

U. S. NUCLEAR REGULATORY COMMISSION
REGION I

Report No. 50-309/90-18

Docket No. 50-309

License No. DPR-36

Licensee: Maine Yankee Atomic Power Company
83 Edison Drive
Augusta, Maine 04336

Facility Name: Maine Yankee Atomic Power Station

Inspection At: Wiscasset, Maine

Inspection Conducted: August 21-23, 1990

Type of Inspection: Initial, Fitness-For-Duty

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09-28-90
date

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Division of Radiation Safety and Safeguards

9-28-90
date

Inspection Summary: Initial, Fitness-For-Duty Inspection (Inspection Report No. 50-309/90-18)

Areas Inspected: Follow-up to licensee-reported fitness-for-duty event, written policies and procedures, program administration, training, key program processes and onsite collection facility.

Findings: Based upon selective examinations of key elements of Maine Yankee Atomic Power Company's Fitness-For-Duty (FFD) program, the objectives of 10 CFR 26 are being met. One apparent violation was identified relative to the processing of test results that resulted in an individual with a positive result being granted unescorted access to the station. Management support for this program was apparent by the professionalism, competency and dedication of the staff who were involved in administering the program. The following program strengths and weaknesses were identified:

Program Strengths

1. Strong upper level management support for the FFD Rule. Management, in information disseminated to employees, endorsed the FFD rule as an enhancement to its commitment to operate a safe, reliable and efficient plant.
2. Effective audit program. The audit program identified several program weaknesses, most notably, insufficient random testing on backshifts and weekends and poor procedure for processing test results by the Medical Review Officer (MRO).
3. Establishment of a time limit between notification and reporting for test by individuals randomly selected for testing.
4. Excellent day-to-day program oversight by program administrator's and good communications among all program staff.

Potential Program Weaknesses

1. Handling of test results by the Medical Review Officer.
2. Security of the collection facility.

(The licensee initiated prompt corrective action in both of the above areas.)
3. Apparent reluctance to self-refer to the Employee Assistance Program.

DETAILS

1. Key Personnel Contacted

The following personnel attended the exit meeting on August 23, 1990:

Licensee

B. Blackmore, Plant Manager
B. F. Castonguay, Manager-Administration
P. R. Cooper, Human Resources Director
R. Crosby, Senior Licensing Engineer
J. Frothingham, Manager-Quality Programs
M. M. Hovey, Senior Human Resources Assistant
P. S. Lydon, Vice President-Finance and Administration
P. Metivier, Security Director
L. Morang, Health Coordinator

State of Maine

P. Dostie, Nuclear Safety Inspection

USNRC

R. Freudenberger, Resident Inspector
E. B. King, Safeguards Inspector-Region I
J. Olsen, Battelle Northwest (NRC Contractor)

The inspectors also interviewed other licensee and contractor personnel who did not attend the exit meeting.

2. Entrance and Exit Meetings

The inspectors met with the licensee representatives, as indicated above, at Maine Yankee Station on August 21, 1990, to summarize the purpose and scope of the inspection and on August 23, 1990, to present the inspection findings. The licensee's commitments, as documented in this report, were reviewed and confirmed with the licensee during the Exit Meeting.

3. Follow-up to Licensee Reported FFD Event

- a. Background: On August 17, 1990, the licensee reported to the NRC, by way of the Emergency Notification System (ENS), that, through an audit of its contracted Medical Review Officer's (MRO) FFD records, it was determined that a contractor employee who had tested positive during a pre-employment FFD drug screen was badged and granted unescorted site access from April 2 - June 7, 1990. The licensee reported that the MRO failed to disposition the test results properly, and incorrectly reported to the licensee that the test results were negative, which resulted in the individual being granted access.

The individual, who was being processed as a contractor employee to participate in the licensee's first refueling outage since implementation of the NRC-required FFD program, provided a sample at the station's collection facility on March 26, 1990. The sample was sent to a National Institute on Drug Abuse (NIDA) certified laboratory for screening. On March 31, the NIDA laboratory forwarded the test results to the MRO. The test results indicated the individual had tested positive for marijuana. However, due to an error, the individual's test results were not properly handled by the MRO in that he did not call the individual in for an interview to confirm the positive result and that he notified the licensee that the results were negative.

