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April 13, 1990

**RULEMAKING ISSUE**  
(Notation Vote)

SECY-90-136

For: The Commissioners  
From: James M. Taylor  
Executive Director for Operations  
Subject: FITNESS FOR DUTY - TENNESSEE VALLEY AUTHORITY

Purpose: To address an inconsistency in the Fitness-for-Duty (FFD) Rule which permits licensees to take action against an individual on the basis of preliminary test results.

Background: The staff reviewed the Tennessee Valley Authority's (TVA's or the licensee's) compliance with the Fitness-for-Duty (FFD) Rule (10 CFR Part 26) with regard to the use of preliminary test results. As required by the rule, TVA, by letter dated January 3, 1990 (Enclosure 1), provided certification that it had implemented a fitness-for-duty program that meets the rule's requirements. The staff questioned TVA's use of preliminary test results and by letter dated January 29, 1990 (Enclosure 2), requested additional information from the licensee. By letter dated March 2, 1990 (Enclosure 3), TVA provided details of its FFD program.

Discussion: TVA has implemented a fitness-for-duty program that places individuals in a nonwork pay status after a preliminary positive test result indicates the presence of cannabinoids, cocaine, or alcohol. A copy of TVA's procedure is enclosed for information (Enclosure 4). TVA believes that a preliminary positive test result provides sufficient basis to question the reliability and trustworthiness of an employee. TVA further believes that this practice improves safety and meets the requirements of 10 CFR Part 26.

The staff has reviewed TVA's FFD program against the requirements of 10 CFR Part 26. An OGC legal opinion (Enclosure 5) concludes that a case cannot be made that the TVA program is in violation of the rule. This opinion is based, in part, on the fact that the rule is internally inconsistent and that it can be read to permit the TVA practice. Section 26.24(d) of the rule authorizes the Fitness-for-Duty Program Manager to have access to preliminary test results. Section 2.7(g)(2) of Appendix A prohibits the reporting of preliminary positive test results to management.

00100  
CONTACT: Suzanne C. Black, TVAPD/NRR  
Ext. 20796

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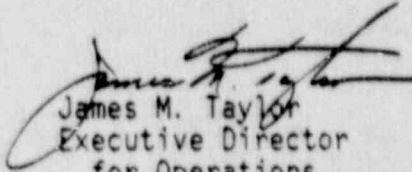
Under TVA's program the Medical Review Officer verbally notifies the Alternate Fitness-for-Duty Program Manager if the preliminary test shows cannabinoids, cocaine, or alcohol. Without discussing the reason for this action, the Alternate FFD Program Manager then instructs TVA's Human Resources Group to place the employee in a nonwork pay status. The employee's supervisor is asked to escort him/her to the Medical Review Officer, who discusses the results of the test with the employee. The employee is then escorted from the site.

Because no one other than the Medical Review Officer and the Alternate FFD Program Manager is told of the preliminary test results or the reason for the nonwork pay status, it is OGC's opinion that the TVA program is in literal compliance with the rule. OGC could not determine that the Alternate FFD Program Manager is in fact licensee "management," although this manager has the collateral authority to have an employee placed in a nonwork pay status.

Although TVA's program is, in OGC's view, in literal compliance with the rule, the staff believes that the Commission's intent was to preclude any licensee management action based on preliminary test results, unless the individual's condition constitutes a hazard to himself or others. The intent of this provision of the rule was to balance licensee management actions predicated on trustworthiness and reliability concerns against the individual's right of privacy. This concern is highlighted by the relatively high percentage of "false positives" in the onsite screening program (see Enclosure 3). TVA acknowledges that it will likely be assumed by co-workers and supervisors that the personnel action is indeed based upon FFD test results.

Recommendations: In accord with the staff's understanding of the Commission's intention to preclude the kinds of actions being taken by TVA under its fitness-for-duty program, the staff recommends that the Commission direct the staff to revise the FFD rule to specifically state the approved and/or not approved uses of preliminary test results. A proposed revision to the rule is provided as Enclosure 6. Alternatively, the Commission could instruct the staff to reconsider the desirability of removing employees from unescorted access at the earliest possible time after a preliminary positive test, even with resulting

impact on employees whose test results are not confirmed positive. OCC has reviewed this paper and concurs.

  
James M. Taylor  
Executive Director  
for Operations

Enclosures:

1. TVA Letter dated 1/3/90
2. NRC Letter dated 1/29/90
3. TVA Letter dated 3/2/90
4. TVA FFD Procedure
5. OGC Legal Opinion
6. Proposed Revision to  
10 CFR Part 26

Commissioners' comments or consent should be provided directly to the Office of the Secretary by COB Monday, April 30, 1990.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Monday, April 23, 1990, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the **Commissioners** and the Secretariat should be apprised of when comments may be expected.

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ENCLOSURE 1



TENNESSEE VALLEY AUTHORITY

6N 38A Lookout Place

JAN 03 1990

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

Gentlemen:

In the Matter of	)	Docket Nos. 50-259	50-390
Tennessee Valley Authority	)	50-260	50-391
	)	50-296	50-438
	)	50-327	50-439
	)	50-328	

IMPLEMENTATION OF FITNESS FOR DUTY RULE - 10 CFR PART 26

In accordance with the requirements of 10 CFR 26.73(d), TVA certifies that its Nuclear Power organization has implemented a Fitness for Duty program which meets the requirements of 10 CFR Part 26.

Nuclear Power's Fitness for Duty program is implemented principally by Nuclear Power Standard 2.1.11 and TVA Medical Examiner's Guide Section VII.5, which were upgraded effective December 11 and 4, 1989, respectively. These procedures have now been implemented at TVA's four nuclear plant sites (Bellefonte, Browns Ferry, Sequoyah, and Watts Bar), Nuclear Power's corporate offices in Chattanooga and Knoxville, and other appropriate Nuclear Power work locations.

Since 1983 Nuclear Power's Fitness for Duty program has included a drug awareness component to ensure that all those affected by the Fitness for Duty program understood their obligations to promote a drug-free workplace, the threat posed by illegal drug use, and the availability of help in the event of a drug or alcohol problem. The program has been upgraded several times, including a major enhancement effective October 1987 to provide for random testing substantially in conformance with Department of Health and Human Services guidelines. TVA's approach in implementing Part 26 has been to modify only those aspects of the existing program affected by the new rule. Where Part 26 is silent, the features of the existing program have been retained. For example, the applicability of Nuclear Power's Fitness for Duty policies and procedures are somewhat broader than the scope of Part 26. In addition to persons with unescorted access and employees<sup>1</sup> required to report

<sup>1</sup> At this time, no non-TVA employees are required to report to TVA emergency response centers in accordance with TVA's emergency plans and procedures. Prior to requiring any contractors or vendors to physically report to any TVA emergency response center in accordance with TVA emergency plans and procedures, the program will be revised accordingly.

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U.S. Nuclear Regulatory Commission

JAN 03 1990

to TVA emergency response centers, the program is also applicable to, among others, all Nuclear Power employees, other TVA employees located at Nuclear Power sites or projects, and contractor and vendor employees assigned to the Nuclear Power organization. The random alcohol and drug screening component of the program includes, in addition to persons with unescorted access and employees who must report to TVA emergency response centers, those with an official station at a nuclear plant or project, and Nuclear Power manager and specialist schedule and engineering schedule employees.

In evaluating Nuclear Power's program against the requirements of Part 26, interpretations of the rule's meaning and intent were necessarily made. Outlined below are significant implementation matters, along with a description of how TVA is addressing them.

Administration of alcohol and drug tests following certain events. Section 26.24(a)(3) requires alcohol and drug testing, among other times, "after accidents involving a failure in individual performance resulting in personal injury...if there is reasonable suspicion that the worker's behavior contributed to the event...." TVA interprets this section to require testing where personal error contributed to the injury, and not each circumstance where a person has been injured on the job. Nuclear Power requires testing, among other times, when there is reasonable suspicion that the worker's behavior involved a failure in performance that contributed to a lost-time accident. For Fitness for Duty purposes, a lost-time accident is a work related injury or illness that prevents the employee from reporting to work on any regularly scheduled work day following an accident. This definition is based on regulations issued under the Occupational Safety and Health Act.

Preliminary Positive Test Results. In cases where the results of a person's preliminary drug test analysis indicates the presence of cannabinoids, cocaine, or alcohol, Nuclear Power is continuing its safety-conscious approach of removing the person from Nuclear Power property and placing that person in a non-work pay status pending confirmation of the preliminary test result. In accordance with 10 CFR Part 26, Nuclear Power procedures provide that access to the preliminary test result is limited to the appropriate Medical Review Officer, the Fitness for Duty Program Manager, and the person involved.

Protection of Information. Section 26.29(a) requires licensees to establish and maintain a system of files and procedures for the protection of personal information developed in their Fitness for Duty programs. TVA currently complies with provisions of the Privacy Act of 1974 and maintains its systems of records in a way that protects personal privacy in accordance with the requirements of that Act. TVA believes this system of maintaining its files implements the requirements of Section 26.29(a). Section 26.29(b) restricts the disclosures that may be made of certain records. Records of drug tests and other information collected in the course of the drug testing process will only be disclosed in accordance with Section 26.29(b). The disclosures permitted by Section 26.29(b) are narrower than those discretionary disclosures otherwise permitted under TVA's Privacy Act routine uses. Records which TVA collects for other purposes but which may also be relevant to Nuclear Power's Fitness for Duty program will be released only in accordance with TVA's routine uses under the Privacy Act.

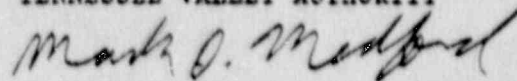
U.S. Nuclear Regulatory Commission

JAN 03 1990

I hope that this information will be useful to the NRC in the course of its review of the Nuclear Power organization's Fitness for Duty program. Questions regarding TVA's implementation of Part 26 may be directed to me at (615) 751-4776.

Very truly yours,

TENNESSEE VALLEY AUTHORITY



Mark O. Medford, Vice President  
Nuclear Technology and Licensing

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ENCLOSURE 2



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.

Jan. 29, 1990

Mr. Oliver D. Kingsley, Jr.

- 2 -

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

Sincerely,

*151*  
Suzanne C. Black, Assistant Director  
for Projects  
TVA Projects Division  
Office of Nuclear Reactor Regulation

cc: See next page



Mr. Oliver D. Kingsley, Jr.

- 2 -

Browns Ferry  
Sequoyah  
Watts Bar  
Bellefonte

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Mr. Oliver D. Kingsley, Jr.

- 3 -

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Mr. R. J. Stevens  
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Tennessee Valley Authority  
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Honorable Johnny Powell  
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ENCLOSURE 3





Mr. James M. Taylor

March 2, 1990

From October 13, 1987 through February 23, 1990, 61 tests were initially positive for cocaine and 56 of those preliminary results were confirmed--a confirmation rate of 92 percent. During that same period, 159 tests were initially positive for marijuana; 137 of those tests were subsequently confirmed, resulting in a confirmation rate of 86 percent. This high confirmation rate constitutes substantial credible evidence that an individual is using cocaine or cannabinoids. Based on this data, TVA believes that, in view of its responsibility to ensure that the public health and safety is adequately protected, the preferable and safety-conscious course of action is to temporarily withdraw the access of an individual who has a preliminary positive result for cannabinoids or cocaine and place that person in a nonwork pay status pending confirmation of that test result.

TVA does not view placement in nonwork pay status as a disciplinary action. In the infrequent event a preliminary positive test result is not confirmed, the individual is restored to work status with no loss of pay or leave, and there is no record or notation maintained in either the individual's personnel or security files as to the preliminary positive test result. Further, no persons other than those authorized by Section 26.24(j) and, of course, the individual, are explicitly informed of the preliminary positive test result. TVA recognizes that in some circumstances, co-workers or immediate supervisors may assume that an individual has had a preliminary positive test result; however, TVA line management is not told of the preliminary positive test result and other disclosure is limited to that permitted by Part 26. TVA's procedure, which is described in the Enclosure, has been designed to allow disclosure of test results only to authorized individuals, while removing an individual from work activities who could potentially endanger public health and safety. The procedure is self-executing and requires no management directive to implement.

