provide confidential assistance except where safety considerations must prevail and when the Employee Assistance Program counselor believes that a worker's condition poses a hazard to himself or herself or others. Otherwise, voluntary self-referrals to the Employee Assistance Programs are treated confidentially and are not reported to management. Therefore, that information would not be available for disclosure in response to an inquiry of previous employers.

12. Sensitive Questions

Section 26.29(a) requires each licensee to collect personal information for the purpose of complying with 10 CFR 26. However, the licensee is required to maintain a system of files and procedures for the protection of the personal information.

Individual names are not required in reports submitted to the NRC in accordance with 10 CFR 26.73(a) and (b), and 26.71(d).

13. Estimate of The Cost To The Federal Government

The total estimated annual cost to the Federal Government is expected to be \$125,145 as shown in Enclosure 1.

14. Estimate of Industry Burden and Costs

- a. The burden of information collection and reporting is described below.

The costs associated with compliance with 10 CFR Part 26 are provided in Inclosure 1. Note that, three line items have been identified as one time only incremental costs.

Licensees currently have fitness-for-duty programs in place that adhere to industry guidance. These programs include written policies and procedures and contract provisions which establish fitness-for-duty agreements between the licensee and contractor; the minor changes to contracts that may be needed in a few instances are deemed insufficient to quantify as a burden.

- b. Source of Burden Data And Method for Estimating Burden.

Burden estimates are based, in part, upon previous discussions with nuclear utility employees and NRC personnel familiar with those types of records and reports.

15. Reasons for Change in Burden

Sections 26.2(b) and 27.73(d) were added to the final rule to cover plants under active construction and to require licensees to certify to the NRC that their fitness-for-duty programs are implemented. Hence, the number of respondents will increase from what was projected in the proposed rule. Record retention requirements were increased from 3 to 5 years and appropriate modifications made to 26.71(a) and (b). The discussion in Item 10 pertaining to NRC action resulting from comments received on the proposed rule documents the reason for the burden change.

16. Publication for Statistical Use

The NRC does not plan to publish any information for statistical use.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not required in the 10 CFR Part 26 information collection provisions.

Enclosures:

1. Table - Estimate of Burden Required of Industry/Cost to Federal Government
2. Final Rule, 10 CFR Part 26
3. Regulatory Guide 5.62, Revision 1
4. NUREG-1354, Fitness-for-Duty in the Nuclear Power Industry:
Responses to Public Comments

ENCLOSURE 1

10 CFR 26
FINAL RULE
 FITNESS-FOR-DUTY PROGRAM
 AND THE RELATED ENFORCEMENT POLICY

Estimate of Burden Required of Industry

| Record | Subsection | Time/ Record | Number of Records | Estimated Annual Record Burden Per Site | Estimated Cost** Per Site Per Year |
|--|---|--|-------------------------------|---|---|
| <u>Recordkeeping</u> | | | | | |
| Written policies and procedures | 26.20 | 320* hours | one time*/site | 107 hrs. | \$5,350 |
| Training Records | 26.21(b) and 26.22(c) | 5 min/ind. + 20 hrs. to establish records system | 1500 ind/site one time* | 125 hrs. 7 hrs. | \$6,250 350 |
| Contract provisions | 26.23(b) and 26.70 | N/A* | 12 contracts | 0 hrs. | NONE |
| Audits | 26.80 | 4 hrs/audit of licensee 4 hrs/audit of contractor | 1 12 | 4 hrs. 48 hrs. | \$200 \$2,400 |
| Records concerning persons testing positive, removed for cause, and related matters | 26.24, 26.29 and 26.71(a) (b)(c)(d) | 30 mins/ind +20 hrs. to establish rec- ords systems | 30 ind/site/year one time* | 15 hrs. 7 hrs. | 750 350 |
| Subtotal for Records: | | | | 313 hrs./site | \$15,650 |
| Industry Burden (81 sites) = | | | | 25,353 hrs. | \$1,267,650 |

*One time only incremental cost. Burden per response is divided by three to distribute time over the OMB clearance period.

