

E. Bowen

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Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2801

RULES & DIR. BRANCH
US NRC

April 10, 2000

Mr. David Meyer, Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration
U.S. Nuclear Regulatory Commission
Mail Stop T-6 D59
Washington, D.C. 205555-0001

Dear Mr. Meyer:

REQUEST FOR PUBLIC COMMENT ON THE ALLEGATIONS PROGRAM UNDER THE NEW REGULATORY OVERSIGHT PROGRAM (65 FED. REG. 6399; FEBRUARY 9, 2000)

TVA is pleased to submit the enclosed comments on the subject proposed improvements to the NRC's process for handling allegations. TVA appreciates the NRC's effort to obtain stakeholder views regarding this important matter. In addition to considering written comments on this issue, the *Federal Register* Notice states that the NRC intends to schedule a public meeting to discuss the comments and various options proposed. TVA would welcome the opportunity to participate in any such meeting with the NRC and other stakeholders. TVA believes that the agency's willingness to consider stakeholder views prior to reaching a decision on this matter will lead to more informed decision-making and, in turn, produce an improved process for handling allegations.

TVA believes NRC has an opportunity to improve the process for handling allegations using risk insights and an understanding of the effectiveness of utility programs to identify and resolve problems gained through the baseline inspection program. These changes will maintain an appropriate level of safety, increase public confidence, improve the efficiency and effectiveness of the NRC allegation process, and remove unnecessary burden from the licensees.

[Redacted]

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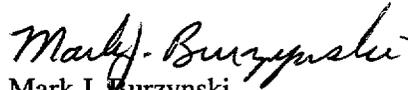
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Mr. David Meyer
Page 2
April 10, 2000

TVA has evaluated the four options identified by the NRC staff in SECY 99-273. TVA believes that while elements of both options 3 and 4 have merit, these two options can be modified to incorporate the benefits offered by both. TVA suggests a modified process that considers three elements: risk-significance of the issue raised in the allegation, the confidence NRC has in the utility corrective action program based on baseline inspections, and whether the alleged attempted to use the utility's in-house programs to resolve the issue. TVA's proposal is discussed in the enclosure along with responses to the seven specific questions posed in the *Federal Register* Notice.

If you have any questions, please contact me at (423) 751-2508.

Sincerely,



Mark J. Burzynski
Manager
Nuclear Licensing

Enclosure

cc (Enclosure):

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555-0001

Enclosure.

**TVA Comments On Proposed Improvements to the
NRC Process for Handling Allegations**

1. Which of the four Options contained in the Commission paper will strike the best balance between the efficient use of agency resources and the need for alлегers to feel the NRC will address their issue(s) and protect their identity, if they so desire?

TVA suggests that of the four options proposed by NRC, options 3 and 4 provide for some balance between the efficient use of agency resources and the need for alлегers to feel the NRC will address their issue(s) and protect their identity. However, TVA believes that these two options can be modified to incorporate the benefits offered by both. In particular, TVA would suggest a modified process that considers three elements: risk-significance of the issue raised in the allegation, the confidence NRC has in the utility corrective action based on baseline inspections, and whether the alлегer attempted to use the utility's in-house programs to resolve the issue. NRC should refer the alлегer, not the allegation, to the utility's in-house programs when the risks associated with the allegation have been determined to be nonexistent or low, when NRC has confidence in the utility's corrective action programs, and these in-house programs have not been used by the alлегer. Referring alлегers to the utility's in-house programs will channel the alлегers in the right direction to get the current, as well as future, issues resolved. NRC should use either a baseline inspection (for low risk issues) or special inspection (for higher risk issues) for those cases where there is a lack of confidence in the utility's in-house programs or the alлегer has been unsuccessful in using the utility's in-house programs to resolve the issue.