TVA bases its judgement as to the permissibility of its practice regarding preliminary positive test results on several factors. First and foremost, Part 26 does not prohibit the removal of persons from work activities pending confirmation of a preliminary positive test result. In fact, Section 26.27(b)(1) states that "[i]mpaired workers, or those whose fitness may be questionable, shall be removed from activities within the scope of this Part, and may be returned only after determined to be fit to safely and competently perform activities within the scope of this Part." Our historical data and experience cause us to conclude that the fitness of workers with a preliminary positive test result for cannabinoids or cocaine is indeed questionable, and that temporarily removing the individual from work activities is warranted.

Second, TVA's handling of preliminary positive test results is in compliance with other related provisions of Part 26. Section 26.24(d) states that "[a]ccess to the results of preliminary tests must be limited to the licensee's testing staff, the Medical Review Officer, the Fitness-for-Duty Program Manager, and employee assistance program staff when appropriate."

Mr. James M. Taylor

March 2, 1990

Consistent with this requirement, only TVA's testing staff, the appropriate Medical Review Officer, the Fitness for Duty Program Manager (or alternate designees appointed in writing) and, of course, the individual, have actual knowledge that a preliminary positive test result has occurred. There is no specific knowledge, even among TVA's testing staff and the Medical Review Officer, as to the actual levels of the drugs tested for. Section 2.7(g)(2) of Appendix A to Part 26 states that "[p]resumptive positive results of preliminary testing at the licensee's testing facility will not be reported to licensee management" and Section 2.9 (a) and (c) of Appendix A require the Medical Review Officer to confirm all test results prior to informing licensee management. As previously noted, preliminary positive test results are not reported to TVA management.

TVA has also examined the Statements of Consideration to Part 26 (published at 54 Fed. Reg. 24,468 - 24,494), NUREG-1354, "Fitness for Duty in the Nuclear Power Industry: Responses to Public Comments", and NUREG-1385, "Fitness for Duty in the Nuclear Power Industry: Responses to Implementation Questions." These sources do not indicate that temporary withdrawal of access and placement of an individual in a nonwork pay status pending confirmation of a preliminary positive test result is prohibited by the final rule. Rather, the NRC recognizes that circumstances warranting removal may exist, and "... therefore [Part 26] allows licensees to remove workers from unescorted access prior to confirmation of positive results when such action appears to be prudent, and may be based on information other than the screening test."\*

In its Part 26 rulemaking, the Commission identified confidentiality interests of workers, the unreliability of screening tests, and concern for licensee misuse as the principal reasons why access to preliminary test results is limited to those persons identified in Section 26.24(d).\*\* TVA shares the NRC's concern on these matters. As described in the Enclosure, TVA uses its Central Laboratory facility in Chattanooga to perform preliminary analyses of specimens. TVA's high rate of confirmation of preliminary positive test results for cannabinoids and cocaine support the quality and reliability of TVA's testing process and results. The procedure TVA follows in cases of a preliminary positive test result is structured in such a way to discretely maintain the confidentiality of the test result and the privacy of the individual involved. TVA believes that the potential for misuse of preliminary results is remote since this information is so closely guarded.

It is my hope that this letter has clarified TVA's handling of preliminary positive test results to the Commission's satisfaction and that TVA has demonstrated that its Fitness for Duty program meets the letter and spirit of Part 26 and is the appropriate course of action in view of TVA's responsibility to ensure that the health and safety of the public is adequately protected. If you have any remaining reservations regarding the compliance of this aspect of Nuclear Power's Fitness for Duty program, I would

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\* NUREG 1354, Response to Comment 12.2.10.

\*\* See, e.g. NUREG 1354, Response to Comments 10.6.1, 14.1.3, 14.2.5; NUREG 1385, Response to Question 5.15.



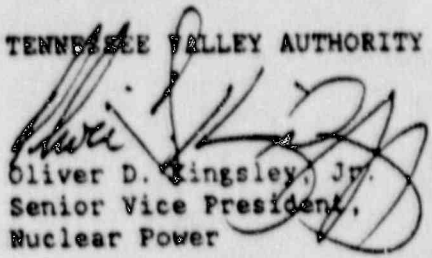
March 2, 1990

Mr. James M. Taylor

welcome a meeting between the senior staffs of our organizations to discuss this issue. Such a meeting can be arranged by contacting Mark O. Medford, Vice President, Nuclear Technology and Licensing, at (615) 751-4776.

Very truly yours,

TENNESSEE VALLEY AUTHORITY



Oliver D. Kingsley, Jr.  
Senior Vice President,  
Nuclear Power

Enclosure  
cc: See page 5



Mr. James M. Taylor

March 2, 1990

cc (Enclosure):

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NRC Resident Inspector  
Watts Bar Nuclear Plant  
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Spring City, Tennessee 37381

ENCLOSURE

Other than in for cause and followup testing situations, TVA's Medical Services organization conducts the preliminary analysis of a specimen in its Central Laboratory in Chattanooga.\*

If a preliminary analysis is suspect for cannabinoids or cocaine, TVA's testing staff reports the preliminary positive test result to the appropriate TVA Medical Review Officer, who in turn reports the preliminary positive test result orally to the Alternate Fitness-for-Duty Program Manager.

The Alternate Fitness-for-Duty Program Manager instructs the appropriate Site Human Resource Officer to place the individual in a nonwork, pay status but provides no explanation as to why this action is being taken.

After receiving this instruction, the Site Human Resource Officer instructs the individual's management supervisor to locate the individual onsite and escort the individual to the Medical Office. No explanation for this instruction is provided to the management supervisor.

The Medical Review Officer meets privately with the individual to explain the preliminary positive test result and, upon the conclusion of this conversation, sends the individual to the onsite Human Resource office.

The Site Human Resource Officer provides the individual with a letter informing the individual of the temporary withdrawal of access authorization and his or her placement in nonwork, pay status. The Human Resource Officer also ensures that the individual leaves Nuclear Power property.

After the individual has left the site, the Alternate Fitness-for-Duty Program Manager notifies the Personnel Security Manager that the individual has left Nuclear Power property and requests that plant access be temporarily withdrawn. No explanation is given that this action relates to fitness for duty. The Personnel Security Manager complies with this request by temporarily withdrawing the individual's plant access as an administrative action.

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\* A preliminary positive test result for alcohol results in the performance of a second breath analysis on another evidential-grade breath analysis device, allowing for the immediate confirmation of the preliminary positive test result. If the test for alcohol is confirmed in this manner and the individual does not request further confirmation by blood analysis, the alcohol test is declared positive and the Medical Review Officer is notified. If a blood analysis is requested, the two breath analyses are treated as preliminary results, and the procedure described above is followed.

ENCLOSURE 4





NOV 29 1989

FORM SDSP-1  
 PROCEDURE REVIEW AND APPROVAL COVER SHEET

(for SP use only)  
 Rev. No. 4

Procedure No. <u>SDSP-11.2</u>	Tracking No. <u>05</u>	Title <u>Fitness For Duty and Alcohol and Drug Screening</u>
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CHECK AS APPROPRIATE:  New Procedure  
 Permanent Change. Two Year Review per SDSP-7.4?  Yes  No  
 Cancellation  
 Temporary change  
 Anticipated duration (date or condition): \_\_\_\_\_

SP LIST pages and forms affected after word processing. (For TCs list marked pages):  
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AFFECTED MANAGERS CONCURRENCE SIGNATURES	DATE
<input type="checkbox"/> Plant Manager	
<input type="checkbox"/> Project Controls & Financial Svcs Mgr	
<input type="checkbox"/> Site Support Manager	
<input type="checkbox"/> Site Licensing	
<input checked="" type="checkbox"/> <u>Site Programs Manager</u>	<u>12/7/89</u>
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<input type="checkbox"/> Modification (MODS)	
<input type="checkbox"/> Materials & Procurement Manager	
<input checked="" type="checkbox"/> <u>Site Quality Assurance</u>	<u>12/4/89</u>

AFFECTED ORGANIZATIONS CONCURRENCE SIGNATURES	DATE
<input type="checkbox"/> Organization: _____	
<input type="checkbox"/> Organization: <u>DFN</u>	
<input type="checkbox"/> Organization: _____	
<input type="checkbox"/> Organization: _____	
<input type="checkbox"/> Organization: _____	
<input type="checkbox"/> Organization: _____	
<input type="checkbox"/> Organization: _____	
<input checked="" type="checkbox"/> <u>Site Procedures</u>	<u>12/8</u>

**CONTROLLED COPY**

Responsible Organization Supervisor 12/7/89 (Sign AFTER all required signatures except PORC, Principal Manager, and Site Director, if applicable.)

For Instructions approved by a Supervisor, MARK the following approvals "NA."  
 Principal Manager 12/1/89 (Required signature for standard practices ONLY, except if Principal Manager is the Plant Manager, then mark "NA" here and check Plant Manager at bottom left.)  
 Title: Mgr Site Support

PORC Review required?  Yes  No  
 12/8/89  
 PORC Chairman or PORC Minutes No. Date  
 12/8/89  
 Plant Manager or PORC Minutes No. Date

Site Director (SDSPs only) 12/08/89  
 Date

Retention Period: Lifetime  
 Responsibility: OCRM

Date released from Administrative Hold  
na (SP completes, if applicable)  
 Effective Date 12-1-89 (SP completes)  
 Validation Date na (SP completes)

HISTORY OF REVISION/REVIEW

<u>REV. NO.</u>	<u>DATE</u>	<u>REVISED PAGES</u>	<u>REASON FOR CURRENT REVISION</u>
0	12/28/88	All	Moved from BF19.26 to SDSP11.22 change titles due to reorganization revised Attachment A.
1	07/10/89	all	Add section that all changes to Locks on Keys shall be approved by Supervision Security Technical Support on his designs. Organization and Title changes.
3	07/26/89	1-6,8-13,15-25	Change title and organization names changes.
4	12/08/89	All	General revision to incorporate STD-2.1.11 "Fitness For Duty Program Administration". REASON FOR URGENCY: Needed to meet NRC mandated date to implement new requirements. STD-2.1.11 effective 12-11-89.



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## REVISION LOG

Revision Number	Effective Date	Pages Affected	Description of Revision
0	<del>12/04/87</del> 12/11/89 <i>cac</i>	All	Initial issue. This Standard replaces STD-2.1.999, <i>Human Resources Administration</i> , pages 79-101. (PMP No. 0905.01.04, formerly DPM No. N77A6.)



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**L0 INTRODUCTION**

The Fitness for Duty Program was established to ensure that each employee has a safe, drug-free workplace, and to provide reasonable assurance that personnel supporting the Nuclear Power program will perform their tasks in a reliable and trustworthy manner and are not under the influence of any legal or illegal substance or mentally or physically impaired from any cause which in any way could adversely affect their ability to safely and competently perform their duties. The program is administered in accordance with applicable regulations issued by the Nuclear Regulatory Commission (NRC).

**L1 Purpose**

This Standard establishes the requirements and administrative controls for the following activities:

- A. Fitness for Duty Training
- B. Drug and Alcohol Testing
- C. Reporting Audits and Recordkeeping
- D. Management Actions

**L2 Applicability**

This Standard applies to all Nuclear Power employees; TVA employees located at Nuclear Power sites or projects; contractor and vendor employees assigned to Nuclear Power; all persons who have unescorted access; those who by the nature of their jobs, as determined by the Senior Vice President of Nuclear Power, could affect the safe operation of TVA's nuclear plants; and employees required to report to the emergency response centers. This Standard does not apply to NRC employees, law enforcement personnel, or non-TVA offsite emergency response personnel while responding onsite. However, if TVA has a reasonable belief that an NRC employee may be under the influence of any substance otherwise unfit for duty, TVA may not deny access but shall report the occurrence. In any instance of this occurrence, the NRC Regional Administrator must be notified by telephone. During other than normal hours, the NRC Operations Center must be notified.

