

June 25, 1997

EA 97-208

Southern Nuclear Operating Company, Inc.  
ATTN: Mr. C. K. McCoy  
Vice President  
P. O. Box 1295  
Birmingham, AL 35201-1295

SUBJECT: NOTICE OF VIOLATION  
(NRC INSPECTION REPORT NOS. 50-424, -425/97-03)

Dear Mr. McCoy:

This refers to an inspection conducted during the period March 3 - 7, 1997, at the Vogtle Electric Generating Plant. The inspection was conducted to review various aspects of your Fitness-for-Duty and Physical Security programs. The results of this inspection were discussed with members of your staff on March 7, 1997, and were formally transmitted to you by letter dated April 4, 1997.

As addressed in the subject inspection report, two issues were identified associated with the apparent failure to protect the confidentiality of the results of an individual's preliminary drug screening test in accordance with 10 CFR 26.24(d)(1) and the failure to protect personal information appropriately in accordance with 10 CFR 26.29(b). These two issues were identified in our inspection report as Unresolved Items (URI) 50-424, -425/97-03-01 and 50-424, -425/97-03-02, respectively, pending additional review by the staff. At the initial inspection exit meeting, you denied that a violation of 10 CFR 26.24(d)(1) occurred when preliminary positive test results were discussed at a meeting conducted on February 27, 1997. Subsequently, you submitted additional information related to both of the URIs in your letter of April 22, 1997.

In summary, you stated in your letter of April 22, 1997, that with respect to URI 50-424, -425/97-03-01, (1) the "preliminary positive/confirmed negative" test result was communicated to the participants of the meeting conducted on February 27, 1997, as a statement of historical fact, (2) the "preliminary positive/confirmed negative" test results constituted information relevant to a discussion of whether the subject of the chemical testing was complying with the commitments of his rehabilitation program, (3) the preliminary positive test results could have indicated over-the-counter drug use which the individual previously admitted abuse, and (4) no adverse action was taken based on the information. Finally, your letter stated that NRC should recognize that the disclosure of the preliminary positive test result was consistent with 10 CFR 26.29(b). With respect to URI 50-424, -425/97-03-02, you admitted that inaccurate chemical test information was communicated to a union representative by a Southern Nuclear Operating Company Labor Relations specialist; however, due to numerous prior discussions and interactions between the Labor Relations specialist and the union representative on the employee's behalf, including the review of certain personnel records, this disclosure was considered permissible under 10 CFR 26.29(b).

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Based on our review of the facts and circumstances of this case and after considering the information provided in your correspondence of April 22, 1997, we have concluded, following coordination with the Office of the General Counsel, the Office of Nuclear Reactor Regulation, and the Office of Enforcement, that in both cases violations of regulatory requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice).

With regard to Violation A, the disclosure provisions of 10 CFR 26.29(b) apply only to information concerning violations of the licensee's fitness-for-duty policy and do not authorize violation of the requirements of 10 CFR 26.24(d)(1). In this case, on or before February 27, 1997, preliminary chemical testing results were communicated to individuals other than those specified in 10 CFR 26.24(d)(1); therefore, a violation of regulatory requirements occurred. With regard to Violation B, in your submittal of April 22, 1997, you admit that information regarding chemical test results was disclosed to a union representative. Although you provided a description of the circumstances that contributed to the belief that the disclosure of such information was permissible, the NRC concluded that the information was disclosed in violation of 10 CFR 26.29(b).

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In particular, you should address how your staff will ensure that the Fitness-for-Duty Program is conducted in strict and literal compliance with regulatory requirements. The NRC will consider your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. This letter also serves to close URIs 50-424, -425/97-03-01 and 50-424, -425/97-03-02.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room.

Sincerely,

Original Signed by  
Johns P. Jaudon

Johns P. Jaudon, Director  
Division of Reactor Safety

Docket Nos. 50-424, 50-425  
License Nos. NPF-68, NPF-81

Enclosure: Notice of Violation

cc w/encl: See Page 3

cc w/encl:

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NRC Senior Resident Inspector  
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*Per telephone to Fredrickson*

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