When the licensee received the negative test report, the individual was badged and was granted unescorted access to the site on April 2, 1990. The individual worked on site until his work was completed on June 7, 1990, at which time his site access was withdrawn, as is routinely done.

On August 16, 1990, the licensee became aware of the situation after the occupational health nurse completed an audit of the MRO's FFD positive drug screen files. During that audit, the nurse found the individual's presumptive positive test record, with no action by the MRO indicated, filed with confirmed positive test results, and began an investigation into this discrepancy which led to disclosure of this event.

- b. NRC Review: During this previously scheduled initial FFD inspection, NRC inspectors reviewed this event. The review consisted of interviews with key FFD program administrators and the MRO, inspection of selected FFD records, including the record of the individual who tested positive, and an overview of the licensee's findings, follow-up actions, and written policies and procedures.
- c. NRC Findings: The inspectors confirmed the licensee's finding that, in this instance, the MRO apparently had not followed the established processing procedure. The inspectors confirmed that, after reporting the event to the NRC, the licensee took the following actions on the dates indicated:
- August 17, 1990:
 - Contacted station security and determined that the individual was no longer on site, but that the individual had been on site with unescorted access for a little over 2 months.
 - Contacted the NIDA laboratory and confirmed the Gas Chromatography/Mass Spectrometry (GC/MS) test results, which indicated 106 nanograms (ng) of tetrahydrocannabinol (THC - generically, Marijuana) per milliliter (ml) of sample.

- Contacted the individual's employer and instructed the employer to have the individual contact the MRO.

The individual telephoned the MRO on this date, denied having used drugs and offered to provide another sample.
- Met with the MRO. The MRO indicated that as a result of his telephone conversation with the individual, there was a question in his mind concerning the positive test result. The MRO was instructed to recontact the individual to determine if the individual wanted his frozen split sample tested.
- August 20, 1990:
 - Met with the MRO to review the circumstances of the "missed" positive test result and to emphasize the seriousness of the situation. The MRO stated that he had not yet been successful in recontacting the individual, whose point of contact was a neighbor. The MRO stated that as soon as he received permission from the individual, he would send the split sample to the NIDA laboratory for testing, and that he would report the results to the licensee.
 - Requested and received a list of equipment the individual, who was an electrician, had worked on. The individual had worked on 12 jobs, three of which were on safety-class equipment.
 - Interviewed the individual's supervisor. The supervisor indicated that the individual was a conscientious and hard worker. The licensee determined that at no time did the individual work on safety-class equipment alone, and that quality control personnel were present while some of the work was being performed.
 - Began a review of work done by the individual.
 - Assigned an individual to perform a Human Performance Evaluation System (HPES) review to determine the root cause of the incident.
- August 21, 1990:
 - Took corrective actions to prevent a similar occurrence from taking place. These were:
 - Provided the MRO with a checklist to ensure that positive drug screens are handled in accordance with established procedures.

- Developed a form to indicate positive or negative drug screen results. The MRO will sign, date and forward the form to the licensee's collection facility for filing.
- August 23, 1990:
 - Contacted the MRO and instructed the MRO to make a decision as to whether to verify the test result as positive, declare the test results negative, or have the split sample analyzed. The MRO decided to have the split sample analyzed. He was not yet able to recontact the individual.
 - Forwarded the split portion of the sample to NIDA laboratory for analysis with instructions to save as much of the sample as possible in case of an appeal.

The NIDA laboratory forwarded the test results of the split sample to the MRO on August 28, 1990. The GC/MS test results indicated 75 ng of marijuana per ml of sample. The MRO discussed with the NIDA Laboratory the 31 nanograms per milliliter difference between the two tests. Laboratory personnel indicated that the sample had degraded, and that was to be expected with the passage of time. The MRO determined that the test was a confirmed positive and notified the licensee.

