

U. S. NUCLEAR REGULATORY COMMISSION  
REGION I

Report No. 50-29/90-19

Docket No. 50-29

License No. DPR-3

Licensee: Yankee Atomic Electric Company

Facility Name: Yankee Nuclear Power Station

Inspection At: Rowe, Massachusetts

Inspection Conducted: November 27-29, 1990

Inspectors:

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01-22-91  
date

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Division of Radiation Safety and Safeguards

1-22-91  
date

Inspection Summary: Initial Fitness-For-Duty Inspection (Inspection Report No. 50-29/90-19)

Areas Inspected: Follow-up to licensee reported Fitness-For-Duty events; review of written policies and procedures, program administration, training, key program processes and on-site collection facility.

Findings: Based upon selective examinations of key elements of the Yankee Atomic Electric Company's Fitness-For-Duty (FFD) Program, the objectives of 10 CFR Part 26 are being met. The following program strengths and potential weaknesses were identified:

Strengths

1. The professionalism, competency and dedication of the staff who were involved in administering the program.
2. Affording contractor employees the same sanctions as company employees.

3. Allowing contractors to participate in the company's Employee Assistance Program.
4. Including all company employees in the FFD program.
5. An effective and comprehensive audit program.

Potential Weaknesses

1. The manner in which for-cause testing is conducted (Fitness-For-Duty examination) (Section 5.1, unresolved item 50-29/90-19-02).
2. Lack of an effective tracking mechanism for FFD training and retraining (Section 7.0, unresolved item 50-29/90-19-03).
3. Lack of an official policy and implementing procedure for personnel with infrequent unescorted access (Section 8.1, unresolved item 50-29/19-19-04).
4. Lack of adequate security for FFD collection equipment, permanent record book and FFD files (Section 8.2).
5. Pre-access FFD test results from the Health and Human Services (HHS) certified laboratory being automatically printed in the Rowe collection facility (Section 8.3).
6. An appeals procedure which prohibits the taking of official minutes or record during appeals proceedings (Section 8.3).

## DETAILS

### 1.0 Key Personnel Contacted

The following personnel were interviewed during the inspection and attended the exit meeting on November 29, 1990:

#### Licensee

- T. Aubie, Human Resources Manager
- P. Fowler, Security Administration
- K. Jurentkuff, Plant Operations Manager
- A. Koch, Director, Material Management and Commercial Services
- S. Litchfield, Health and Safety Supervisor
- J. Palmieri, Security Manager
- T. Smith, Maintenance and Technical Training Supervisor
- N. St. Laurent, Plant Superintendent
- D. Wood, Manager of Administrative Services (Fitness-for-Duty Program Manager)

#### U.S. NRC

- T. Koshy, Senior Resident Inspector

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

### 2.0 Entrance and Exit Meetings

The inspectors met with the licensee representatives, as indicated above, at Yankee Nuclear Power Station on November 27, 1990, to summarize the purpose and scope of the inspection and on November 29, 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.

### 3.0 Follow-up to Licensee Reported Events (Unresolved Items)

Prior to this inspection, the licensee reported three Fitness-For-Duty (FFD) related events to the NRC. These events were documented as unresolved items in the NRC Resident Inspector's report for the period in which they occurred. These events were reviewed during this initial FFD program inspection. Following are the results of those reviews. (One other unresolved item that was identified by the resident inspector is discussed in Section 5.2 of this report.)

### 3.1 Unresolved Item 50-29/90-12-03

On June 19, 1990, the licensee reported to the NRC that the FFD program being carried out by one of its contractors during the pre-access process had been determined, during an audit that began on June 4, to be unsatisfactory in meeting certain aspects of the requirements of 10 CFR Part 26. In a follow-up audit from June 15-21, the licensee determined that the chemical testing portion of the contractor's program had been performed by a laboratory certified by the National Institute on Drug Abuse (NIDA) and that the chain of custody process for the testing was acceptable. Based on the second audit, the licensee concluded that the drug testing results reported by the contractor were valid.

The licensee explained to the inspectors during this inspection that, while all of the necessary documentation was not centrally located at the contractor's corporate office, the second audit found that the program was adequately controlled, implemented and documented.