**NRC's analysis of Industry Labor Rates is available in NUREG/CR-4527, Generic Cost Estimates; Abstract 6.3, Industry Labor Rates, June 1986 (\$50 per hour).

10 CFR 26
FINAL RULE
 FITNESS-FOR-DUTY PROGRAMS
 AND THE RELATED ENFORCEMENT POLICY

Estimate of Burden Required of Industry

| Report | Subsection | Time/Report | Number of Reports | Estimated Annual Record Burden Per Site | Estimated Cost** Per Site Per Year |
|-----------------------------------|------------|--------------|--------------------|---|------------------------------------|
| <u>Reporting</u> | | | | | |
| Written statement from applicant | 26.27(a) | 1/2 minute | 600 applicants/yr | 5 hrs. | \$250 |
| Fitness of NRC employees | 26.27(d) | 1/2 hours | None anticipated | 0 hrs. | 0 |
| Program performance data | 26.71(d) | 40 hours | 2 reports/site/yr. | 80 hrs. | \$4,000 |
| Reports of significant events | 26.73 | 15 min/event | 2 reports/site/yr. | 1/2 hr. | \$25 |
| Certify implementation of program | 26.73(d) | 1 hr. | One time/site | 1/3 hr. | \$16.50 |
| Subtotal for Reports: | | | | 85.83 hrs/site | \$4,291.50 |
| Industry Burden (81 sites) | | | | = 6,952.2 hrs. | \$347,610 |
| Total Industry Burden | | | | = 32,305.2 hrs. | \$1,617,975 |

10 CFR 26
FINAL RULE
 FITNESS-FOR-DUTY PROGRAMS
 AND THE RELATED ENFORCEMENT POLICY

Estimate of Cost to the Federal Government

| Record/Report | Subsection | Time/Year | Number of Records/Reports | Staff Hours |
|--|--------------------------|--------------------------|------------------------------|-----------------------|
| Written policies and procedures | 26.20 | 6 hours/site | 1/site | 6.0 hrs. |
| Training records | 26.21(b) and 26.22(c) | 2 minutes/ individual | 1500 ind./site x 5% | 2.5 hrs. |
| Contract provisions | 26.23 and 26.70(b) | 10 minutes/ contract | 12 contracts/site x 25% | 0.5 hr. |
| License certification | 26.73(d) | 1 time | 1/site | 0.5 hr. |
| Audits | 26.80 | 30 minutes/ report | 13/site x 50% sample | 3.25 hrs. |
| Records concerning persons tested positive, removed for cause, and related matters | 26.29 and 26.71 | 10 minutes/ person | 30 persons/site/ year | 5.0 hrs. |
| Program performance data | 26.71(d) | 30 minutes/report | 2/site | 1.0 hr. |
| Reporting significant events | 26.73 | 4 hours/event | 2 reports/site/ year | 8.0 hrs. |
| | | | | <u>26.75 hrs/site</u> |

Annual cost = 26.75 hrs./site x 81 sites x \$60/hr. = \$130,005

ENCLOSURE 2

U.S. NUCLEAR REGULATORY COMMISSION

(Documents containing reporting or recordkeeping
requirements: Office of Management and Budget Review)

AGENCY: U.S. Nuclear Regulatory Commission (NRC)

ACTION: Notice of the Office of Management and Budget (OMB) review of
information collection.

SUMMARY: The NRC has recently submitted to the Office of Management and Budget (OMB) for review certain information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). These requirements were approved by OMB at the proposed rule stage, approval number 3150-0146. The final rule adds new information collection requirements and licensees records retention periods. Therefore, an amended supporting statement is being submitted to OMB.