The licensee contacted the individual's employer and reported that the individual had a confirmed positive FFD drug screen. The licensee also documented the positive FFD drug screen in the individual's Suitable Inquiry Records.

In an interview with the licensee personnel, the inspectors determined that the MRO notifies the licensee by telephone of the testing results and, subsequently, the test results are transmitted by facsimile from the MRO's office to the collection facility for filing. As a matter of routine, collection site personnel stated that the test results are treated and filed as negative unless otherwise indicated by the MRO, regardless of quantitative results, since the MRO has discretion in evaluating the test results, provided the guidelines of 10 CFR 26 are followed.

Based on interviews with the MRO and FFD program administrators, the inspectors determined that the MRO was aware of the positive test result when it was first reported to his office. But after several months, the MRO could not recall the specific circumstances that resulted in the erroneous report to the licensee. The inspectors found no other cases of mishandled test results.

However, the inspectors found that the FFD procedures did not clearly specify the MRO's responsibilities and duties, which could have contributed to the event. The inspectors also noted that, contrary to the licensee's reported interview with the MRO on the 20th of August, the MRO has discretionary authority to cause testing of the split portion of the specimen retained by the licensee without first obtaining the donor's permission.

The failure of the licensee's contracted MRO to properly disposition an individual's positive test result, which resulted in the individual being granted unescorted access to the station, is an apparent violation of 10 CFR 26.24. (VIO 50-309/90-18-01).

4. Approach to NRC Review of the Fitness-For-Duty Program

The inspectors evaluated the licensee's Fitness-For-Duty (FFD) Program using NRC Temporary Instruction 2515/106: Fitness-For-Duty: Initial Inspection of Program Implementation. This evaluation included a review of the licensee's written policies and procedures, and program implementation, as required by 10 CFR 26, in the areas of: management support; selection and notification for testing; collection and processing specimens; chemical testing for illegal drugs and alcohol; FFD training and worker awareness; the employee assistance program; management actions, including sanctions, appeals, and audits; and maintenance and protection of records. The evaluation of program implementation also included interviews with key FFD program personnel and a sampling of the licensee's and contractors' employees with unescorted plant access; a review of relevant program records; and observation of key processes, such as specimen collection and onsite screening processes.

5. Written Policies and Procedures

The licensee's written policies and procedures appear to be adequate to administer and implement the fitness-for-duty program. In general, the procedures were clear, well written, and comprehensive. Authorities and responsibilities under the program were generally well defined and in adequate detail to guide fitness-for-duty program personnel in the conduct of their duties. Of particular note was the clear statement of the licensee's policy on drug and alcohol abuse. This statement was not only consistent with the requirements of the rule, but strongly expressed the licensee's commitment to a drug and alcohol free workplace. The policy was well communicated through material distributed to all employees, through training, and through prominently displayed posters and placards.

However, several areas where improvements could be effected were identified, as follows:

- The role and responsibilities of the station Health Coordinator are not well defined in the higher order procedures. The licensee committed to revise the procedures to more clearly specify the role and responsibilities of the Health Coordinator.
- Several procedures make reference to authorities being designated in the absence of particular FFD program personnel. However, the procedures do not adequately identify who the "designee" is to be in those cases. This increases the potential for decisions being made by inappropriate personnel. The licensee committed to identify the authorized designees in all cases.
- The procedures did not clearly specify the responsibilities and duties of the Medical Review Officer (MRO). This contributed to the event discussed in Details, Section 3.

6. Program Administration

Following are the inspectors' findings with respect to the administration of key elements of the licensee's FFD program.

a. Delineated Responsibilities

The program is organized to facilitate coordination among the various program elements. This includes the active involvement of the Manager of Administration who is responsible for all of the key line program elements (e.g., security, EAP, fitness-for-duty). The FFD Program Manager reports directly to this manager. Except as noted in Details, Section 5, the licensee's procedures clearly delineate the responsibilities and duties of each member of the FFD program staff. Interviews with these individuals confirmed that they are very cognizant of their responsibilities.

b. Management Awareness of Responsibilities

Interviews with FFD program staff and selected supervisors, reviews of procedures and contracts, and discussions with licensee management by the inspectors indicated that management, at all levels, is not only aware of its responsibilities under the rule and its particular responsibilities within the program, but is also fully committed to the goal of the rule: a workplace free of drugs and alcohol and their effects.

c. Program Resources

The licensee appears to be providing adequate resources for effective program implementation. Interviews with FFD program personnel indicated that upper management has been very supportive in providing the facilities and staff that are necessary for them to carry out their jobs. However, the inspection team noted that the space available for the secure storage of records may soon be exceeded.