TVA also believes that NRC should develop a clear threshold for what issues are accepted as allegations and should closely adhere to those thresholds. A similar concept was successfully developed in the Revised Reactor Oversight Process for the definition of a finding. Adherence to a clear threshold would improve NRC's efficiency and effectiveness by not diverting resources to issues not regulated by the NRC such as labor disputes, management and personnel issues, and industrial safety issues. Use of such a threshold would not compromise nuclear safety because it would only exclude those issues that fall outside the scope of NRC regulations. Likewise, TVA believes that the definition of a substantiated allegation should also be revised. Currently, an allegation is considered substantiated if what the alлегer states is true. The definition should be modified to consider an allegation substantiated in those cases where; first, what the alлегer states is determined to be true and; second, some type of corrective action is required to correct the problem. Establishing and closely adhering to these allegation concepts will serve to enhance public confidence by improving the consistency and clarity of the NRC's allegation process.

2. Does one of the Options for implementing the allegation program provide more adequate assurance that the NRC can be more certain that through information provided by alлегers, plants are being operated safely?

TVA believes that the modified process suggested in response to question 1 will provide an effective pathway to address allegations in a manner that will ensure safety is maintained. NRC will ensure this directly by addressing the higher risk issues through inspections. NRC will also ensure that lower risk issues will be handled correctly by referring alлегers to in-house utility programs that are considered effective based on baseline inspection results. Focusing NRC resources on higher risk-significant issues will ensure that NRC resources are not diverted to issues deemed to be of no or low risk. Also, focusing on issues which properly meet the threshold for allegation material will not divert NRC resources to address matters involving industrial safety, labor, or management and personnel issues. Using the in-house utility programs, where appropriate, will ensure that utility resources are effectively allocated to issues based on an established prioritization process. It is also important however that alлегers have confidence that they may use the NRC as an alternate avenue if their issues are not adequately resolved by the licensee.

3. Does one of the Options for implementing the allegation program under the new oversight process enhance public confidence by increasing the predictability, consistency, clarity, and objectivity of the NRC's allegation process?

TVA believes that the modified process suggested in response to question 1 will enhance public confidence by increasing the predictability, consistency, clarity, and objectivity of the NRC's allegation process. Decisions made in this process will be consistent with other publicly available information developed through the Revised Reactor Oversight process. In particular, the significance of issues raised in an allegation will be established using the same evaluation tools. The basis for NRC decisions to refer an alлегer to use the in-house utility program will be based on documented inspection results and published trends in allegations. The public will be reassured to know NRC is directly handling higher risk-significant issues. They will also be reassured that NRC is acting responsibly when referring people to the in-house utility programs because there is an established basis for considering those programs effective.

4. Does one of the Options for implementing the allegations program under the new oversight process improve the efficiency and effectiveness of the regulatory process focusing agency resources on those issues with the most safety significance?

TVA believes that the modified process suggested in response to question 1 will improve the efficiency and effectiveness of the regulatory process focusing agency resources on those issues with the most safety significance. Focusing NRC resources on higher risk-significant issues will ensure that NRC resources are not diverted to issues deemed to be of no or low risk. Also, focusing on issues which properly meet the threshold for allegation material will not divert NRC resources to address matters involving industrial safety, labor, or management and personnel issues. Using the in-house utility programs, where appropriate, will ensure that utility resources are efficiently allocated to issues based on an established prioritization process. It is important that alлегers have confidence that they may use NRC as an alternate avenue if their issues are not adequately resolved by the licensee.

5. Does one of the Options for implementing the allegation program under the new oversight process reduce unnecessary regulatory burden on licensees?

TVA believes that the modified process suggested in response to question 1 will improve the efficiency and effectiveness of the regulatory process focusing agency resources on those issues with the most safety significance. Focusing NRC resources on higher risk-significant issues will ensure

that NRC resources are not diverted to issues deemed to be of no or low risk. Also, focusing on issues which properly meet the threshold for allegation material will not divert NRC resources to address matters involving industrial safety, labor, or management and personnel issues. Using the in-house utility programs, where appropriate, will ensure that utility resources are efficiently allocated to issues based on an established prioritization process.

6. What Options, beyond those stated in the Commission paper, should be considered?

TVA believes that the modified process suggested in response to question 1 should be considered.

7. Should the Commission implement any changes in the allegation program for all reactor licensees or should any changes be implemented in a pilot program before being implemented at all reactor facilities?

The implementation of any changes to the NRC process for handling allegations should proceed directly for all plants using the risk insights from the Revised Reactor Oversight process and the results of the baseline inspections.