**20 REQUIREMENTS**

A1

**2.1 Standards of Conduct**

All Persons Identified in Subsection 1.2 Above

- A. ENSURE that they are fit to perform their duties in a reliable and trustworthy manner.



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2.1 Standards of Conduct (Continued)

- B. **KEEP** alcohol and illegal drugs off Nuclear Power property.
- C. **REPORT** persons who may not be fit for duty on Nuclear Power property.
- D. **REPORT** to Medical Services and to the supervisor, any health problems which may impair their ability to safely and competently perform work or impair fitness for duty. Examples include:
  1. Medications (prescription and over-the-counter)
  2. Mental or emotional problems
  3. Personal problems
  4. Fatigue or stress
  5. Physical illness or condition

Management Supervisor

- E. **IF** there are indications of drug or alcohol abuse or indications that a person is unable to safely and competently perform his/her duties,
 

**INFORM** the employee of the assistance available through the Medical Services Employee Assistance Program, **AND**

**REFER** the person to the Medical Services for fitness-for-duty evaluation.

2.1.1 Illegal Drugs and Alcohol

A2

TVA employees in violation of this Subsection will be subject to alcohol and drug testing and disciplinary action up to and including termination. Contractors and vendors will be removed from Nuclear Power property and work and will be restricted from future work on a Nuclear Power project or site.

TVA employees in violation of Subsection 2.1.1.A below will be terminated and may not be granted unescorted access or assigned to emergency response duty for a minimum of five years. A second offense will result in termination and a permanent ban from such activity.

TVA Personnel, Contractors, Vendors, and Visitors

- A. **ARE PROHIBITED** from using, selling, or possessing illegal drugs on Nuclear Power property.



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**2.1.1 Illegal Drugs and Alcohol (Continued)**

- B. ARE PROHIBITED** from reporting to Nuclear Power property with a level of illegal drug or alcohol at or above the cut-off level being used by Medical Services.
- C. ARE PROHIBITED** from possession or consumption of alcoholic beverages on Nuclear Power property.
- D. IF** employees, contractors, or vendors leave Nuclear Power property with the intent to return that day or shift to perform duties,  
  
**DO NOT** consume alcoholic beverages after leaving Nuclear Power property.

**NOTE** *The consumption of alcohol is prohibited during off-property meetings. The consumption of alcohol is not prohibited after completing official business, if in accordance with applicable laws and TVA regulations.*

**Responsible Site Security Manager and TVA Public Safety Manager**

- E. CONFISCATE** all illegal drugs or alcohol discovered on Nuclear Power property.
- F. TRANSFER** any illegal drugs to the appropriate law enforcement agency or destroy in accordance with local law enforcement agencies.
- G. NOTIFY** Nuclear Human Resources of the violation.

**Supervisor, Personnel Screening and Badging**

- H. DENY** protected area access to those who violate this Standard.

**Manager of Nuclear Human Resources**

- L. NOTIFY** TVA management supervisor to remove employees who violate this Standard from jobsites.
- J. NOTIFY** contractors and vendors to remove their employees from the jobsite and Nuclear Power work upon violation of this Standard.

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**2.1.2 Off-The-Job Behavior**

A3

**All Persons Identified Under Subsection L2**

- A. ARE PROHIBITED** from the use, possession, or sale of illegal drugs off the job.

TVA employees in violation of this subsection are subject to loss of unescorted access and authorization to participate in emergency center operations and will receive disciplinary action up to and including termination.

Contractors and vendors in violation of this subsection will be denied site access and prohibited from working on Nuclear Power assignments.

- B. ABSTAIN** from the consumption of alcohol for at least five hours preceding any scheduled work.

**2.2 Reporting****Medical Services**

- A. COMPILE** fitness for duty drug and alcohol test data, AND

**SUBMIT** this data to Nuclear Human Resources within fifteen calendar days after the completion of each six-month period ending June 30 and December 31. The data to be compiled shall include:

1. Drugs tested for and cut-off levels, including results of tests, if any, which use lower cut-off levels or tests for other drugs other than those specified in Appendix A to 10 CFR Part 26.
2. Numbers of tests and results by site and type of test (i.e., prebadging, random, for-cause, etc.)
3. Substance(s) identified.

**Supervisor, Personnel Screening and Badging**

A4

- B. INFORM** Nuclear Human Resources immediately upon discovery of any persons involved in the sale, use, or possession of illegal drugs, controlled substances, or alcohol within the protected area or of such material found within the protected area.

**Manager of Nuclear Human Resources**

A5

- C. NOTIFY** NRC Operations Center, with the assistance of Nuclear Technology and Licensing, by telephone within 24 hours of discovery of any of the following events:

1. Sale, use, or possession of illegal drugs within the protected area.

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Standard Sheet  
NY  
STAP

22 Reporting (Continued)

2. Any acts by any person licensed under 10 CFR Part 55, a power reactor or by any supervisory personnel with unescorted access to TVA nuclear plants or required to physically report to a TVA emergency response center in accordance with TVA emergency plans and procedures,
    - a. Involving the sale, use, or possession of a controlled substance,
    - b. Resulting in confirmed positive tests on such persons,
    - c. Involving use of alcohol within the protected area, or
    - d. Resulting in a determination of unfitness for scheduled work due to the consumption of alcohol.
  3. Any other significant fitness for duty event in violation of this Standard.
- D. MAINTAIN a log of events reported by telephone to the NRC, AND
- E. SUBMIT a copy of the log of the events reported to NRC under Subsection 2.2C above to Nuclear Technology and Licensing no later than fifteen calendar days after the completion of each six-month period ending June 30 and December 31. The log of events as a minimum must include:
1. Date of call.
  2. Time of call.
  3. Person called.
  4. Reason for the call.
- F. REVIEW data compiled by Medical Services under Subsection 2.2A above and compile separate statistics for the following categories of data:
1. Persons with unescorted access and persons required to physically report to TVA emergency response centers in accordance with TVA's emergency plans.
  2. All other persons subject to drug and alcohol testing under this Standard.
- G. COMPILE the data provided by Medical Services under Subsection 2.2A above on the standard form (Appendix H).
- H. ADD information to this data concerning random test rate and workplace population tested.



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22 Reporting (Continued)

- L. TAKE appropriate actions to correct program weaknesses identified as a result of data compiled under Subsections 22A and 22B.
- J. SUBMIT fitness-for-duty performance information compiled under Subsection 22G above to Nuclear Technology and Licensing no later than thirty days after completion of each six-month period ending June 30 and December 31. In addition to the data provided by Medical Services compiled on the standard form (Appendix H), this information shall include:
  1. An analysis of the results, including changes in substances being used and weaknesses identified in the program.
  2. Summary of management actions.
  3. Modifications made to the program to correct weaknesses.
  4. List of events reported.

Nuclear Technology and Licensing

A6

- K. SUBMIT a report to the NRC in accordance with STD-6.1.4 within sixty days after the end of each six-month reporting period (January to June and July to December) containing Fitness for Duty Program performance data and other information as described in Subsection 22J above.

23 Audits

Manager of Nuclear Human Resources

A7

- A. ENSURE an annual audit of the Fitness for Duty Program; the contract laboratory; and contractor, vendor, and industry group programs listed in Appendix G are performed.
- B. ENSURE that the resolution of audit findings and corrective actions is documented.
- C. MONITOR the effectiveness of contractor and vendor programs and implementation of appropriate corrective actions for deficiencies identified as a result of audits.

Manager, Nuclear Quality Assurance

A8

- D. ASSEMBLE the Audit Team to perform the audit described in Subsection 2.3.A above.
- E. ENSURE that selected team members are qualified in the subjects being audited and are independent of both Fitness for Duty Program management and personnel directly responsible for administering the Fitness for Duty Program. Selected team members (i.e., physicians, laboratory technicians) may be assigned on a contract basis.

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**23 Audits (Continued)**

- F. ENSURE that the audit focuses on the effectiveness of the program.
- G. DOCUMENT results of audit along with recommendations.
- H. REPORT the results of the audit to:
  1. Senior Vice President, Nuclear Power.
  2. Site directors of nuclear plant sites.
  3. Nuclear Power vice presidents.
  4. Manager of Nuclear Human Resources.

**24 Employee Assistance Program**

The TVA Employee Assistance Program provides assistance to employees experiencing substance abuse, financial, marital, or other similar problems. This program is further described in the *TVA Medical Examiner's Guide*.

**Medical Services**

- A. MAINTAIN an Employee Assistance Program which offers the following for employees with problems that could adversely affect performance of job duties:
  1. Assessment
  2. Short-term counseling
  3. Referral services
  4. Treatment monitoring
- B. PROVIDE confidential assistance to employees consistent with applicable laws and requirements.
- C. INFORM Nuclear Human Resources and Personnel Security when a determination has been made that a person's condition constitutes a hazard to himself or herself or others or could adversely affect the safe operation of Nuclear Power's facilities without identifying the person as an alcohol or drug patient.

**25 Program Integrity**

All persons responsible for administration of the drug and alcohol testing program are subject to a background investigation and psychological evaluation prior to assignment and every subsequent three years, and will be subject to a behavioral observation program.

**Nuclear Human Resources and Medical Services**

A9

- A. IDENTIFY to Personnel Security those persons within their organizations responsible for administering the testing program. At a minimum, persons included are:



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**25 Program Integrity (Continued)**

1. Human Resource personnel with access to the Drug Screening Program.
2. Medical Review Officers, Medical technologists, and nurses collecting specimens and/or conducting the alcohol and drug testing.
3. Couriers transporting specimens.
4. Computer programmers with authorization to modify the Drug Screening Program.

**Supervisor, Personnel Screening and Badging**

A10

- B. MAINTAIN a listing of persons responsible for administering the testing.
- C. CONDUCT background investigations of persons responsible for administering the testing program upon assignment to the program and update every three years thereafter.
- D. REQUEST a psychological evaluation each time a background investigation is conducted or updated.
- E. ISSUE or WITHDRAW approval to participate in program activities based on investigative information.

**26 Contractors, Vendors, and Industry Group Programs**

All contractors, vendors, or industry groups that have personnel who will require unescorted access to protected areas, will be designated by name or position to staff an emergency center, or will be assigned to Nuclear Power Property must be covered by a Fitness for Duty Program.

TVA may accept, either whole or in part, fitness for duty programs administered by contractor, vendor, or industry groups. The programs must meet the minimum requirements established in 10 CFR Part 26.

**Manager of Nuclear Human Resources**

A11

- A. RECEIVE other fitness for duty programs for review.
- B. REVIEW the program for compliance with requirements of this Standard and 10 CFR Part 26 and obtain concurrence of Medical Services, Nuclear Training, Nuclear Technology and Licensing, and Personnel Security.
- C. ISSUE an approval letter to submitting contractor, vendor, or industry group and to Supervisor, Personnel Screening and Badging.



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**2.6 Contractors, Vendors, and Industry Group Programs (Continued)**

**D. MAINTAIN** a listing of approved programs.

**Supervisor, Personnel Screening and Badging**

**A12**

- E. RECEIVE** from the approved contractor, vendor, or industry group a letter of certification for persons whose organization's programs are deemed acceptable under this Standard.
- F. ENTER** results of suitable inquiry background investigation of person into his or her security record.
- G. FORWARD** training approval to Nuclear Training or enter into Nuclear Employee Training Periodic.
- H. FORWARD** medical approval to Medical Services for entry into medical records.

**Manager, Nuclear Quality Assurance**

**A13**

- L. CONDUCT** audit of approved programs or program components as described in Subsection 2.3.
- J. PARTICIPATE** in industry audit program.

