



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET SW SUITE 23T85  
ATLANTA, GEORGIA 30303-8931**

May 21, 2004

IA-04-014

Mr. Larry M. Overby  
[Home address deleted  
per 10 CFR 2.390]

**SUBJECT: NOTICE OF VIOLATION**

Dear Mr. Overby:

The Nuclear Regulatory Commission (NRC) has received a letter dated April 30, 2004 from Southern Nuclear Operating Company informing us of your confirmed positive test for morphine (copy enclosed). We plan to place this letter in your 10 CFR Part 55 docket file.

This confirmed positive test identified a violation of 10 CFR 55.53(j). The purpose of the Commission's Fitness-for-Duty requirements is to provide reasonable assurance that nuclear power plant personnel work in an environment that is free of drugs and alcohol and the effects of the use of these substances. The use of illegal drugs is a serious matter which undermines the special trust and confidence placed in you as a licensed operator. The violation is categorized as a Severity Level III violation in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions", NUREG-1600, because the use of illegal drugs by licensed operators is a significant regulatory concern. This violation is described in the enclosed Notice of Violation. Please note that, in accordance with 10 CFR 26.27(b), future similar violations will substantially affect your authorization for unescorted access to the protected area of a licensed facility.

The purpose of this letter is to make clear to you the consequences of your violation of NRC requirements governing fitness-for-duty as a licensed operator. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice of Violation when preparing your response. In your response, you should document the specific corrective actions taken and any additional actions you plan to prevent recurrence in order to ensure your ability and willingness to carry out the special trust and confidence placed in you as a licensed operator of a nuclear power facility. After reviewing your response to this Notice, including your proposed corrective actions, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with Section 2.390 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, enforcement actions are made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. A copy of this letter (without Enclosure 2) and the enclosed Notice of Violation with your address removed will be made available to the Public after 45 days unless you provide a sufficient basis to withdraw

Mr. Larry Overby

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this violation. The NRC also includes significant enforcement actions on its Web site at [www.nrc.gov](http://www.nrc.gov); select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Should you have any questions concerning this action, please contact Michael Ernstes of my staff. Mr. Ernstes can be reached at either the address listed above or telephone number (404) 562-4638.

Sincerely,

*/RA/*

Charles A. Casto, Director  
Division of Reactor Safety

Docket No. 55-21280  
License No. OP-20737-2

Enclosures: 1. Notice of Violation  
2. Letter from Facility Licensee

cc: w/o encl 2 and w/ HOME ADDRESS DELETED  
(HOLD FOR 45 DAYS-EICS ACTION)

Southern Nuclear Operating Company  
ATTN: Mr. Jeffrey. T. Gasser  
Vice President  
40 Inverness Center Parkway  
Post Office Box 1295  
Birmingham, Alabama 35201

Distribution w/o encl. 2 [HOME ADDRESS REMOVED]:

**IMMEDIATE DISTRIBUTION:**

F. Congel, OE  
J. Dixon-Herrity, OE  
C. Evans, RII  
B. Bonser, DRP  
H. Christensen, DRS  
M. Ernstes, DRS  
B. Michael, DRS  
Part 55 Docket File

**RELEASE AFTER 45 DAY HOLD- EICS ACTION**

W. Travers, EDO  
W. Borchardt, NRR  
L. Chandler, OGC  
E. Julian, SECY  
B. Keeling, OCA  
Enforcement Coordinators  
RI, RIII, RIV  
E. Hayden, OPA  
G. Caputo, OI  
H. Bell, OIG  
R. Franovich, NRR  
R. Hannah, RII  
K. Clark, RII  
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OEMAIL  
OE:IA FILE  
OEWEB

**THIS ACTION MAY NOT BE RELEASED TO THE PDR OR OUTSIDE THE AGENCY  
WITHOUT THE APPROVAL OF OE**

Distribution w/ encls [HOME ADDRESS]

C. Evans, RII

OFFICE	RII:DRS	RII:DRS	RII:DRS	RII:DRS	RII:DRP	RII:EICS	NRR
SIGNATURE	/RA/	/RA/	/RA/	/RA/	/RA/	/RA/	By e-mail
NAME	MBates:pmd	SRose	MErnstes	CCasto	BBonser	CEvans	DTrimble
DATE	5/13/04	5/13/04	5/13/04	5/17/04	5/17/04	5/18/04	5/17/04
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
PUBLIC DOCUMENT	YES NO						

OFFICIAL RECORD COPY

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML042020100.wpd

## NOTICE OF VIOLATION

Mr. Larry M. Overby

Docket No. 55-21280  
License No. OP-20737-2  
IA-04-014

As a result of a notification from Southern Nuclear Operating Company dated April 30, 2004, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 55.53(j) prohibits the use of illegal drugs and prohibits the licensee from performing activities authorized by a license issued under 10 CFR Part 55 while under the influence of illegal drugs. "Under the influence" is defined in 10 CFR 55.53(j) to mean that the "licensee exceeded, as evidenced by a confirmed positive test, the lower of the cutoff levels for drugs or alcohol contained in 10 CFR Part 26, Appendix A, of this chapter, or as established by the facility licensee."

Contrary to the above, the licensee violated 10 CFR 55.53(j) as evidenced by the following:

- a. The licensee used morphine as evidenced by a confirmed positive test for that drug resulting from a urine sample submitted on March 14, 2004.
- b. The licensee performed licensed duties on March 14, 2004, following the submission of a urine sample which indicated he was under the influence of morphine.

This is a Severity Level III violation (Supplement I).

Pursuant to the provisions of 10 CFR 2.201, Mr. Larry M. Overby (Licensee) is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region II, U.S. Nuclear Regulatory Commission, 61 Forsyth Street SW Suite 23T85, Atlanta, GA 30303-8931, and marked "Open by Addressee Only" and a copy to the NRC Resident Inspector at the Vogtle Electric Generating Plant, with a similar marking within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; IA-04-014" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Enclosure 1

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 21st day of May 2004