1. Type of submission: Revision
2. The title of the information collection: 10 CFR Parts 2 and 26, Fitness-for-Duty Programs
3. The form number if applicable: N/A
4. How often the collection is required: As necessary
5. Who will be required to report: Nuclear power plant licensees
6. An estimate of the number of the reports anticipated annually:
 - a. 162 semi-annual reports
 - b. 162 telephonic event reports
7. An annual burden estimate per response:
 - a. 40 hrs per semi-annual report
 - b. 15 minutes per event report
8. An estimate of the total number of hours needed annually by the industry to complete the requirement: 6,952.2 hours for reports; 25,353 hours for recordkeeping. Therefore, the total annual industry burden is expected to be 32,305 hours.
9. An indication of whether Section 3504(h), Pub. L. 9696-511 applies: Not applicable.

10. Abstract: 10 CFR Parts 2 and 26 of NRC's regulations, "Fitness-for-Duty Programs" requires operators of nuclear power plants to implement fitness-for-duty programs to assure that personnel are not under the influence of any substance or mentally or physically impaired, to retain certain records associated with the management of these programs, and to provide reports concerning significant events.

ADDRESSES: Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, N.W., Washington, D.C.

FOR FURTHER
INFORMATION: Comments and questions should be directed to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150-00146), Office of Management and Budget, Washington, D.C. 20503. Comments can also be submitted by telephone (202) 395-3084.

NRC Clearance Officer is Brenda Jo Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this day of 1989.

Joyce A. Amenta, Designated Senior
Official for Information Resources
Management

10. Abstract: 10 CFR Parts 2 and 26 of NRC's regulations, "Fitness-for-Duty Programs" requires operators of nuclear power plants to implement fitness-for-duty programs to assure that personnel are not under the influence of any substance or mentally or physically impaired, to retain certain records associated with the management of these programs, and to provide reports concerning significant events.

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NRC Clearance Officer is Brenda Jo Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this day of 1989.

Joyce A. Amenta, Designated Senior
Official for Information Resources
Management

Distribution
Central Files
NRC PDR
RSGB r/f
DRIS r/f
LBush
RErickson
BGrimes
HSmith
JAmenta
CHeltemes
GMizuno

ARM
JAMENTA
7/ /89

Handwritten: 15/89

*See Previous Concurrence

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|------|-------------|-------------|-------------|-----------|----------|------------|
| OFC | :RSGB:NRR | :RSGB:NRR | :D:DRIS:NRR | :PMSB:NRR | :OGC | :AEOD |
| NAME | :LBUSH:BJP* | :RERICKSON* | :BGRIMES* | :HSMITH* | :GMIZUNO | :CHELTEMES |
| DATE | :6/9/89 | :6/9/89 | :6/14/89 | :6/21/89 | :7/ /89 | :7/ /89 |



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

April 12, 1988

#114 20
AC81-2
PDR

The Honorable Lando W. Zech, Jr.
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Zech:

SUBJECT: PROPOSED RULE ON FITNESS FOR DUTY PROGRAM -- ACRS COMMENTS

During the 336th meeting of the Advisory Committee on Reactor Safeguards, April 7-9, 1988, we reviewed the proposed rule on Fitness for Duty Program. Our Subcommittee on Human Factors met on March 28, 1988 to discuss this matter. We also had the benefit of discussions with the NRC Staff and of the documents referenced. This subject was also considered during the 280th meeting on August 4-6, 1983, and we previously commented on this matter in a report to the Commission dated August 9, 1983.

The Commission issued a policy statement on Fitness for Duty of Nuclear Plant Personnel on August 4, 1986. The policy statement was issued in place of rulemaking in recognition of industry efforts to voluntarily establish a fitness for duty program. The Committee considered the policy statement during our 316th meeting on August 7-9, 1986, and provided comments in a report dated August 12, 1986. In that policy statement the Commission indicated that it would reassess the possible need for further action by considering the success of those programs during an 18 month trial period.

All nuclear utilities have developed and implemented fitness for duty programs using the "EEI Guide to Effective Drug and Alcohol/Fitness for Duty Policy Development." Although these programs have helped provide reasonable assurance that nuclear power plant personnel are fit for duty, they do not utilize uniform standards. For example, only about a third of the licensees are conducting random chemical testing of body fluids, testing or cutoff levels vary from program to program, and management actions taken in response to positive chemical test results vary. The proposed rule on fitness for duty programs is intended to correct the above noted nonuniformities in existing programs.