**2.7 Transfer of Fitness for Duty Certification**

An employee of any contractor, vendor, or industry group, whose Fitness for Duty Program has been approved by TVA pursuant to Subsection 2.6 of this Standard, or any employee of any licensee who is currently under a 10 CFR Part 26 Fitness for Duty Program at that licensee, may transfer to TVA's Fitness for Duty Program without additional drug testing, training, and without a suitable inquiry being performed. This section shall not apply in cases of transfer of employment or to a person in a follow-up testing program. While maintaining unescorted plant access or being on call to an emergency response center, the person shall be under the scope of TVA's Fitness for Duty Program and shall be subject to random testing.

Where a person does not meet the conditions defined above, the pre-access drug and alcohol test can be omitted if the person has been tested under a 10 CFR Part 26 program in the past 60 days and the results are available.

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**27 Transfer of Fitness for Duty Certification (Continued)**

**Supervisor, Personnel Screening and Badging**

**A14**

- A. OBTAIN** a letter of certification from the licensee contractor, vendor, or industry group at the time of the person's visit or temporary assignment that the person:
1. Currently meets all requirements of a Fitness for Duty Program which has been certified to the NRC as meeting 10 CFR Part 26.
  2. Has not been removed from activities under the scope of 10 CFR Part 26.
  3. Is not in a follow-up testing program.
- B. NOTIFY** Medical Services, Nuclear Training, and Manager of Nuclear Human Resources of approval for Fitness for Duty Program for appropriate record entries.

**28 Contracts Administration Manager**

**A15**

Subsection 2.8 applies to *PERSONAL SERVICES CONTRACTS, CODE III; CONSULTANT AGREEMENTS, CODE III; LOAN AGREEMENTS, CODE III; COOPERATIVE AGREEMENTS, CODE II.*

- A. ENSURE** that all contracts that supply personnel to work on Nuclear Power property require the contractor to:
1. Comply with this Fitness for Duty Standard.
  2. Inform the Contract Officer whenever a contractor employee becomes a supervisor so that such employee will take TVA's Fitness for Duty Supervisory Training.
  3. Notify the Contract Officer of any contractor employee working on TVA assignments who has violated a fitness-for-duty policy.
  4. Allow authorized representatives of the NRC to inspect, copy, or take away copies of any contractor's records, documents, or reports related to the implementation of TVA's or the contractor's approved Fitness for Duty Program.
- B. NOTIFY** the site human resource manager whenever a contractor employee becomes a supervisor.
- C. NOTIFY** the Fitness for Duty Program Manager of any contractor employee working on a TVA assignment who has violated a Fitness for Duty Policy.

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**2.8 Contracts Administration Manager (Continued)**

**D. OBTAIN** written approval from the Fitness for Duty Program Manager before allowing any contractor employee who has previously been denied access to or removed from work at any nuclear plant as a result of violations of any fitness-for-duty program to perform work on Nuclear Power property or report to an emergency response center.

**2.9 Purchasing**

Subsection 2.9 applies to all contracts for purchase of personal property and services other than personal.

**Purchasing**

- A. ENSURE** that all nonpersonal services contracts shall require contractors and vendors to:
1. **COMPLY** with this Fitness for Duty Standard.
  2. **INFORM** the site Human Resource Manager whenever a contractor or vendor employee becomes a supervisor so that such employee will take TVA's Fitness for Duty Supervisory Training.
  3. **NOTIFY** the Fitness for Duty Program Manager of any contractor or vendor employee working on TVA assignments who has violated a Fitness for Duty Policy.
  4. **ALLOW** authorized representatives of the NRC to inspect, copy, or take away copies of any contractor's or vendor's records, documents, or reports related to the implementation of TVA's or the contractor's or vendor's Fitness for Duty Program.

**3.0 PROCESSES**

**3.1 Fitness for Duty Training**

**A16**

Individuals identified in Subsection 1.2 of this Standard must comply with all provisions of Subsection 3.1.

**3.1.1 Initial Training**

**TVA Supervisors and Contractor Supervisors Identified in Appendix C**

- A. ATTEND** the Fitness for Duty Supervisor Training as defined in Appendix C.

**TVA Employees and Contract Employees**

- B. ATTEND** the Fitness for Duty Employee Training as defined in Appendix C.



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**3.1.2 Refresher Training****Supervisors, Employees, or Contractors**

- A. IF a supervisor, employee, or contractor assigned to Nuclear Power has attended the initial training,

ATTEND the Fitness for Duty Refresher Training as defined in Appendix C.

**Manager, Nuclear Training**

- B. PROVIDE notification of impending refresher training expiration.

**3.1.3 Expiration of Training**

For persons with unescorted access and persons who are required to report to emergency response centers, training expires at the end of the quarter in which it comes due. If training expires without refresher retraining having taken place, unescorted access will be denied or the person will be removed from the Emergency Response Team list. Once training has expired, it is necessary for the person to complete initial Fitness for Duty Supervisor or Employee Training before access can be reinstated or the person can be placed on Nuclear Power's Emergency Response Team list. Other persons covered in Subsection 1.2 shall maintain their training in a current status.

**Management Supervisor**

A17

- A. ENSURE that Supervisory Training has been completed before reclassifying a person with unescorted access from a non-supervisory to a supervisory position.

**Manager of Nuclear Human Resources**

- B. NOTIFY Radiological Emergency Preparedness to restrict persons whose training has expired from emergency response center participation.

**Supervisor, Personnel Screening and Badging**

A18

- C. SUSPEND nuclear plant unescorted access authorization at end of quarter for those persons whose training has expired.

**Manager of Radiological Emergency Preparedness**

A19

- D. REMOVE persons whose training has expired from the Emergency Response Team list.

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### 3.1.4 Additional Training

#### Manager, Nuclear Training

A20

- A. PROVIDE information for training on the Fitness for Duty Program under the following conditions:
1. When there are changes in the fitness for duty policies, procedures, or regulations.
  2. When there is evidence that managers or supervisors or other persons covered by this Standard are taking inappropriate actions under the program or are otherwise in need of further training.
  3. When requested by the Senior Vice President, Nuclear Power, vice presidents, or organizational managers.

### 3.2 Call-In for Unscheduled Work

A21

This call-in procedure applies to employees called in to perform unscheduled work at Nuclear Power plant sites and projects, or emergency response centers.

Employees who are called in to perform unscheduled work at other than emergency response centers must be asked by the caller if they have consumed alcohol within five hours of the requested report time and if they are fit for duty. The manager responsible for calling the person in is also responsible for ensuring that these questions are asked and the answers documented. It is the called-in employee's responsibility to respond truthfully to the questions.

If an employee states that he or she is unfit for duty for any reason, he or she should not report for unscheduled work.

In most cases where an employee has consumed alcohol within five hours of reporting but feels that he or she is fit for duty, that person should not be asked to report. After careful consideration, a manager may determine that there is a critical need for a specific individual who feels he or she is fit for duty even though alcohol has been consumed within five hours of reporting.

Employees who acknowledge alcohol consumption within five hours of being called in are responsible for reporting for breathanalysis before reporting for unscheduled duty. If their test result shows a blood alcohol content at or above .04, they will not perform work. No disciplinary action will occur solely as a result of this breathanalysis. If their test result shows a blood alcohol content below .04, the management supervisor may direct them to perform work.

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### 3.2 Call-In for Unscheduled Work (Continued)

Employees who report to emergency response centers must initially assess their own fitness for duty. If such employees initially determine that they are not fit for duty, they should not report for work. If an employee who is contacted to report to an emergency response center has consumed alcohol within five hours of the requested report time, but believes he or she is fit for duty, he or she will inform the responsible center supervisor upon reporting for emergency duty. Employees on primary pager duty will prearrange for duty coverage if they anticipate being unable to report.

Contractors and vendors will not report for unscheduled call-in if alcohol has been consumed within five hours of the requested report time except under unusual circumstances.

#### Caller

The caller may be any TVA Nuclear Power employee designated by a responsible manager.

- A. ASK the person the following questions:
  1. Has alcohol been consumed within five hours of requested report time?
  2. Is the employee fit for duty?
- B. DOCUMENT response on call-in sheet. The call-in sheet will contain, at a minimum, responses to the two questions stated in Subsection 3.2.A above. Organizations which have no call-in sheets will use Appendix B.
- C. IF alcohol has been consumed within five hours of reporting or IF the person is unfit for duty,
 

INFORM the person not to report for unscheduled work unless the person is contacted further.
- D. CALL the next person on the call-in list.

#### Management Supervisor

- E. DECIDE whether to call in a person who has consumed alcohol.
- F. IF the decision is made to call in such a person for unscheduled work,
 

INFORM the person to report to Security in order to document fitness for duty by breathanalysis before reporting to his or her work station.



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### 3.2 Call-In for Unscheduled Work (Continued)

- G. ALERT security shift supervisor of unscheduled call-in.
- H. ENSURE that the breath analysis has been performed.

#### Person Who Has Consumed Alcohol Within Five Hours of Reporting

- I. REPORT to security shift supervisor for breathanalysis before reporting to work.

#### Site Security Manager

- J. PERFORM breathanalysis.
- K. DOCUMENT the employee's fitness for duty.
- L. IF breathanalysis or observation indicates that an employee is not fit for duty,  
NOTIFY duty officer/responsible shift manager.

DENY entry to the site or protected area in accordance with security procedures.

OTHERWISE, allow the employee to report to work.

A22

### 3.3 Alcohol and Drug Testing Process

Alcohol and drug testing shall be conducted in accordance with the TVA *Medical Examiner's Guide* which implements 10 CFR Part 26, Appendix A as amended.

#### 3.3.1 Employment and Transfers

This subsection applies to persons outside of TVA applying for positions in Nuclear Power and TVA employees transferring to a Nuclear Power position.

#### Human Resource Officer or Employment Officer

- A. IDENTIFY the type of examination on the appropriate form.
  1. Preplacement - form TVA 9880A, *Appointment Affidavit and Conditions*.
  2. Transfer - form TVA 1444, *Request for Medical Examination*.
- B. SEND appropriate paperwork for suitable inquiry background investigation to the Supervisor, Personnel Screening and Badging.

A23

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**3.3.1 Employment and Transfers (Continued)****Supervisor, Personnel Screening and Badging****A24**

- C. COMPLETE** a suitable inquiry background check as described in Appendix F.
- D. IF** the background check indicates that a person was in the past:
1. Tested positive for drugs or alcohol,
  2. Subject to a plan for treating substance abuse (except for self-referral for treatment), or
  3. Denied unescorted access at any nuclear plant or removed from activities at any emergency response center in accordance with a fitness-for-duty policy,

**THEN NOTIFY** the Human Resource Officer or Employment Officer and Medical Services **AND**

**DETERMINE** whether the person will be eligible for consideration for unescorted access in accordance with Appendix F.

**Medical Services**

- E. PERFORM** required medical examinations and administer alcohol and drug tests per *TVA Medical Examiner's Guide*.
- F. REPORT** results confidentially to the Human Resource Officer or Employment Officer, the person tested, **AND**
- REPORT** unacceptable results confidentially to Personnel Screening and Badging.

**Human Resource Officer or Employment Officer****A25**

- G. IF** an unacceptable result is reported by Medical Services,
1. **CEASE** processing of the employment application or transfer application.
  2. **NOTIFY** the person of inability to meet the minimum requirements of fitness for duty.
- H. OTHERWISE COMPLETE** processing the application or transfer.

**Supervisor, Personnel Screening and Badging****A26**

- L. IF** an unacceptable result for an applicant or transferee is reported,
- PLACE** an employment restriction for not less than one year.

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### 3.3.2 Testing Prior to Granting Unescorted Nuclear Plant Access

This subsection applies to any person whom management determines needs unescorted nuclear plant access.

When an outside applicant, transferee, or contract employee has achieved acceptable results on a required alcohol and drug test by TVA or another nuclear licensee or approved contractor Fitness for Duty Program (Appendix G) within the previous sixty days, then this does not apply.

#### Management Supervisor

A27

- A. DETERMINE the need for unescorted nuclear plant access.