When the initial audit findings came to light, the licensee decided to retest all of the contractor's employees in accordance with its FFD testing criteria. The retesting was started on about June 12 and was completed by June 21, 1990. But, during the interim, the licensee continued to allow the individuals unescorted access to the Station. That decision was the basis for the resident inspector considering the matter as an Unresolved Item.

During this inspection, the inspectors reviewed the matter with the licensee. The licensee explained that it did not withdraw access authorization for those individuals because:

- it was fairly certain that the contractor's pre-access tests were valid,
- the affected individuals had been included in the licensee's random testing program as of the date of their station access, which provided the continuing deterrent threat of testing, and
- the licensee was retesting the affected personnel under its program.

The inspectors confirmed the actions taken by the licensee and determined that they were appropriate. Unresolved item 50-29/90-12-03 is closed.

### 3.2 Unresolved Item 50-29/90-12-04

Part 26.27(a) of 10 CFR states, in part, that prior to the initial granting of unescorted access to a protected area, the licensee shall obtain a written statement from the individual as to whether activities

within the scope of this part were ever denied the individual. The licensee shall complete a suitable inquiry to determine if that person was tested positive for drugs or use of alcohol that resulted in on-duty impairment, subject to a plan for treating substance abuse (except for self-referral for treatment), or removed from activities within the scope of this part, or denied unescorted access at any other nuclear power plant in accordance with a Fitness-For-Duty policy.

On August 14, 1990, the licensee reported to the NRC that it had not obtained written FFD suitable inquiry statements from 33 contractor employees prior to granting them unescorted access to the Station. The licensee identified the problem during an access control audit conducted on August 8-10, 1990. The affected individuals had been authorized access to the Station for a refueling outage which began on June 23, 1990.

The licensee suspended Station access for the individuals on August 10, 1990, and obtained the necessary suitable inquiry information from the individuals. The licensee also contacted the contractor and determined that suitable inquiry consent had been obtained from the affected individuals by the contractor during its pre-access process. After the licensee evaluated the information obtained through the contractor's efforts and the information provided by the affected individuals earlier that day, their access authorization was reinstated.

During this inspection, the inspectors reviewed this previously Unresolved Item. The inspectors confirmed the immediate actions taken by the licensee and considered them to be appropriate. But, because the licensee failed to obtain and evaluate the suitable inquiry information before authorizing access to those individuals, as required by 10 CFR 26.27(a), or confirm that equivalent information had been obtained by the contractor (who was not delegated responsibility for that action), the inspectors determined that this was an apparent violation of NRC requirements.

However, the inspectors also determined that the criteria of the NRC's Enforcement Policy (10 CFR 2, Appendix C, Section V.G.) for a non-cited violation had been met, as follows:

- The violation was identified by the licensee,
- The violation would be classified at Severity Level IV,
- Although the violation was not required to be promptly reported to the NRC, it was recorded in the licensee quarterly reportable log system and reported to the NRC resident inspector,



- Corrective measures to prevent recurrence, which included development of a check-off sheet for training personnel that requires suitable inquiry statement to be completed, and inclusion of a similar check-off for access control personnel who issue Station access authorization badges, were implemented and are considered adequate by the NRC,
- The violation was not willful nor could it have been reasonably expected to have been prevented by corrective action for a previous violation.

Therefore, Unresolved Item 50-29/90-12-04 is closed and is replaced with Noncited Violation (NCV) 50-29/90-19-01.

### 3.3 Unresolved Item 50-29/90-16-03

On August 30, 1990, the licensee reported to the NRC that five individuals who had been granted unescorted access to the protected and vital areas had not been included in its database for random drug screening. The oversight was identified during a licensee audit. The periods that those individuals were omitted from the random pool ranged from 5 days to 56 days.

During this inspection, the inspectors reviewed this previously identified Unresolved Item. The licensee explained to the inspectors that the affected individuals, who were unaware that they were not in the random testing database, were originally in the database, but were removed when their badges authorizing Station access expired at the end of their originally anticipated work period at the Station. When those individuals were rebadged because their work at the Station was extended, the access control personnel failed to inform FFD personnel who update the database. This situation apparently had been overlooked when the FFD program procedures were developed. Therefore, the database was not updated. As soon as the oversight was identified, the individuals were added to the database.