The licensee underwent a refueling outage since the program was implemented and handled the added demands imposed by the program well. The normal testing facility and staff were augmented to handle the increased load presented by pre-access screening of contractor employees required for the outage.

d. Management Monitoring of Program Performance

Management appears to have a strong interest in monitoring program performance, but is still developing its strategy and mechanisms for doing so. The licensee had just completed its six month report on program performance which indicated very little substance abuse among its contracted workers and none among its permanent workforce. The licensee's internal audit identified several weaknesses, including inadequate coverage of weekend and backshift personnel in the random testing program. This audit also identified the event discussed in Details, Section 3. These findings appear to have motivated management to be more vigilant in monitoring program performance. For example, the licensee is developing a method to expeditiously retrieve data for the purpose of adjusting testing frequency to ensure that it consistently complies with the requirement of the NRC rule to test 100 percent of a testing pool per year (8.33 percent per month), and a method to reconfirm the randomness of its selection process. Two strong points of the licensee's program are the daily oversight that FFD program management exercises and the open communications that appear to exist among FFD program staff. These strengths facilitate the early identification and resolution of problems, when they occur.

e. Measures Undertaken to Meet Performance Objective of the Rule

The licensee has made a strong and apparently effective effort to meet the performance objectives of the rule. In addition to the program strengths noted elsewhere in this report, the inspectors found that the licensee:

- included the station security program in the FFD initiative. On at least two occasions, security officers intercepted individuals attempting to enter the plant while potentially in violation of the alcohol policy. Security personnel have undergone training in the identification of drugs, drug paraphernalia, and drug hiding places and conduct searches for drugs and alcohol at plant access points. Entry searches to date have not found any illegal substances being brought into the plant.
- although not required by NRC regulation, the licensee has stipulated that all of its contractors and vendors must make an EAP program available to their employees.

f. Sanctions

The licensee has a policy of severe sanctions for both its own and contractor employees. For its own employees, the current practice is for an individual found in violation of the policy to be given one chance for rehabilitation. The rehabilitation program appears to be an aggressive one, with a minimum 28 day treatment program, in most cases, followed by increased screening, in addition to random testing, for 24 months following reinstatement. Contractor employees in violation of the policy have their access permanently revoked.

g. Employee Assistance Program (EAP)

The licensee's EAP has been in existence for many years. However, interviews with the EAP director, and with selected plant staff, found that there is some amount of distrust with the EAP program, resulting in a lower than desired level of usage. There appears to be a perception that those who refer themselves to the EAP program for substance abuse related problems will be identified to management. The EAP Director and FFD Program Manager indicated that there is an expectation that the Director will give undue weight to plant safety in determining whether an individual constitutes a sufficient threat to safety to require notification of management. Nonetheless, if the EAP program is to be successful, the licensee needs to assure that its employees perceive it to be a source of help rather than punishment. The licensee should take action to increase employee confidence in and use of the EAP.

7. Training

The licensee's FFD training program appears to be adequate in most respects. Interviews with plant staff indicate that they were generally knowledgeable of the program, and the actions and responsibilities that were assigned to them. The resident inspector's review of the training program indicated that both content and delivery was good. However, the inspectors identified two deficiencies, as follows:

- In general, employees did not seem to be adequately familiar with the appeals process.
- The licensee does not appear to have an effective method for keeping track of employees who are promoted to supervisory positions, and who then must receive the supervisory training.

The licensee has agreed to implement the necessary actions to correct these deficiencies. This will be reviewed during a subsequent inspection.

