

From: Gifford, Ian
Sent: Thursday, January 28, 2021 2:55 PM
To: Wilson, George; Hilton, Nick; Solorio, Dave; Thompson, Catherine
Subject: draft TVA revised letter
Attachments: TVA letter revision DRAFT.docx

Good afternoon All,

Attached is a draft letter to TVA for the reduction in severity levels. We will work with Nasreen to get this in ADAMS to start the concurrence process. As George mentioned in the meeting, we may need to change some of the language in the letter but at least this gets us started down the path to issuing the letters in a timely manner.

Thanks,
Ian

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From: Gifford, Ian

Created By: Ian.Gifford@nrc.gov

Recipients:

"Wilson, George" <George.Wilson@nrc.gov>
Tracking Status: None
"Hilton, Nick" <Nick.Hilton@nrc.gov>
Tracking Status: None
"Solorio, Dave" <Dave.Solorio@nrc.gov>
Tracking Status: None
"Thompson, Catherine" <Catherine.Thompson@nrc.gov>
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

XXXXXX XX, 2021

EA-20-006

EA-20-007

Mr. Jim Barstow
Vice President Nuclear Regulatory Affairs
& Support Services
Tennessee Valley Authority
1101 Market Street, LP 4A-C
Chattanooga, TN 37402-2801

SUBJECT: REDUCTION OF SEVERITY LEVELS IN THE OCTOBER 29, 2020, ORDER
IMPOSING CIVIL PENALTY – TENNESSEE VALLEY AUTHORITY

Dear Mr. Barstow:

This letter refers to the U.S. Nuclear Regulatory Commission's (NRC) October 29, 2020, "Order Imposing Civil Penalty - \$606,942 – Tennessee Valley Authority." The Order regarded four violations of Title 10 of the *Code of Federal Regulations* (10 C.F.R.) § 50.7, "Employee Protection," identified during two investigations completed on October 3, 2019, and January 21, 2020, by the NRC's Office of Investigations (OI) relating to activities at the Tennessee Valley Authority (TVA).

In light of the Commission Order in CLI-21-03, the NRC staff determined that a reduction of the severity levels for violations 1, 3, and 4 is appropriate. The NRC staff determined that the severity level for violation 2 should remain as Severity Level II.

By letter dated January 22, 2021, the NRC staff rescinded the Notice of Violation related to deliberate misconduct associated with violations 1 and 3. Absent the deliberate misconduct escalating factor, the NRC staff reduced the severity levels of violations 1 and 3 from Severity Level II to Severity Level III. In making its determination for violations 1 and 3, the NRC staff used example c.1 from Section 6.10 of the NRC Enforcement Policy, which provides that a Severity Level III violation involves, for example "[a] mid- or senior-level plant manager (or equivalent) or a corporate-level line manager (or equivalent) is the decisionmaker or plays a significant role in the adverse action decisionmaking process; the employment action is relatively less adverse to the employee's terms, conditions, compensation, or privileges of employment (e.g., verbal counseling); and no escalating factor is present."

By letter dated January 22, 2021, the NRC staff rescinded the Order related to deliberate misconduct associated with violation 4. Absent the deliberate misconduct escalating factor, the NRC staff reduced the severity level of violation 4 from Severity Level I to Severity Level II. In making its determination for violation 4, the NRC staff used example b.1 from Section 6.10 of the NRC Enforcement Policy, which provides that a Severity Level II violation involves, for example “[a]n executive-level corporate manager (or equivalent) (which for this definition includes a site vice president) is the decisionmaker or plays a significant role in the adverse action decisionmaking process regardless of the severity of the adverse action but without an escalating factor present.”

Violations 1 and 2 were combined into one Severity Level II problem. Violations 3 and 4 were combined into one Severity Level II problem.

Because these changes result in two Severity Level II problems, each with a Civil Penalty of \$303,471, the total amount of the Civil Penalty of \$606,942 remains as stated in the October 29, 2020, Order Imposing Civil Penalty.

In accordance with 10 CFR, Section 2.390, of the NRC's “Rules of Practice,” a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

George A. Wilson, Director
Office of Enforcement

SUBJECT: REDUCTION OF SEVERITY LEVELS IN THE OCTOBER 29, 2020,
ORDER IMPOSING CIVIL PENALTY – TENNESSEE VALLEY
AUTHORITY Dated: XX/XX/2021

Distribution:

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T. Higgs, OI

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M. Miller, RII

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