The licensee's corrective actions included a procedure change that requires a copy of all access authorization forms to be sent directly to FFD program personnel and the conduct of a monthly audit of the FFD database. The inspectors found the licensee's corrective actions to be satisfactory.

The inspectors determined that, even though the individuals were not in the database for various periods, they were not aware of it, and, therefore, the deterrent threat against the use of alcohol and drugs posed by random testing, which is the primary intent of the NRC rule, existed. Additionally, the inspectors considered the oversight to be an isolated case and a minor deficiency that was identified by the licensee and promptly corrected. Unresolved Item 50-29/90-16-03 is closed.

#### 4.0 Approach to NRC Review of the FFD Program

The inspectors evaluated the licensee's 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 Part 26, in the areas of: management support; selection and notification for testing; collection and processing of 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 licensee and contractor employees with unescorted site access; a review of relevant program records; and observation of key processes, such as specimen collection and on-site screening processes.

#### 5.0 Written Policies and Procedures

The inspectors determined, through in-office review of Yankee Atomic Electric Company's Fitness-For-Duty policy, dated November 13, 1990, and discussions with the licensee, that the licensee's written FFD policies and procedures, with few exceptions, met regulatory requirements.

##### 5.1 FFD Examination

Attachment "A" to the licensee's FFD policies defines an FFD examination as one which includes drug and alcohol testing performed on an individual who appears to be under the influence of drugs and/or alcohol or has committed an unsafe act or serious omission/mistake or exhibits aberrant behavior. When the inspectors asked for clarification on the extent of an FFD examination, the licensee explained that the examination, which requires the giving of blood, is intended to evaluate any condition which may impact an individual's fitness-for-duty. The FFD examination is the licensee's method of testing for cause in accordance with 10 CFR 26.24(a)(3).

The inspectors informed the licensee that its method of testing for-cause exceeded the requirements of the rule, and may be in violation of 10 CFR 26.24(a)(3). This is an Unresolved Item (UNR 50-29/90-19-02), pending further review by the NRC. This item will be reviewed during a subsequent inspection.

##### 5.2 Policy Guidelines vs. Station Procedures

In Inspection Report No. 50-29/90-01, the resident inspectors documented a concern about the acceptability of the licensee's use of company guidelines in lieu of station procedures. Since guidelines

are not reviewed by the Plant Operations and Review Committee (PORC), the FFD guidelines, which could impact plant safety, would lack independent program verification and would not receive the same "defense-in-depth scrutiny" afforded to the station procedures (Unresolved Item 50-29/90-01-01).

The licensee contended that, since the FFD guideline is a company-wide policy and not strictly a Yankee Nuclear Power Station policy, the FFD program does not have to be covered by a station procedure.

Although not a regulatory requirement, review by PORC may be prudent. The licensee is allowed discretion in this matter. Therefore, Unresolved Item 50-29/90-01-01 is closed.

## 6.0 Program Administration

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

### 6.1 Delineated Responsibilities

The program is organized to facilitate coordination among the various program elements. This includes the active involvement of the manager of administrative services who is responsible for all of the key line program elements (e.g., security, Medical Review Officer (MRO), collection staff, the random selection process, Employee Assistance Program, FFD records and FFD training). The FFD program manager reports directly to the site administrative officer. Interviews with these individuals confirmed that they are cognizant of their responsibilities.

### 6.2 Management Awareness of Responsibilities

Interviews with FFD program staff and selected supervisors, reviews of procedures, and discussions with licensee management by the inspectors indicated that management is aware of its responsibilities under the rule and its particular responsibility within the program. The licensee appeared to be fully committed to the goal of a workplace free of drugs and alcohol and their effects.

### 6.3 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 supportive in providing the facilities and staff that are necessary for them to carry out their jobs. However, the inspectors noted that the space available for the secure storage of FFD records may soon be exceeded.



The licensee underwent a refueling outage since the program was implemented. 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.

#### 6.4 Management Monitoring of Program Performance

The FFD program manager exercises effective daily oversight of the program and maintains open communications with FFD program staff. The licensee had completed its six-month report on program performance, which indicated little substance abuse among its employees and those of its contractors. The licensee's internal audit program appears to be in-depth and thorough. Through its audit program, the licensee identified several FFD program weaknesses (discussed in Section 3 of this report and others which will be discussed in Section 8 of this report). In most cases, the licensee's corrective actions to the audit findings were timely and appropriate.