8. Key Program Processes

a. Selection and Notification for Testing

The selection and notification process appears to operate in a manner that meets the objectives of the rule. A list of the persons to be tested randomly is generated by a computer each day from a pool of all persons with station access. The pool is updated daily. Data compiled for the first six months of program implementation indicate that the goal of testing 50% of station personnel with unescorted access is being achieved. Licensee employees that are not at the station when their names are selected are excused from testing for that day, unless they are working in corporate headquarters that day. In that case, a specimen is collected at corporate headquarters. To avoid the problem of individuals with infrequent access not being selected and tested, the licensee has instituted a policy whereby individuals who have not been at the station for 30 days are subject to a pre-access test, and remain subject to random testing while they are at the station.

The selection and notification process appears to have adequate safeguards to protect sensitive information. Only three individuals have access to the computer program that generates the lists, and all uses and modifications of the program are automatically recorded. The physical location of the computer and the computer generated lists allow for adequate security. However, there was no procedural requirement to ensure that the door to this location is locked when it is left unattended. The licensee committed to evaluate the need to include this precaution in the procedure.

Notification is conducted through key contacts in each department. The contact establishes whether or not the individual is at the station, and then notifies him to report within the hour. In very few cases does it take longer than an hour for the person to report, and in no cases has an individual not reported within the 3-hour limit established by the program.

For the first few months after implementation, it appears that the frequency of testing on backshifts and weekends was minimal. As a result of an internal audit, however, this deficiency was identified. A review of program records for the four months following the audit indicated that the testing was increased and appeared to meet NRC expectations.

Procedures and program support in cases of for-cause testing appear to be adequate. The collection personnel are available within an hour should the need for sample collection on the backshifts and weekends arise.

b. Collection and Processing of Specimens

The inspectors conducted a walkthrough of the procedure for collection and processing of a specimen. The collection site was small but adequate to process two or three people at once. The lay out of the facility is conducive to tracking the subjects as they proceed through the process. The facility provides adequate security for specimens, collection equipment, and records. It is patrolled regularly by security personnel during off-hours. The collection rooms have no source of water that have not had a bluing agent added. During the walkthrough, no weaknesses were observed in the way the collection site person processed the subject and the specimen.

However, two deficiencies were noted as follows:

- The back door to the facility and the specimen storage refrigerator located next to the door were both found to be unlocked at the same time, raising the possibility that specimens could be tampered with, or that confidence in the program would be diminished by others who may observe this vulnerability. While both the door and the refrigerator are normally in direct line of site of the collection person, a better practice would be to make sure that at least one is locked at all times.
- There were no provisions in place to assure that the storage refrigerator was not without power for extended periods.

The licensee is examining solutions to both of these items.

c. Development, Use and Storage of Records

A system of files and procedures to document the program and to protect personal information has been developed. The inspectors examined the security and contents of the files and found them to be adequately secure and current. Access to sensitive information is limited to individuals with a need to know. Additionally, chain of custody procedures appear to be followed at all times.

One area of concern was noted:

- According to the FFD program manager, the MRO currently does not have a locking file cabinet in his off-site office for storage of FFD files and information. The licensee has committed to review the security of the MRO's files and to take necessary corrective action.

d. Audit Program

The audit program appears to be thorough and effective. The licensee has conducted audits of the contracted drug testing laboratory and the results indicate satisfactory performance. The results of the blind performance testing of the laboratory indicates that the licensee shares with other licensees a common problem, the degradation in quality of blind performance test specimens which create false negatives, with THC when the spiked sample is close to the 100 ng/ml cut off. The licensee is investigating this problem.

The licensee has also had its program audited by a corporate audit team augmented by consultants. The audit appears to have been comprehensive and identified a number of program weaknesses that the licensee has corrected or is undertaking to correct.

9. Onsite Testing Facility

The licensee does not conduct testing for drugs at the station. However, testing capabilities for breath alcohol are provided and are consistent with the expectations of the rule. Approved breath-testing devices are used. Procedures for their use are appropriate, and personnel have been trained in the use of the devices.