#### Human Resource Officer or Employment Officer

A28

- B. PREPARE form TVA 1444, *Request for Medical Examination* requesting S-1 or S-8 medical clearance.

Persons being tested in accordance with Subsection 3.3.1, who at the same time need unescorted access, do not need to be tested a second time to comply with this subsection.

#### Manager, Personnel Screening and Badging

- C. PERFORM a suitable inquiry as described in Appendix F.
- D. DETERMINE whether a TVA employee has had a TVA drug and alcohol test within the last sixty days and, if so, obtain documentation of that test.
- E. DETERMINE whether the outside applicant or contractor has had alcohol and drug testing from a nuclear utility licensee or contractor/vendor with an approved TVA Fitness for Duty Program within the last sixty days and if so, obtain documentation.
- F. TRANSMIT documentation obtained in Subsections 3.3.2 (D and E) above to Medical Services.

#### Medical Services

- G. FOLLOW the process as stated in Subsection 3.3.1 (E-F).

#### Human Resource Officer or Employment Officer

A29

- H. FOLLOW the process as stated in Subsection 3.3.1 (G).
- L. IF an unacceptable result is determined for current Nuclear Power employees,
- NOTIFY the supervisor of employee's inability to meet minimum requirements for unescorted access.



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## 3.3.3 Random Alcohol and Drug Screening

A30

Random alcohol and drug testing is applicable to:

1. Those with unescorted access.
2. Employees who must physically report to the emergency response centers in the event of an emergency.
3. Those with an official station of a nuclear plant or project.
4. Nuclear Power manager and specialist (M) schedule employees and engineering schedule (SC) employees.
5. Those who, by the nature of their jobs, as determined by the Senior Vice President, Nuclear Power, could affect the safe operation of TVA's nuclear plants.

Individuals are selected for random alcohol and drug testing by a random number generator computer program. Candidates are selected from all shifts. The rate of testing is equal to 100 percent of the applicable population annually. Tests are conducted at various times of the day and several days of the week.

## Nuclear Human Resources

A31

- A. ACCESS the computerized system each day for the randomly selected persons.
- B. NOTIFY the responsible supervisor of person's selection.
- C. PREPARE form TVA 1444 for those persons to be tested.

**NOTE** *Medical Services prepares the form TVA 1444 if the person is away from his or her official station.*

## Management Supervisor

A32

- D. CONTACT the Site Human Resource office concerning the availability of the person.

When a person has been unavailable for testing two consecutive times within a 12-month period, Human Resources notifies the supervisor, who ensures that the person is tested the day he or she returns to work.

- E. NOTIFY the person to report to the nearest of the following TVA medical facilities for testing:
  1. Browns Ferry Nuclear Plant.
  2. Muscle Shoals.
  3. Bellefonte Nuclear Plant.
  4. Chattanooga.
  5. Sequoyah Nuclear Plant.
  6. Watts Bar Nuclear Plant.
  7. Knoxville.

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### 3.3.3 Random Alcohol and Drug Screening (Continued)

Failure to notify the person to report for testing on the day selected could result in disciplinary action up to and including termination of supervisor and removal from site of contractor supervisors.

#### Person Selected for Testing

A33

- F. REPORT to Medical.
- G. SIGN the drug and alcohol testing consent form.
- H. SUBMIT the required specimens.

Refusal by a person to report to Medical, submit the required specimens as directed, sign the consent form, initial labels, complete paperwork, or comply with directions for collecting the specimen will result in for-cause termination of TVA employees and removal from Nuclear Power property and work on TVA assignments for contractors and vendors.

#### Medical Services

- L. CONDUCT alcohol and drug tests in accordance with the *TVA Medical Examiner's Guide*.

#### Nuclear Human Resources

A34

- J. ENSURE the persons selected each day receive the alcohol and drug test or that a satisfactory explanation is given.

### 3.3.4 For-Cause Testing

Appendix D provides circumstances under which for-cause testing may be administered.

#### TVA and Contract Supervisors

A35

- A. IF aberrant behavior is observed,  
FOLLOW the guidelines as outlined in Appendix E.
- B. IF a decision is made to test an individual and physical evidence is present,  
NOTIFY security for implementation of confiscation procedures.
- C. IF a physical confrontation is likely, or if a basis exists for the individual or his/her possessions to be searched,  
OBTAIN the assistance of Security.

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**3.3.4 For-Cause Testing (Continued)**

**Site Director, Vice President, Organization Manager** A36

D. APPROVE for-cause testing as deemed appropriate.

**Medical Services**

E. EVALUATE the person's medical condition.

F. CONDUCT alcohol and drug tests in accordance with the *TVA Medical Examiner's Guide*.

**Site Director, Vice President, Organization Manager** A37

G. CONSULT Nuclear Human Resources and Medical Services.

H. DECIDE whether to suspend access.

L. DECIDE whether to permit the person to return to work pending results of test.

J. IF access is to be suspended,

NOTIFY Nuclear Site Security or Public Safety and Personnel Security.

**Nuclear Site Security/Public Safety** A38

K. IF requested by the site director,

DENY access to those determined unfit.

L. CONTACT Personnel Security to suspend access authorization.

**Management Supervisor** A39

M. TAKE appropriate actions as a result of any confirmed positive test.

**Medical Services**

N. REPORT results of tests to the Manager of Nuclear Human Resources.

**Manager of Nuclear Human Resources** A40

O. NOTIFY the following of results:

1. Senior Vice President, Nuclear Power.
2. Site Human Resource Manager (including Chattanooga and Knoxville).
3. Personnel Security.



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**3.3.4 For-Cause Testing (Continued)****Site Human Resource Manager****A41**

- P. NOTIFY the vice president, site director, or organization manager of confirmed positive test result.
- Q. ENSURE that the appropriate actions are taken for confirmed positive test results.

**Site Director****A42**

- R. IF test results are negative and plant access has been suspended, NOTIFY Personnel Security to reinstate nuclear plant access clearance.

**3.3.5 Fitness for Duty Evaluation**

TVA and contractor employees are subject to medical and psychological testing to ensure that they are fit for duty. Fitness-for-duty evaluations are performed on persons in whom changes in behavior or performance are indicated, and a medical evaluation is requested by the employee's management supervisor. Should a determination be made that they represent a hazard to themselves or others or could adversely affect the safe operation of TVA's facilities, then action may be taken to protect the individual and others.

**Management Supervisor****A43**

- A. CONSULT with Nuclear Human Resources and Medical Services concerning problem areas.
- B. IF it is believed that a fitness-for-duty evaluation is needed, REQUEST a fitness-for-duty evaluation from Medical Services.

**Medical Services**

- C. EVALUATE individuals referred AND NOTIFY Personnel Security and Nuclear Human Resources if the individual is determined to be unfit for duty.
- D. REVOKE S-1 medical clearance and other medical clearances, as appropriate.

**Supervisor, Personnel Screening and Badging****A44**

- E. IF S-1 medical clearance is revoked, SUSPEND unescorted access clearance.
- F. EVALUATE for a background investigation update.

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Page 26 of 54**3.3.6 Follow-up Testing**

Follow-up testing is required for TVA employees who have been returned to work following a confirmed positive test result. Before an employee may be returned to work, the employee must submit a negative alcohol and drug test administered by TVA Medical Services.

Unannounced follow-up testing will be conducted at least once every month for four months and at least once every three months for the next two years and eight months after the employee has been returned to work.

**Manager of Nuclear Human Resources**

A45

- A. IF an employee who previously tested positive is determined to have met the requirements to return to work,

PLACE the employee in the random follow-up testing program.

**Site Human Resource Manager**

A46

- B. NOTIFY the supervisor of the person selected for follow-up testing on the day of selection.

**Management Supervisor**

A47

- C. INSTRUCT the employee to report to Medical immediately.

**Medical Services**

- D. PERFORM the tests in accordance with medical procedures.

- E. REPORT unacceptable results to the Manager of Nuclear Human Resources AND

REPORT unacceptable results to Personnel Security.

**Person Selected for Testing**

A48

- F. REPORT to the closest TVA Medical facility.

- G. SIGN the consent form.

- H. SUBMIT the required specimens.

Refusal by a person to submit the required specimens, sign the consent form, initial labels, complete paperwork, or comply with directions for collecting the specimen will result in for-cause termination for TVA employees.

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**3.4 Reporting Results of Alcohol and Drug Testing****3.4.1 Preliminary Results**

In all cases except for-cause, post-accident, and follow-up testing, Medical Services conducts preliminary analyses in its laboratory and sends suspect samples to a contract laboratory per TVA medical procedures. Samples collected for-cause, post-accident, and follow-up are sent directly to the contract laboratory.

**Medical Review Officer**

- A. IF a preliminary analysis is suspect for cannabinoids, cocaine, or alcohol,

REPORT preliminary positive results orally to the Fitness for Duty Program Manager.

**Fitness for Duty Program Manager**

A49

- B. NOTIFY the Site Human Resource Manager to place the person in nonwork pay status but do not inform the Site Human Resource Manager of the preliminary positive result.

**Site Human Resource Manager**

A50

- C. INFORM the supervisor to escort the person to the Medical Office.

**Management Supervisor**

A51

- D. ESCORT the person to the Medical Office.

The supervisor will not be informed of preliminary positive test results.

**Medical Review Officer**

- E. EXPLAIN preliminary positive results to employee.

- F. SEND employee to Human Resource office.

**Site Human Resource Manager**

A52

- G. PLACE the employee in nonwork, pay status.

- H. REMOVE the person from Nuclear Power property.



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**3.41 Preliminary Results (Continued)****Fitness for Duty Program Manager**

A53

- L. NOTIFY Personnel Security of person's removal from Nuclear Power property but do not inform Security of preliminary positive results.

**Personnel Security**

A54

- J. SUSPEND plant access for administrative action.

**3.42 Confirmed Positive Tests****Medical Services**

- A. IF positive test results are received from the contract laboratory, the Medical Review Officer shall,

OFFER the person an opportunity to provide additional information.

- B. DETERMINE whether person has a confirmed positive test, AND

- C. IF the test is determined by the Medical Review Officer to be a confirmed positive,

NOTIFY the Manager of Nuclear Human Resources orally and in writing, AND

NOTIFY Personnel Security orally and in writing.

**Manager of Nuclear Human Resources**

A55

- D. NOTIFY the Site Human Resources Manager of confirmed positive test results.

**Supervisor, Personnel Screening and Badging**

A56

- E. SUSPEND unescorted access authorization immediately.

- F. UPDATE security background investigation for TVA employees.

**Site Human Resource Manager**

A57

- G. NOTIFY the site director, vice president, or organizational manager.

- H. INTERVIEW the employee regarding the positive test.

- L. PREPARE a notice of suspension letter for employee from line management.

- J. ENSURE the employee is removed from the Nuclear Power property.

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STANDARDFITNESS FOR DUTY  
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Page 29 of 54**3.5 Appeals of Confirmed Positive Drug Test Results****Medical Services**

- A. ENSURE that persons tested for drugs or alcohol are informed of the right to discuss positive laboratory test results with the Medical Review Officer prior to a final determination by the Medical Review Officer whether a result is confirmed positive.
- B. ENSURE that any person who has a confirmed positive test result is informed of the opportunity to appeal such result and to submit oral or written evidence or argument explaining such result.
- C. ISSUE a written decision to the person appealing in response to the appeal.

The Medical Services appeals process is separate and independent of any other appeal process which may be available to any person tested.

**3.6 Resulting Actions for Confirmed Positive Tests**

Activities in Subsections 3.6.1 through 3.6.4 can be performed in parallel or in any order.

**3.6.1 Outside Applicants and Transfers****A58**

- A. IF a positive drug screen is reported,

Acceptance of the transfer or application will not be considered for 12 months.

Before being reconsidered for a position in Nuclear Power, the person must present evidence acceptable to Medical Services that he or she is drug free AND, if accepted, must agree to follow-up testing.

