



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Jan. 29, 1990

Docket Nos. 50-259, 50-260,
50-296, 50-327,
50-328; 50-390,
50-391, 50-438
and 50-439

Mr. Oliver D. Kingsley, Jr.
Senior Vice President, Nuclear Power
Tennessee Valley Authority
6N 38A Lookout Place
1101 Market Street
Chattanooga, Tennessee 37402-2801

Dear Mr. Kingsley:

SUBJECT: REQUEST FOR INFORMATION REGARDING TVA'S COMPLIANCE WITH THE
FITNESS-FOR-DUTY RULE 10 CFR PART 26

We are in receipt of your January 3, 1990, letter certifying that a Fitness-for-Duty program which meets the requirements of 10 CFR Part 26 has been implemented at applicable TVA facilities.

Review of your submittal indicates that the handling of preliminary positive test results may not be in accordance with 10 CFR Part 26. According to your submittal, an individual will be removed from Nuclear Power property when the person's preliminary drug test results indicate the presence of certain drugs. This policy clearly indicates that TVA management will be informed of and take action based on the results of a preliminary drug test prior to completion of the confirmatory test and review of the results by the Medical Review Officer. Although 10 CFR 26.24(d) permits access by specified program staff to the results of preliminary tests when appropriate, e.g., in the normal course of performing their procedures for collecting and testing specimens, it does not include management as having a "need to know." Section 2.7(g)(1) and (2) of Appendix A to Part 26 prohibits the reporting of presumptive positive results to licensee management. Furthermore, Section 2.9(a) and (c) of Appendix A to Part 26 specifies that the Medical Review Officer shall conduct a final review of the results of tests (i.e., verify results as positive) prior to transmitting the results to licensee management officials. It follows that licensee management may take no action based on preliminary drug test results unless notified under the provisions of 10 CFR 26.25 of a safety hazard.

In view of the above, we request that you reevaluate your handling of preliminary (i.e., presumptive) positive test results and inform the Commission within 30 days of how you will achieve compliance with 10 CFR Part 26. The reporting and/or recordkeeping requirements contained in this letter affect fewer than ten respondents; therefore, OMB clearance is not required.

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Mr. Oliver D. Kingsley, Jr. - 2 -

If your staff has any questions relating to this request, they can contact Eugene McPeek at (301) 492-3210.

Sincerely,

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Suzanne C. Black, Assistant Director
for Projects
TVA Projects Division
Office of Nuclear Reactor Regulation

cc: See next page

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*See previous concurrence

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Mr. Oliver D. Kingsley, Jr.

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Browns Ferry
Sequoyah
Watts Bar
Bellefonte

cc:

General Counsel
Tennessee Valley Authority
400 West Summit Hill Drive
ET 11B 33H
Knoxville, Tennessee 37902

Mr. F. L. Moreadith
Vice President, Nuclear Engineering
Tennessee Valley Authority
400 West Summit Hill Drive
WT 12A 12A
Knoxville, Tennessee 37902

Dr. Mark O. Medford
Vice President and Nuclear
Technical Director
Tennessee Valley Authority
6N 38A Lookout Place
Chattanooga, Tennessee 37402-2801

Manager, Nuclear Licensing
and Regulatory Affairs
Tennessee Valley Authority
5N 157B Lookout Place
Chattanooga, Tennessee 37402-2801

Mr. O. J. Zeringue
Site Director
Browns Ferry Nuclear Plant
Tennessee Valley Authority
P. O. Box 2000
Decatur, Alabama 35602

Mr. P. Carrier
Site Licensing Manager
Browns Ferry Nuclear Plant
Tennessee Valley Authority
P. O. Box 2000
Decatur, Alabama 35602

Mr. G. Campbell
Plant Manager
Browns Ferry Nuclear Plant
Tennessee Valley Authority
P. O. Box 2000
Decatur, Alabama 35602

Mr. Richard F. Wilson
Vice President, New Projects
Tennessee Valley Authority
6N 38A Lookout Place
Chattanooga, Tennessee 37402-2801

Chairman, Limestone County Commission
P. O. Box 188
Athens, Alabama 35611

Claude Earl Fox, M.D.
State Health Officer
State Department of Public Health
State Office Building
Montgomery, Alabama 36130

Regional Administrator, Region II
U.S. Nuclear Regulatory Commission
101 Marietta Street, N.W.
Atlanta, Georgia 30323

Mr. Danny Carpenter
Senior Resident Inspector
Browns Ferry Nuclear Plant
U.S. Nuclear Regulatory Commission
Route 12, Box 637
Athens, Alabama 35611

Dr. Henry Myers, Science Advisor
Committee on Interior
and Insular Affairs
U.S. House of Representatives
Washington, D.C. 20515

Tennessee Valley Authority
Rockville Office
11921 Rockville Pike
Suite 402
Rockville, Maryland 20852

Mr. Joseph Bynum
Acting Site Director
Sequoyah Nuclear Plant
Tennessee Valley Authority
P. O. Box 2000
Soddy Daisy, Tennessee 37379

Mr. Oliver D. Kingsley, Jr.

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Browns Ferry
Sequoyah
Watts Bar
Bellefonte

cc:

Mr. M. Burzynski
Site Licensing Manager
Sequoyah Nuclear Plant
P. O. Box 2000
Soddy Daisy, Tennessee 37379

Senior Resident Inspector
Watts Bar Nuclear Plant
U.S. Nuclear Regulatory Commission
Route 2, Box 700
Spring City, Tennessee 37381

County Judge
Hamilton County Courthouse
Chattanooga, Tennessee 37402

Site Director
Bellefonte Nuclear Plant
Tennessee Valley Authority
P. O. Box 2000
Hollywood, Alabama 35752

Mr. Kenneth M. Jenison
Senior Resident Inspector
Sequoyah Nuclear Plant
U.S. Nuclear Regulatory Commission
2600 Igou Ferry Road
Soddy Daisy, Tennessee 37379

Site Licensing Manager
Bellefonte Nuclear Plant
Tennessee Valley Authority
P. O. Box 2000
Hollywood, Alabama 35752

Mr. Michael H. Mobley, Director
Division of Radiological Health
T.E.R.R.A. Building, 6th Floor
150 9th Avenue North
Nashville, Tennessee 37219-5404

Chairman
Board of County Commissioners
Jackson County Courthouse
Scottsboro, Alabama 35768

Mr. Dan Douthit, Program Manager
Watts Bar Nuclear Plant
Tennessee Valley Authority
P. O. Box 800
Spring City, Tennessee 37381

Resident Inspector
Bellefonte Nuclear Plant
U.S. Nuclear Regulatory Commission
P. O. Box 477
Hollywood, Alabama 35752

Mr. R. J. Stevens
Site Licensing Manager
Watts Bar Nuclear Plant
Tennessee Valley Authority
P. O. Box 800
Spring City, Tennessee 37381

Honorable Robert Aikman
County Judge
Rhea County Courthouse
Dayton, Tennessee 37321

Honorable Johnny Powell
County Judge
Meigs County Courthouse
Route 2
Decatur, Tennessee 37322