

PI-01-0105

Mr. Glynn Blanton
Chief, Gas Pipeline Safety Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

Dear Blanton:

We have reviewed the May 19, 1999, letter sent to you by the Tennessee Valley Authority's (TVA) Amy T. Burns, regarding your office's inspection of TVA's Gallatin Fossil Plant pipeline.

After reviewing the record and obtaining legal opinions, I must advise you that TVA is, in fact, a Federal executive agency (5 U.S.C. Section 105). Being a federal agency, except as Congress may otherwise consent, it is free from state and federal regulation and control (16 U.S.C. Section 831, *Interpretive Notes and Decisions – Governing Authority*; which cites Posey v. TVA, 93 F.2d 726 (1937, CA5 Ala.)). We have not found any exception made by Congress that gives the Federal pipeline safety program or the states the right to regulate TVA pipeline facilities.

I understand that TVA has been letting your office inspect the pipeline and provide safety suggestions. This is similar to the procedure for inspections made by Federal inspectors on military-operated pipelines. We hope that the interest of Federal agencies in allowing inspections will help improve pipeline safety for these government facilities. However, we have no authority to cite these Federal entities for violations.

If you have any further questions on this matter, please call me at (202) 366-4565.

Sincerely,

Richard D. Huriaux, P.E.
Manager, Regulations
Office of Pipeline Safety