**3.6.2 Contractor or Vendor Employees****A59****Site Human Resource Manager**

- A. NOTIFY the contractor or vendor to remove employee from TVA work, indicating that the employee no longer has access to Nuclear Power property or work assignments.

Further details should not be provided unless the person affected signs a release acceptable to TVA.

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### 3.6.2 Informing Contractor or Vendor Employees (Continued)

#### Contractors or Vendors

- B. REMOVE employee from TVA work.

#### Supervisor Personnel Screening and Badging

A 50

- C. DENY or revoke unescorted nuclear plant access.
- D. RESTRICT future employment.

### 3.6.3 TVA Employees Outside Nuclear Power

#### Site Human Resource Manager

A 61

- A. NOTIFY the employee's Human Resource Officer of the person's positive test results.
- B. REMOVE the person from Nuclear Power property.

#### Non-Nuclear Management

- C. DETERMINE what other action is to be taken.

#### Nuclear Power Management

- D. DETERMINE based on the standards set out in Subsection 3.6.4 (B-J) whether such employees will be permitted to return in a position covered by the Fitness for Duty Standard.

### 3.6.4 Nuclear Power Employees

#### Site Human Resource Manager

A 62

- A. INTERVIEW the person when confirmed positive test results are reported by the Medical Review Officer.

#### Manager of Nuclear Human Resources

A 63

- B. DETERMINE the appropriate action to take. The action may include the following:
  1. Disciplinary action up to and including termination.
  2. Any other action determined by the Manager of Nuclear Human Resources. In no event shall the action be less than fourteen calendar days suspension, removal from activities requiring unescorted access or physically reporting to any emergency response center, and referral to the Employee Assistance Program.



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### 3.6.4 Nuclear Power Employees (Continued)

3. Except for self-referral to the Employee Assistance Program and other exceptional cases, Nuclear Security Officers, Nuclear Security Shift Supervisors, and other Nuclear Security Managers will be terminated for a confirmed positive alcohol or drug test result.

#### Site Human Resource Manager and Supervisor

A64

- C. IF a determination is made to refer the employee to the Employee Assistance Program,

NOTIFY the employee in writing.

#### Employee

A65

- D. IF the employee agrees to participate in the Employee Assistance Program,

SIGN the *Employee Assistance Program Agreement*, form TVA 9168.

Failure to sign the agreement or to successfully complete the agreed upon program will result in termination.

During the time the employee is participating in the recommendations of the Employee Assistance Program, he/she may take annual leave, sick leave, as appropriate, leave without pay, or other nonduty, nonpay status until Medical Services authorizes the return to work.

#### Personnel Security

A66

- E. UPDATE background investigation.
- F. DETERMINE whether and when a clearance can be reinstated in accordance with Appendix F.
- G. PLACE employment restriction where appropriate.

#### Medical Services

- H. NOTIFY the Manager of Nuclear Human Resources when an employee refuses to sign the agreement.
- L. IF the employee meets the fitness-for-duty requirements,  
REINSTATE the employee's eligibility to return to work.

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**3.6.4 Nuclear Power Employees (Continued)****Employee**

A67

**J. COMPLY** with the requirements of the follow-up testing program.

IF an employee achieves an unacceptable result, he/she will be terminated from TVA's employment and unescorted nuclear plant access will be denied for three years. A third unacceptable result will result in permanent denial of unescorted access.

**3.7 Resulting Actions for Other Violations of this Standard**

Management actions for any violation of this Standard other than confirmed positive tests shall be based on all the circumstances of the particular violation and shall be consistent with the purpose of this Standard. Resignations prior to removal for violation of Nuclear Power's Fitness for Duty Policy concerning drugs must be recorded as removal for-cause.

**4.0 RECORDS**

TVA personnel and medical records are maintained in accordance with the Privacy Act of 1974 as amended.

The person responsible for preparing a document that becomes a record (or portion of one because of this Standard) is also responsible for the document's legibility, reproducibility, accuracy, and completeness.

**4.1 Quality Assurance Records**

None.

**4.2 Non-Quality Assurance Records**

The following documents are non-quality assurance records and are verified, packaged as indicated and transmitted, if applicable, by the responsible managers indicated below for retention.

All records pertaining to this program shall be maintained in a secure and confidential area.

**4.2.1 Nuclear Training Manager**

This manager is responsible for the following records:

- A. Official records of training attendance, retained for three years.

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**4.2.1 Nuclear Training Manager (Continued)**

- B. Fitness-for-duty training examination results for supervisory and employee training and refresher training.

**4.2.2 Supervisor, Personnel Screening and Badging**

This manager is responsible for the following records:

Background investigation reports including evidence of suitable inquiry retained for five years following termination of the person's access authorization.

Employee Release of Information forms.

Record of persons ineligible for three years or longer for unescorted access or reporting to any TVA emergency response center, retained until termination of the NRC license for which access or reporting was denied.

**4.2.3 Medical Services Manager**

This manager is responsible for the following records:

- A. Medical examination and evaluation results including psychological evaluation results.
- B. Drug and alcohol test results and Medical Review Officer documentation related to those results, retained for at least five years.
- C. Employee Assistance Program records.

**4.2.4 Manager of Nuclear Human Resource**

This manager is responsible for the following records:

- A. Report of confirmed positive drug and alcohol tests and management actions, retained for at least five years.
- B. Disciplinary records in connection with violations of the Fitness for Duty Program, retained for at least five years.
- C. Fitness for Duty Program performance data and analyses, retained for three years.
- D. Revisions to the Fitness for Duty Program Standard and retention of preceding Standards for three years.
- E. Resolution of audit findings and corrective action documentation retained for three years.



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**4.2.5 Contract Administration Manager**

This manager is responsible for the following records:

Written agreements between Nuclear Power and contractors or industry groups which require the contractor or industry group to adhere to Nuclear Power's Fitness for Duty Program or require contractors or industry groups to implement their own Fitness for Duty Programs which have been reviewed and approved by TVA, retained for the life of the contract.

**4.2.6 Nuclear Assurance and Services Manager**

This manager is responsible for the following records:

The annual Fitness for Duty Audit Report of Nuclear Power's Fitness for Duty Program, retained for three years after the audit.

Audit Reports of TVA-approved contractor, vendor, and industry group Fitness for Duty Programs, retained for three years after the audit.

Audit Reports of TVA's contract laboratory, retained for three years after the audit.

**4.2.7 Site Director**

This manager is responsible for the following records:

Records of unscheduled call-in sheets (Appendix B to this Standard or equivalent), retained for one year.

**5.0 DEFINITIONS****Aberrant Behavior**

Behavior deviating from the established norm for an individual.

**Confirmatory Test**

A second analytical procedure to identify the presence of a specific drug or drug metabolite which is independent of the initial screening test and which uses a different technique and chemical principle from that of the initial screening test in order to ensure reliability and accuracy. For determining blood alcohol levels, a "confirmatory test" means a second test using another breath alcohol analysis device. Further confirmation for blood alcohol levels will be available upon demand by gas chromatography analysis of blood.

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STANDARDFITNESS FOR DUTY  
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Page 35 of 54**5.0 DEFINITIONS (Continued)****Confirmed Positive Test**

The result of a confirmatory test that has established the presence of drugs, drug metabolites, or alcohol in a specimen at or above the cut-off level, and that has been deemed positive by the Medical Review Officer (MRO) after evaluation. A "confirmed positive test" for alcohol can also be obtained as a result of a confirmation of blood alcohol levels with a second breath analysis without MRO evaluation.

**Contractor**

For the purpose of this Standard, any company or individual with which TVA Nuclear Power has contracted for work or service to be performed on Nuclear Power property.

**Cut-off Level**

The value set for designating a test result as positive.

**Emergency Response Center**

Any location at which TVA employees, contractors, or vendors report to respond to a radiological emergency occurring at any TVA nuclear plant, including TVA's Central Emergency Command Center (CECC) and the Technical Support Center (TSC), in accordance with TVA's emergency plans and procedures.

**Follow-up Testing**

Chemical testing at unannounced intervals to ensure that an employee is maintaining abstinence from the abuse of drugs or alcohol.

**Illegal Drugs**

Those drugs included in Schedules I through V of the Controlled Substances Act (CSA), but not when used pursuant to a valid prescription or when used as otherwise authorized by law.

**Initial or Screening Tests**

An immunoassay screen for drugs or drug metabolites to eliminate "negative" urine specimens from further consideration or the first breathalyzer test for alcohol. Initial screening may be performed at TVA's testing facility; a second screen and confirmation testing for drugs or drug metabolites must be conducted by a HHS-certified laboratory.

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## 5.0 DEFINITIONS (Continued)

### Medical Review Officer

A licensed TVA physician responsible for determining fitness for duty and receiving laboratory results generated by TVA's drug testing program. The Medical Review Officer has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a person's positive test result together with his or her medical history and any other relevant biomedical information.

### Nuclear Power Property

Any TVA nuclear plant site/project and any Nuclear Power work location or facility.

### Protected Area

An area encompassed by physical barriers as defined in an approved physical security/contingency plan and to which access is controlled.

### Random Test

A system of unannounced drug testing administered in a statistically random manner to a group so that all persons within that group have an equal probability of selection.

### Reasonable Suspicion

A suspicion based on specific facts and reasonable inferences from those facts in light of experience or training which indicates that an individual may be using or has recently used alcohol or drugs, or may be in the possession of alcohol or drugs, or may have engaged in illegal drug activities. Reasonable suspicion may be based on reliable statements made by other employees or tips from informants. Actual observation of impaired behavior on the job is not necessary.

### Suitable Inquiry

Best-effort verification of employment history for the past five years, but in no case less than three years, obtained through contacts with previous employers to determine if a person was, in the past, tested positive for illegal drugs, subject to a plan for treating substance abuse, removed from, or made ineligible for activities within the scope of 10 CFR Part 26, or denied unescorted access at any other nuclear power plant or other employment in accordance with a fitness-for-duty policy.



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**5.0 DEFINITIONS (Continued)****Suspect Sample**

A sample which has not met the requirements for temperature, color, gravity, or other requirements of 10 CFR Part 26, Appendix A, or has tested as positive under an initial or screening test.

**Unacceptable Results**

Refusal to sign the consent form, refusal to submit the required biological specimen(s) as directed, consumption of alcohol within five hours preceding any scheduled working tour, or confirmed positive alcohol or drug results.

**Vendor**

For the purpose of this Standard, any company or individual not under contract to TVA providing services in the protected area of TVA nuclear plant sites.