#### 6.5 Measures Undertaken to Meet Performance Objective of the Rule

The licensee has provided adequate resources and personnel to meet the performance objectives of the NRC's FFD rule. In regard to achieving a drug-free workplace, as stated in 10 CFR 26.10(c), the licensee reserved the right to search the workplace if it had "reasonable suspicion" that there was a violation of company policy and procedures. The licensee has also trained all of its security officers, who act as a front-line defense against employees who are impaired due to drug or alcohol use gaining station access, in behavioral observation.

The inspectors also found that the licensee had adequate mechanisms in place to receive and provide "suitable inquiry" information relative to an employee's or applicant's drug or alcohol history.

In the event that an individual has a confirmed positive test result, the licensee's follow-up actions would include a review of the individual's safety-related and safeguards work. The licensee also documents actions taken against the individual in the individual's personnel security files. When and if access can be reinstated is also documented in the file.

#### 6.6 Sanctions

The licensee's FFD policy establishes sanctions consistent with 10 CFR 26.27(b). As stated in the FFD policy, company employees who have confirmed positive test results for alcohol or drugs will be suspended for 14 consecutive days without pay. Contractor employees who have confirmed positive test results will be denied access for 14

consecutive days. Company and contractor employees will both be referred to an Employee Assistance Program (EAP) for first-time FFD offenses.

Upon satisfactory completion of the EAP evaluation and testing, company and contractor employees are allowed to return to the Station with unescorted access. Those individuals will be subject to unannounced follow-up testing, in addition to random testing, in accordance with 10 CFR 26.27(b)(4). A second positive alcohol or drug test result is grounds for termination for company employees and grounds for permanent denial of access for contractor employees.

#### 6.7 Employee Assistance Program (EAP)

The licensee maintains an EAP that offers assessment, counseling, and referral services through a contracted staff of qualified counseling professionals. EAP services are available to employees and their immediate families. A noteworthy feature of the licensee's EAP program is that the services are available to contractor employees on a fee-for-service basis.

The inspectors determined through an interview with the EAP Director and with randomly selected site employees, that the EAP is well accepted and utilized by the employees. Furthermore, the EAP is also utilized by the contractors. The EAP Director indicated that participation in the program has remained constant since the NRC FFD rule was implemented. The inspectors determined through interviews with employees and by the display of FFD posters and placards that the licensee has encouraged use of the services and that the employees have confidence in the program.

#### 7.0 Training

The licensee's FFD training program appears to be adequate in most respects. Interviews with plant staff members 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 were good. However, the inspectors identified two deficiencies, as follows:

- The licensee did not display good organization and management of FFD training records. The records were generally kept in unmarked bundles.
- During a review of selected FFD training records, the inspectors discovered one record in which a supervisor did not receive supervisory training within three months of becoming a supervisor in accordance with 10 CFR 26.22(c). The individual was promoted on January 1, 1990, but was not trained until April 4, 1990. The licensee explained that the individual was on vacation the last two weeks of March and did

not work as a supervisor until the training had been completed. 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 supervisory training.

The licensee committed to a 100 percent audit of supervisory FFD training records and has agreed to implement the necessary actions to correct identified deficiencies. This is an unresolved item (UNR 50-29/90-19-03), which will be reviewed during a subsequent inspection.

## 8.0 Key Program Processes

### 8.1 Selection and Notification for Testing

The selection and notification process is conducted in a manner that meets the objectives of the rule. A list of the individuals to be tested randomly is generated by a computer on randomly selected test days from a pool of all individuals with Station access. The pool is updated daily, as needed, for people entering or leaving the pool. Data compiled for the first six months of program implementation indicate that the goal of testing 50 percent of site personnel with unescorted access is being achieved. The inspectors noted that the licensee conducts random testing on backshifts and weekends.

