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DOCKET NUMBER
PROPOSED RULE 26
(67FR 07093)



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

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USNRC

April 22, 2002 (4:58PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

March 29, 2002

Secretary
U.S. Nuclear Regulatory Commission
ATTN: Rulemakings and Adjudications Staff O-16C1
Washington, D.C. 20555-0001

Gentlemen:

NUCLEAR REGULATORY COMMISSION (NRC) - 10 CFR 26, FITNESS FOR DUTY (FFD) PROGRAMS - PROPOSED AMENDMENT TO 10 CFR 26, "FITNESS-FOR-DUTY PROGRAMS" (Volume 67, Number 32, dated February 15, 2002 Federal Register 7093)

The Tennessee Valley Authority (TVA) appreciates the opportunity to review and comment on the subject proposed rule.

TVA has reviewed the proposal and provides the following comments for your consideration:

Subpart A, Rev. 3.2

26.3 (e) (2) - It is suggested that the word on-site be added to 26.3 (e) (2) to clarify this requirement. Persons that are required to report to an off-site Technical Support Center (TSC) or an off-site Emergency Operations Facility (EOF) should **not** be covered under the scope of this program. This is an undue burden to many licensees, since collection facilities may not be near the off-site TSC or EOF.

26.3 (e) (4) - Change to "On-site FFD program personnel who routinely:" Inclusion of off-site FFD personnel such as Medical Review Officers (MROs), Employee Assistance Program counselors, etc., would be difficult, if not impossible to implement.

26.5 - Add to definition of Confirmatory test by including the following statement, "Other confirmatory methods may be utilized, when approved by HHS." This allows licensees to keep pace with technology changes, but only those approved by HHS.

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Concerning the proposed changes to the Medical Determination of Fitness, 26.XX: change to read "(4) A physician may determine the fitness of an individual who may be ill, injured, fatigued, taking medication, **including psychoactive medications**, in accordance with a valid prescription(s) and/or using over-the-counter medications." A physician is also capable of evaluating the effect of all medications on FFD including psychoactive medications.

Subpart B, Rev. 2.3

26.25 (d) - Change to read, "**An appropriate portion** of all collected urine specimen must be forwarded to a laboratory certified by HHS" This allows for discarding of excess amounts of urine once the laboratory's or licensee's specimen requirements have been met.

26.25 (g) - Delete "**in consultation with the treating or personal physician.**" This wording implies that consultation is required. In many cases, the MRO may be able to make a determination without consulting the treating or personal physician.

If you have any questions, please contact Terry Knuettel at (423) 751-6673.

Sincerely,



Mark J. Burzynski
Manager
Nuclear Licensing

cc: U.S. Nuclear Regulatory Commission
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