**6.0 INTERFACING DOCUMENTS**

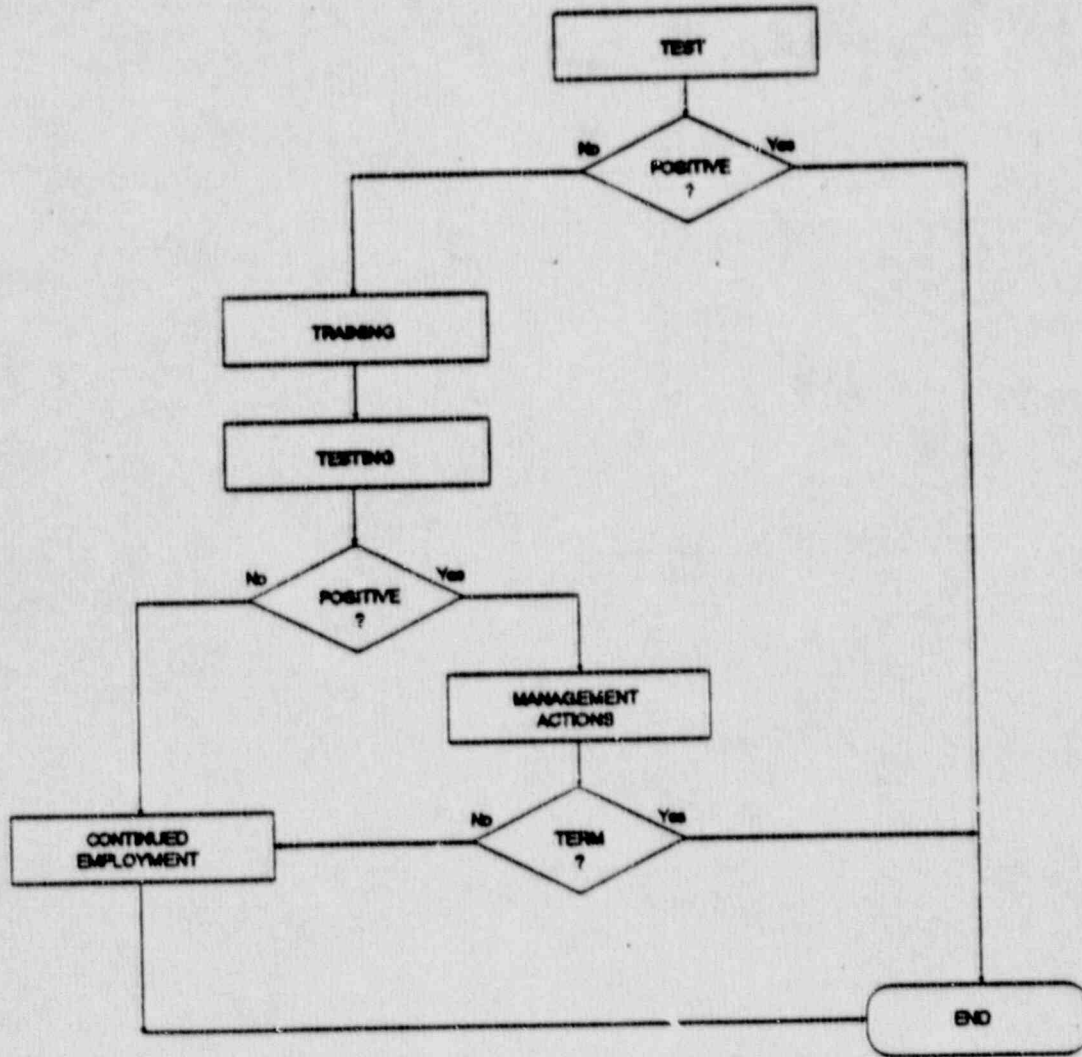
None.

**7.0 REFERENCE DOCUMENTS**

None.

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APPENDIX A  
PROCESS FLOWCHART







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## APPENDIX C

## FITNESS FOR DUTY TRAINING

## L Initial Training and Timing

## A. Supervisory Training

Must be completed before the person's assignment to a supervisory role. Failure to attend training by the end of the quarter in which the assignment to the supervisory role is given will result in denial of access to the site and/or referral for management action. Supervisory training will be provided to:

1. Nuclear Power managers and specialists.
2. Nuclear Power craft foremen and salary policy supervisors responsible for the administrative and/or technical direction of work.
3. Nuclear Power and TVA employees responsible for directing work and observing and reporting employee behavior on TVA nuclear sites or projects.
4. Contractor or vendor employees who are assigned to Nuclear Power or TVA nuclear sites or projects and are responsible for directing work and observing and reporting employee behavior.
5. Employees who are required to report to TVA's emergency response centers who are managers, specialists, or supervisors.

## B. Employee Training

MUST be completed prior to granting unescorted access or prior to assignment to an emergency response center or within four months of assignment to Nuclear Power for all other nonsupervisory personnel. Failure to attend training will result in denial of access to the site and/or referral for management action. Employee Training applies to:

1. Nuclear Power employees in nonsupervisory positions.
2. TVA employees outside of Nuclear Power who have unescorted access to a nuclear site or who have an official station of a nuclear site or project.

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### APPENDIX C (Continued)

3. Employees at TVA nuclear plants who have escort responsibilities.
4. Employees who are required to report to emergency response centers.
5. Those who, by the nature of their jobs, as determined by the Senior Vice President, Nuclear Power, could affect the safe operation of TVA's nuclear plants.
6. Vendor and contractor employees assigned to Nuclear Power or TVA nuclear sites or projects.

#### II. Initial Training Content

##### A. Supervisory Training

The initial supervisory training program will be updated, as necessary, in order to include the most current policy changes and in accordance with 10 CFR Part 26.

The initial supervisory training will be a four-hour training course consisting of the following information per 10 CFR Part 26 and TVA policy:

1. The supervisor's role and responsibilities in implementing the program;
2. The roles and responsibilities of others in the program such as Nuclear Human Resources, Medical, Employee Assistance Program, and Personnel Security;
3. Techniques for recognizing drugs and indications of the use, sale, or possession of drugs;
4. Behavioral observation techniques for detecting degradation in performance, impairment, or changes in employee behavior;
5. Procedures for initiating appropriate corrective action based on behavioral observation or reports from subordinates. This includes handling, reporting, and documenting the misuse of drugs and/or alcohol, or other fitness-for-duty issues and referral to Medical or the Employee Assistance Program as appropriate.

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## APPENDIX C (Continued)

6. Procedures for determining fitness for duty during a "call-in" for unscheduled work.

Supervisory Training requires participants to pass a written examination with a score of seventy percent or greater. Failure to achieve a passing score will be handled under the provisions outlined the General Employee Training Failure Policy (STD-2.1.999, Rev. 0-Interim p. 46).

**B. Employee and Escort Training**

1. The initial employee training program will be updated, as necessary, in order to include the most current policy changes and in accordance with 10 CFR Part 26.
2. The initial employee training will be one (1) hour training consisting of the following information in accordance with 10 CFR Part 26 and TVA policy:
  - a) Policy, procedures, and methods used to implement the Fitness for Duty Program;
  - b) The personnel and public health and safety hazards associated with the abuse of drugs and misuse of alcohol;
  - c) Techniques for recognizing drugs and indications of the use, sale, or possession of drugs;
  - d) Techniques for recognizing aberrant behavior;
  - e) Procedure for escorts to report problems to supervisors or Security;
  - f) The effect of prescription and over-the-counter drugs and dietary conditions on job performance and on chemical test results, and the role of the Medical Review Officer;
  - g) Role and availability of the Employee Assistance Program;
  - h) Standards of Conduct as well as sanctions and penalties under the Fitness for Duty Program;



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## APPENDIX C (Continued)

- i) "Call-in" procedure for unscheduled work and responsibility to report fitness-for-duty issues including the consumption of alcoholic beverages.
3. Employee Training requires participants to pass a written examination with a score of seventy percent or greater. Failure to achieve a passing score will be handled under the provisions outlined in the General Employee Training Failure Policy (STD-21.999, Rev. 0-Interim p 46).

## III. Refresher Training

- A. Refresher training will be provided on a twelve-month basis expiring at the end of the quarter in which it comes due for all persons covered by this Standard. If refresher training is not completed, as prescribed, access authorization or other activities under 10 CFR Part 26 will be denied. Others will be referred for appropriate management action.
- B. Supervisory and employee refresher training will be given concurrently and will consist of the following in accordance with 10 CFR Part 26 and TVA Policy:
  1. The policy, procedures, and methods used to implement the Fitness for Duty Program;
  2. The supervisor's role and responsibilities in implementing the program;
  3. The roles and responsibilities of others in the program such as Nuclear Human Resources, Medical, Employee Assistance Program, and Security;
  4. The personnel and public health and safety hazards associated with the abuse of drugs and misuse of alcohol;
  5. Techniques for recognizing drugs and indications of the use, sale, or possession of drugs;
  6. Techniques for recognizing aberrant behavior and procedure for escorts to reporting problems to supervisors or Security;

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## APPENDIX C (Continued)

7. Procedures for supervisors to follow for initiating appropriate corrective action based on behavioral observation or report from subordinates. Elements include handling, reporting, and documenting the misuse of drugs and/or alcohol, or other fitness-for-duty issues and referral to Medical or the Employee Assistance Program, as appropriate.
  8. The effect of prescription and over-the-counter drugs and dietary conditions on job performance and on chemical test results, and the role of the Medical Review Officer.
  9. Standards of Conduct as well as sanctions and penalties under the Fitness for Duty Program.
  10. Procedure for determining fitness for duty during a "call-in" for unscheduled work.
- C. Refresher training requires participants to pass a written examination with a score of seventy percent or greater. Failure to achieve a passing score will be handled under the provisions outlined in the General Employee Training Failure Policy (STD-2.1.999, Rev. 0-Interim p 46).

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## APPENDIX D

CRITERIA USED IN DETERMINING  
A NEED FOR "FOR-CAUSE" TESTING

All "For-Cause" testing must be approved by the site director/vice president, organizational manager, or his/her designee.

For-cause testing must be conducted when there is reasonable suspicion that the worker's behavior involved a failure of performance that contributed to:

1. Radiation releases or exposure of radioactivity in excess of regulatory limits.
2. Actual or potential substantial degradations of the level of safety of the plant.
3. A lost-time accident.

For-cause testing may also be conducted under the following conditions:

4. When aberrant behavior is exhibited. (See Appendix E.)
5. When a person is reasonably suspected of:
  - a. Recent use of controlled substance(s) or alcohol.
  - b. Engaged in illegal drug activities.
  - c. Possession of illegal drugs or alcohol.
6. Credible allegations of drug/alcohol use against:
  - a. An individual.
  - b. A work unit determined to be a critical nuclear employment area when:
    - The number or proportion of positive results is found to be significant, and
    - When activities are confirmed by testing or otherwise (ie, Inspector General's investigations) for a number of employees.
7. As part of an investigation involving an accident (vehicle or personal) in which safety precautions were violated or unusually careless acts were performed.
8. When an employee's work record indicates a history of accidents or "near misses" or accidents which are the fault of the employee.
9. When an excessively high accident rate is observed in a particular location.



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## APPENDIX E

## ABERRANT BEHAVIOR

In every situation where aberrant behavior is observed, consideration should be given to whether the person needs immediate medical attention. If such attention is deemed warranted, the person should be provided that attention by appropriate medical personnel.

## I. Observing Behavior

- A. Observer - When a person is observed exhibiting unusual or aberrant behavior, the observer should obtain the assistance of a supervisor.
- B. Supervisor - If the person is an employee of a contractor, the supervisor should notify the contract manager immediately.
  - 1. Closely observe the individual to determine if that person appears to be endangering himself/herself, the health and safety of others, or the integrity or efficiency of the facility and its operations.
  - 2. If the person involved is not from the observing supervisor's department, that supervisor should attempt to obtain the assistance of a supervisor from the observed individual's department (preferably direct supervisor).

## II. Questioning of Individual

- A. Supervisor - If it is determined that the individual may be endangering himself/herself, others, or the integrity or efficiency of the facility or its operations, the supervisor should approach the individual and ask for an explanation of the observed behavior.
  - 1. If the explanation is acceptable, the supervisor may take whatever action he/she decides is appropriate.
  - 2. If the explanation or the observed behavior contributes to the supervisor's reasonable suspicion that the individual may be using or has recently used alcohol or controlled substances, and the supervisor believes immediate action is necessary, the supervisor should immediately refer the matter to the site director/vice president/organization manager or his/her designee in accordance with Subsection 3.2.4.

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## APPENDIX E (Continued)

- B. Supervisor - If the supervisor observes behavior and determines it to be aberrant and believes immediate action is not warranted, he/she should take the following action:
1. The individual should be interviewed by his/her immediate supervisor and, subsequently, by that supervisor's superior, if practical. If not practical, the supervisor in charge of the area where the individual is located and that supervisor's superior should conduct the interview.
  2. If, after these interviews, nonalcohol or nondrug related impairment is still suspected as the reason for the observed behavior, the supervisor should discuss the situation with the site director/vice president/organization manager or his/her designee to determine the appropriate course of action.
  3. If alcohol or drug use is reasonably suspected as causing or contributing to the observed behavior, the supervisor should refer the matter to the site director/vice president/organization manager or his/her designee who shall be responsible under Subsection 3.2.4 for determining whether the employee should be required to take an alcohol and drug test.