Licensee employees who are not at the Station when their names are selected are excused from testing for that day. The licensee has developed a list of excused absences for company employees. However, the licensee did not have a policy to deal with personnel with infrequent unescorted access to the Station. The licensee needs to develop such a policy and implementing procedures. Therefore, testing of personnel with infrequent unescorted access is considered an unresolved item (UNR 50-29/90-19-04), and will be reviewed during a subsequent inspection.

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.

Notification is conducted through key contacts in each department. The contact establishes whether or not the individual is at the site and then notifies the individual to report to the collection facility at an appointed time. If the individual does not report at the appointed time, the collection staff will notify an appropriate level of management.

## 8.2 Collection and Processing of Specimens

The inspectors observed an employee go through the procedure for collection and processing of specimens. The collection facility was small, but adequate to accommodate two or three individuals for testing one at a time. The layout of the facility is conducive to tracking the subjects as they proceed through the process. No deficiencies were noted in the procedure for collection and processing of specimens.

The facility appeared to provide adequate security for collected specimens, but security for collection equipment, the permanent record book, and records appeared to be inadequate. Though the collection facility was a hard-key access controlled area, those documents and equipment were not further secured behind lock and key, as were the collected specimens. Also, there were no provisions in place to assure that the storage refrigerator was not without power for extended periods.

The licensee agreed to examine solutions to those matters. This will be reviewed during a subsequent inspection.

## 8.3 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.

However, two areas of concern were noted:

- Pre-access FFD test results, both positive and negative, from the HHS certified laboratory are transmitted to a printer which is located in the collection facility. The results are automatically printed as they are received. The printer is not segregated from personnel who are being tested. This arrangement could compromise the confidentiality of test results.

The inspectors noted that all FFD test results were reported directly to the MRO as required by the rule. No deficiencies were identified.

- The licensee's appeal procedure (12.6) states that "no official minutes or record either written or taped will be made" of the meeting between the appeals committee and the subject individual. Since the appeals process is subject to NRC audit, an official record must be maintained. At the time of this inspection, there had not been an appeal.



The licensee committed to review these deficiencies and take corrective action. This will be reviewed during a subsequent inspection.

#### 8.4 Audit Program

The licensee had completed a Quality Assurance (QA) Audit of the FFD Program Report No. Y-90-19 (NSD-90-14)), dated November 16, 1990. The inspectors found the licensee's audit to be comprehensive, in-depth and thorough. The audit findings were reported to appropriate levels of management. Where potential weaknesses were identified, the weaknesses either had been corrected, were in the process of being corrected, or the licensee took exception. The licensee's corrective actions appeared to be adequate. Aside from the audit finding which follows, the licensee's exceptions did not appear to conflict with the requirements of the rule.

An audit finding indicated that "trained collection site staff persons of both genders are not available at either site (Bolton and Rowe) to observe collections, given the restrictions of 10 CFR Part 26 regarding supervisors, co-workers and relatives." The finding was categorized as a "deficiency" in the audit report.

FFD Program Management disagreed with that deficiency and argued that, "Sample collections at both locations are performed by female collection site staff personnel. In the event that an observed sample is required to be collected from a male individual, male FFD Program personnel shall have the responsibility to perform the observation function. FFD Program personnel shall excuse themselves from observing a sample collection if a conflict of interest as noted in 10 CFR Part 26, Appendix A, 2.3(1) is apparent. FFD Program personnel are familiar with collection site procedures and shall perform only the required observation with the collection site staff personnel maintaining control of the sample collection and chain-of-custody documentation. Any instances of direct observation shall be noted in the permanent record book."

Section 2.2(d)(2) of Appendix A to 10 CFR Part 26 requires that non-medical collection site personnel receive training in compliance with this Appendix and demonstrate proficiency in the application of this Appendix prior to serving as a collection site person. Therefore, any non-medical personnel performing any aspect of the testing process shall be trained and provided with appropriate written procedures and instructions. Such training shall be documented. This item will be reviewed during a subsequent inspection.



#### 9.0 Station Testing Facility

The licensee does not conduct testing for drugs at the Station, but maintains two collection facilities, one at the Station and one at its corporate office in Bolton, Massachusetts. Access to the Station facility is well controlled by collection personnel, and visitor access was recorded in a log. The inspectors did not inspect the collection facility at corporate. Chemical testing is done at an HHS certified laboratory.

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.