



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

October 31, 2002

EA-02-233

Mr. Michael R. Kansler
Senior Vice President and
Chief Operating Officer
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

SUBJECT: FALSIFICATION OF BACKGROUND INVESTIGATIONS (INVESTIGATION
REPORT NO. 2-2000-028) AND EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Kansler:

This refers to an investigation completed by the Nuclear Regulatory Commission (NRC) Office of Investigations (OI) on May 13, 2002. The NRC has concluded that access authorization background checks conducted in the 1996 - 2000 time frame were falsified by a Cataract (now RCM Technologies, Incorporated) (Cataract/RCM) human resources coordinator. Enclosure 1 is the Synopsis of OI Report 2-2000-028. The NRC concludes that the human resources coordinator formerly employed by Cataract/RCM falsified background information for multiple individuals who were seeking unescorted access to the protected area at the Watts Bar, Sequoyah, Browns Ferry, Millstone, and Indian Point 2 nuclear facilities. We understand that you were previously informed of this condition through industry sponsored communication, and you initiated action to verify the integrity of your access authorization processes and decisions.

Based on the results of this investigation, the NRC has determined that a violation of the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.5, "Deliberate Misconduct," has occurred. The NRC concluded that the deliberate misconduct on the part of the Cataract/RCM human resources coordinator caused multiple licensees to be in violation of 10 CFR 73.56, "Personnel access authorization requirements for nuclear power plants," in that information was deliberately submitted to NRC licensees that was known to be incomplete or inaccurate pertaining to required background investigations in support of granting unescorted access authorizations.

For the affected licensees, the NRC is exercising enforcement discretion pursuant to Section VII.B.6 of the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, and no enforcement action will be taken. The NRC notes that the affected licensees are responsible for the acts of their contractors. In this case, the NRC is exercising enforcement discretion based on: (1) licensee corrective actions, including determination that no individual gained unescorted access authorization at any of the affected licensee facilities who would have otherwise been denied access had background checks been complete and accurate; (2) the fact that the violation was by a low-level employee of a contractor; (3) the apparent non-involvement on the part of Cataract/RCM management; and (4) the extent of separation of the affected licensees from the violation.

M. Kansler

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As the employer, Cataract/RCM is responsible for acts of deliberate misconduct by its employees and, accordingly, the NRC concluded that Cataract/RCM violated 10 CFR 50.5 and 10 CFR 73.56. A Severity Level IV Notice of Violation (Notice) is being issued separately to Cataract/RCM. A copy of the Notice and accompanying letter to Cataract/RCM is included as Enclosure 2.

No action is required on your part. The NRC considers this matter closed and plans no further actions regarding your facility. If you have any questions on this matter, please contact me at 301-415-3036.

Sincerely,

/RA/

Stuart A. Richards, Director
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-247

Enclosures: 1. Synopsis of Office of Investigations Report 2-2000-028
2. Notice of Violation to RCM Technologies, Inc.

cc w/encls: See next page

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SYNOPSIS

This investigation was initiated on September 29, 2000, by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), to determine if a former human resources coordinator, employed by Cataract/RCM Technologies, Inc. (Cataract), a contractor to the Tennessee Valley Authority (TVA), deliberately falsified background information regarding unescorted access authorizations at TVA and other NRC licensee facilities.

Based on the evidence provided by the TVA Office of the Inspector General, testimony, and documentation developed by OI:RII, the allegation that a former Cataract human resources coordinator deliberately falsified background information regarding unescorted access authorizations at TVA and other NRC licensee facilities was substantiated.

Approved for release on October 31, 2002

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FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION II~~