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Page 48 of 54APPENDIX F  
SECURITY ACTIONSL Outside Applicants and Transfers and Prior to Granting or Reinstating  
Unescorted Access

## A. Personnel Security

1. Obtain a written statement from the individual as to whether activities within the scope of 10 CFR Part 26 were ever denied the individual.
2. Conduct a suitable inquiry of previous employment history as defined in this Standard. This is usually conducted in conjunction with the access authorization investigation.
3. Obtain circumstances for denial of unescorted access or removal under provisions of 10 CFR Part 26 including test results.
4. Place an employment restriction for a minimum of 12 months on any applicant or transfer into a position covered by this Standard who has a confirmed positive test administered under this Standard.
5. Remove unescorted access clearance for a minimum of three years for any second confirmed positive alcohol or drug test administered under a Fitness for Duty Policy by any NRC licensee, contractor, or vendor.
6. Deny unescorted access clearance for a minimum of five years to persons who sell, use, or possess illegal drugs within a protected area of any nuclear plant.
7. Individuals denied unescorted access under the provisions of LA.5 and 6 above shall not be granted unescorted access clearance until TVA receives satisfactory medical assurance that the individual has abstained from drugs for at least three years.
8. Permanently deny unescorted nuclear plant access clearance for any third confirmed positive drug or alcohol test or second involvement in the sale, use, or possession of illegal drugs.



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**APPENDIX F (Continued)**

Failure to list reasons for removal or revocation of unescorted access shall be sufficient cause for denial of unescorted access.

9. If a suitable inquiry reveals that a person has violated a Fitness for Duty Program or Policy, prior to granting unescorted access, Personnel Screening and Badging shall notify Nuclear Human Resources and Medical Services for a determination of fitness for duty and appropriate follow-up testing providing the individual has not been previously determined ineligible.
10. If unescorted access clearance is approved after a three year or more denial of unescorted access for a fitness for duty violation, follow-up testing as described in Subsection 3.3.6 of this Standard shall be required.

**II. Fitness for Duty Security Background Updates**

- A. A security clearance update in accordance with TVA's Physical Security Plan must be performed on individuals who have their clearance suspended by Personnel Security based on a confirmed positive test or offsite arrest associated with possession, use, or sale of illegal drugs. An update may be performed for any other fitness-for-duty concern.
- B. The Supervisor, Personnel Security, evaluates the results of the investigation for reinstatement or denial of the clearance after the S-1 medical clearance has been reinstated.

**III. Outside Inquiries from Licensee, Contractor, Vendor, and Industry Groups**

**Information for Release**

- A. Personnel Security shall release fitness-for-duty information to other licensees, contractors, vendors, and industry groups only when a release acceptable to TVA and signed by the individual is provided.
- B. The following information shall be released by Personnel Security to other licensees, contractors, vendors, and industry groups:
  1. Confirmed positive test results for drugs or use of alcohol or the use, sale, or possession of illegal drugs.

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**APPENDIX F (Continued)**

2. If the individual was removed from activities within the scope of 10 CFR Part 26 or denied unescorted access in accordance with the Fitness for Duty Policy.
  3. Circumstances for denial of unescorted access or removal from site (drug, alcohol, or medical).
- C. Requests for additional or specific medical information will be referred to Medical Services.

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**APPENDIX G**

**APPROVED CONTRACTOR FITNESS FOR DUTY PROGRAMS**

(None at this time.)



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## APPENDIX H PERFORMANCE DATA

**FITNESS FOR DUTY PROGRAM**

### Performance Data Personnel Subject to 10CFR 26

COMPANY	LICENSING DIVISION
LOCATION	PHONE (INCLUDE AREA CODE)
CONTRACT NAME	

CUTOFFS: SCREEN/CONFIRMATION (10/10)  APPENDIX A TO 10CFR 26

MARIJUANA	/	AMPHETAMINES	/		/
COCAINE	/	PHENCYCLIDINE	/		/
OPiates	/	ALCOHOL (% BAC)			/

TESTING RESULTS	LICENSEE EMPLOYEES				LONG-TERM CONTRACTOR PERSONNEL		SHORT-TERM CONTRACTOR PERSONNEL	
	# TESTED	# POSITIVE	# REFERRED TO EAP	# ACCESS RESTORED	# TESTED	# POSITIVE	# TESTED	# POSITIVE
AVERAGE NUMBER WITH UNESCORTED ACCESS								
CATEGORIES								
PRE-EMPLOYMENT								
PRE-BADGING								
PERIODIC								
FOR CAUSE								
POST ACCIDENT								
RANDOM								
FOLLOW-UP								
OTHER								
TOTAL								

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APPENDIX H  
(Continued)

RANDOM TESTING PROGRAM RESULTS

INDIVIDUALS TESTED	1999	1990	1991	1992	1993																														
# POSITIVE	/																																		
# TESTED	/																																		
% POSITIVE	/																																		
GRAPH OF % POSITIVE	<table border="1"> <tr><td>8</td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>2</td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>1</td><td></td><td></td><td></td><td></td><td></td></tr> </table>					8						4						3						2						1					
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COMPARISON POSITIVE TESTS FOR SPECIFIC SUBSTANCES

MARIJUANA					
COCAINE					
OPATES					
AMPHETAMINES					
PHENCYCLIDINE					
ALCOHOL					

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**SOURCE NOTES**

(Source notes will be added later.)



ENCLOSURE 5



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

MAR 20 1990

MEMORANDUM FOR: Suzanne Black, Assistant Director  
for TVA Projects Division, NRR

FROM: Robert L. Fonner, Special Counsel for Fuel Cycle  
and Safeguards Regulation, OGC

SUBJECT: TVA FITNESS FOR DUTY PROGRAM

A recent exchange of correspondence with the Tennessee Valley Authority (TVA) (see letters of January 3, 1990 TVA to NRC; January 29, 1990 NRC to TVA; and March 2, 1990 TVA to NRC) has raised a question of TVA compliance with 10 CFR Part 26, Fitness for Duty. Briefly, TVA maintains an "onsite" testing laboratory which screens urine specimens from the random testing program at TVA nuclear plants. Specimens that screen positive are forwarded to a certified contractor laboratory for confirmation. The procedure is described in rigorous detail in TVA's NP Standard-2.1.11. If, however, the preliminary screening shows evidence of cannabinoids, cocaine, or alcohol the preliminary positive is also reported orally to the Fitness for Duty (FFD) program manager. The FFD program manager in turn notifies the site Human Resources manager to place the tested employee in nonwork pay status. The employee is then escorted by his supervisor to the medical review officer who explains the test result to the employee. Neither the Human Resources manager nor the supervisor is informed of the positive screening test result. The employee's plant access is suspended. (See NP STD-2.1.11, Section 3.4.1).

The NRC staff views the TVA procedure of placing an employee in a nonwork pay status based upon the preliminary screening test as not in accord with 10 CFR Part 26. The staff concludes from the restriction on giving preliminary screening test results to licensee management that management may not take any action against the employee based on such test results. TVA contends that its actions are within the terms of the rule.

Several provisions of the rule must be considered in resolving this dispute. Section 26.24(d) allows initial screening of specimens in a licensee's laboratory before sending presumptive positives to a certified laboratory. The last sentence of this paragraph states, "Access to the results of preliminary tests must be limited to the licensee's testing staff, the Medical Review Officer, the Fitness-For-Duty Program Manager, and employee assistance program staff when appropriate." The TVA program appears to be in literal compliance with this sentence. Access to the results of the test is indeed limited to the medical review officer and the FFD program manager. Although TVA admits that co-workers and supervisors may make assumptions about why a worker has been put into nonwork pay status, the assumption is not based on access to test results.

The staff cites Sections 2.7(g)(1) and (2), and Sections 2.9(a) and (c) of Appendix A to Part 26 in support of its position. The key sentence in Section 2.7(g)(2) reads as follows, "Presumptive positive results of preliminary testing at the licensee's testing facility will not be reported to licensee management." Section 2.9(c) requires the medical review officer to interview the tested individual prior to his decision to verify a positive test result. Following verification the medical review officer notifies the employee assistance program and the management official empowered to take administrative action.

TVA also cites Section 26.27(b) and (b)(1) as supporting its practice. Section 26.27(b) expressly states that management actions required by the rule are a minimum, and there is nothing in the rule to prohibit the licensee from taking more stringent measures. Section 26.27(b)(1) states that impaired workers, or those whose fitness may be questionable, shall be removed from activities within the scope of the rule, and may be returned to duty only after determined to be fit to safely and competently perform duties within the scope of the rule.

Comments and a response in the Statement of Considerations for the rule address this issue. Commenters expressed concern about the inappropriate disclosure of preliminary test results prior to confirmation by the certified laboratory. (Sec. 11.1.3 of the Statement of Considerations). The Statement of Considerations noted that the Commission concurred that there is a potential for abuse, and that the final rule would limit access to the preliminary test results to the licensee's testing personnel. Unfortunately, the rule itself does not reflect the response. As promulgated, Section 26.24(d) expanded access to preliminary test results beyond testing personnel to the medical review officer, the FFD program manager, and employee assistance program staff when appropriate. In this case, one cannot legally rely upon the Statement of Considerations to resolve an area of vagueness or ambiguity in the rule itself. The last sentence of Section 26.24(d) is not vague or ambiguous as to who may have access to preliminary test results.

The central issue in this dispute, although not articulated by either staff or TVA, is the status and function of the the fitness for duty program manager. If this individual is considered to be part of licensee management then his position and function highlights a problem with the NRC rule. If this individual is not considered part of the TVA management, then there is no stated bar to access to the results of preliminary testing, and the consequences of placing the employee in nonwork pay status is not precluded by the rule as long as the test result is not further divulged.

According to the materials submitted by TVA, the actual person receiving notification of preliminary test results from the medical review officer (I have assumed that the medical review officer is part of the testing staff) is the Alternate FFD Program Manager. This person is in the Human Resources Division and is primarily an information analyst, but also administers the day to day operation and maintenance of the program, and manages the reporting and



tracking function for the entire fitness for duty program. It is not clear from the job description what is the real management scope of Alternate FFD Program Manager. It is clear, however, that this person receives the test result orally and instructs the site Human Resources Officer to escort the employee to the medical review officer.

If it is assumed that the Alternate FFD Program Manager is part of the TVA management structure, it highlights a problem with the NRC rule. On the one hand, "licensee management" is precluded from knowing preliminary test results (Section 2.7(g)(2) of Appendix A). On the other hand, the FFD Program Manager is expressly authorized to receive the results of preliminary tests (Section 26.24(d)). It is difficult to rationalize these two provisions on a generic basis. It may be possible to do so in a specific case, like TVA, if the person designated as Fitness for Duty Program Manager is simply a messenger. If the staff intent is to absolutely preclude the use of onsite testing for any purpose other than screening specimens for forwarding to a certified laboratory for confirmation, it will be necessary to revise the rule to make that intent patent. The present rule does not state that intent with sufficient clarity to make a case against the TVA use of preliminary test results.

*Robert L. Fonner*

Robert L. Fonner  
Special Counsel for Fuel Cycle and  
Safeguards Regulation

ENCLOSURE 6

PROPOSED REVISION TO 10 CFR PART 26

Section 26.24

(d) add:

No individual may be removed or temporarily suspended from unescorted access based solely on the results of any test other than a confirmed positive test result which has been reviewed by the MRO. Licensee management may act on being notified pursuant to paragraph (e) below.

(e) Modify to read:

The MRO's review and reporting of the test results, as described in Section 2.9 of the NRC Guidelines, must be completed as soon as possible. Should the individual not be available to discuss the test results, any interviews must be completed as soon after the individual is available as possible. Licensee management must be notified of the results of any positive test whenever the MRO's review of a confirmatory test has not been completed by 10 days after the initial presumptive positive screening test.



C10-136