We indicated in our report to Chairman Zech of August 12, 1986 that we endorse the random chemical testing of body fluids as an element in effective fitness for duty programs and now recommend that the proposed

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April 12, 1988

rule be issued for public comment. However, we make the following detailed comments about the proposed rule and related action:

- 1) The draft of the Federal Register Notice of the proposed rule which we reviewed is, in general, a well-written and well-organized document which contains a wealth of information on the effects of certain drug uses, an extensive bibliography and a thorough rationale for the proposed rule. It also identifies a number of topics for which public comments are solicited. However, in the definition of "impairment" (§ 26.3), in the description of "program elements and procedures" (§ 26.20), and at several other locations in the draft Federal Register Notice, one receives only the faint impression that licensee's fitness for duty programs should address a broad range of possible impairments to the ability of personnel to perform their duties; whereas the document addresses, almost exclusively, the subject of drug and alcohol abuse as an impairment. No prescription, guidance, or examples of the other types of impairments to be addressed in such programs are provided. This will result inevitably in confusing those wanting to provide comments on the proposed rule and will result in nonuniform and inconsistent fitness for duty programs. We are advised orally by the NRC Staff that this weakness has been corrected; however, we have not received a copy of the revision of the proposed rule.
- 2) On March 9, 1988 the Commission published in the Federal Register (53FR7534) a proposed policy statement on the Nuclear Power Plant Access Authorization Program which defines the policy of the NRC regarding unescorted access to protected areas and vital areas at nuclear power plants. The purpose of the proposed policy statement is to establish access authorization programs to ensure that individuals who require unescorted access to protected areas or vital areas of nuclear power plants are trustworthy, reliable, emotionally stable, and do not pose a threat to commit radiological sabotage. The access authorization programs are to have several elements similar to those that are to be required in the fitness for duty programs (e.g., supervisor training and observation for detection of alcohol and drug abuse). However, neither the relationship and similarity to, nor the differences from, fitness for duty programs are mentioned. This proposed policy statement was developed for the Commission by the Office of Nuclear Regulatory Research (RES). We were not provided copies to review.

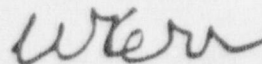
The proposed fitness for duty rule is to provide for the public health and safety by eliminating access to protected areas (presumably this includes vital areas, although not so stated) at nuclear power plants by personnel who are judged unfit for duty. In the proposed rule, reference is made to the proposed policy statement on access authorization; however, overlap and inconsistencies exist between the two documents. This proposed rule was developed for the Commission by the Office of Nuclear Reactor Regulation (NRR) and was brought to us for review. We will not be

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the only ones to be confused by the fact that the Commission almost simultaneously is publishing for comment a proposed policy statement developed by RES and a proposed rule developed by NRR, both of which address unescorted access to protected areas and which contain commonalities, differences, and inconsistencies. Surely this will contribute to confusion and will adversely affect respect for the regulatory process.

- 3) In our previous reports to the Commission on fitness for duty programs, we stressed the importance of NRC employees who have unescorted access to protected areas at nuclear power plants being subject to a fitness for duty program comparable to that being imposed upon licensees. We note that such a program has not yet been implemented by the NRC and continue to stress its importance.

Sincerely,



W. Kerr
Chairman

References:

1. Draft SECY report for the Commission from Victor Stello, Jr., Executive Director for Operations, NRC, Subject: Proposed Rule-making - Fitness for Duty Program (Predecisional), transmitted to ACRS by memorandum dated March 17, 1988.
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

April 12, 1988

The Honorable Lando W. Zech, Jr.
Chairman
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Washington, D.C. 20555

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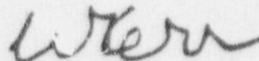
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