

JAN 18 1979

Mr. James D. Palmer, Administrator
Research and Special Programs
Administration
Department of Transportation
Washington, D. C. 20590

Dear Mr. Palmer:

At the request of Congressman Timothy E. Wirth, the Department of Transportation (DOT) and the Nuclear Regulatory Commission (NRC) undertook last year a joint study of packaging requirements for uranium ore concentrate and emergency response to transportation accidents involving radioactive materials. Members of your staff participated in developing a report and we have sent them draft copies. On November 6, 1978, we requested DOT review and concurrence or comment on the latest draft report and advised your staff of our plan to publish the joint study group report for public comment subject to NRC Commission approval. To date we have received no response.

We would appreciate it if this matter would be expedited and will be happy to work with you in any way necessary.

Sincerely,

(Signed) William J. Dircks

William J. Dircks, Director
Office of Nuclear Material Safety
and Safeguards

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*See previous yellow for concurrence

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DATE	01/16/79	01/16/79	01/16/79	01/17/79	01/ /79	

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FLORIDA POWER & LIGHT COMPANY

March 27, 1981

L-81-130

1 MAR 30 AM 4:40

Mr. James P. O'Reilly, Director, Region II
Office of Inspection and Enforcement
U. S. Nuclear Regulatory Commission
101 Marietta Street, Suite 3100
Atlanta, Georgia 30303

Dear Mr. O'Reilly:

Re: RII:
50-250/80-37
50-251/80-35

Florida Power & Light Company has reviewed the subject inspection report and a response is attached.

There is no proprietary information in the report.

Very truly yours,

Robert E. Uhrig
Vice President
Advanced Systems & Technology

REU/JCM/ras

Attachment

cc: Harold F. Reis, Esquire

81042309/8

Finding:

As a result of the inspection conducted on December 9, 1980, and in accordance with the Interim Enforcement Policy, 45 FR 66754 (October 7, 1980), the following violation was identified.

10 CFR 71.5(b) requires that "the licensee comply with the applicable requirements of . . . 49 CFR Parts 170 - 189." 49 CFR 173.392(c)(1) requires that "Materials must be packaged in strong, tight packages so that there will be no leakage of radioactive material under conditions normally incident to transportation."

Contrary to the above, on December 9, 1980, 21 barrels in this shipment delivered to the Chem-Nuclear burial site at Barnwell South Carolina were not strong, tight packages in that there were punctures in the sides which permitted the contents to spill onto the trailer bed.

This is a Severity Level III Violation (Supplement V.C.(1)).

Response:

We acknowledge that twenty-one drums contained in shipment No. 80-082 were punctured. However, we disagree that those containers were required to be strong tight packages for purposes of transportation. On the contrary, shipment No. 80-082 could have been transported unpackaged because the content of the shipment was a LSA radioactive material, was transported in a closed transport vehicle assigned for the sole use of the Turkey Point Plant and, otherwise met the criteria stipulated in 10 CFR 173.392(D)(1)(iii). This paragraph provides that materials of low radioactive concentration may be transported unpackaged; ". . . if the average estimated radioactivity concentration does not exceed 0.001 millicurie per gram and the contribution from Group I material does not exceed one percent of the total radioactivity. The average estimate of radioactive concentration of the material in shipment No. 80-082 was 1.2×10^{-7} millicurie per gram. However, the material was containerized in 55 gallon drums primarily to satisfy conditions in the Barnwell Site Disposal Criteria.

In view of the above, we disagree that the punctured drums in shipment No. 80-082 constitutes a Severity Level III violation. On the otherhand, there was no intent to allow the shipment to include drums which were punctured and Florida Power & Light Company management has expressed considerable concern that it happened. Consequently, an immediate investigation was initiated at the time of the incident and appropriate corrective measures quickly implemented in order to prevent a reoccurrence. In that regard, we are submitting the following information which previously was transmitted to the Bureau of Radiological Health of the State of South Carolina, Department of Health and Environmental Control.

Based upon our investigation into this incident we were able to determine that the drums were damaged because of an equipment problem, and that our failure to detect the damage was a consequence of a weakness in our inspection procedures.

In as much as each container was inspected completely just prior to being loaded onto the transport vehicle, we were able to conclude that any damage occurred while positioning the containers within the transport vehicle. By evaluating the type and location of the damage on the drums it was determined that the punctures were caused by the loading blades on the fork lift. We also learned that the drum lifting device used to load the shipment was a new piece of equipment. Subsequently, we were able to determine that it was possible for the blades of the forklift to protrude through the fork guides on the drum lifting device and contact could be made between the fork blades and the drum.

To prevent a recurrence of this incident the following corrective actions and procedural modifications have been implemented:

- a) The incident was reviewed with plant personnel who have assigned responsibilities in radioactive waste handling and management and appropriate precautions urged.
- b) All of the drum lifting devices used for radioactive drum handling have physical modifications designed to preclude the fork lift blades from protruding beyond the fork guides.
- c) Additional inspection requirements have been added to Turkey Point's Health Physics Procedure HP-46, Shipping and Receiving Radioactive Material so that all packages in addition to being inspected before they are loaded will now also be inspected after they have been positioned on the transport vehicle.
- d) To further strengthen our package inspection requirements, the procedural modifications to HP-46 have been incorporated into the appropriate QC check sheets as QC hold points.

Finally, the circumstances involving Turkey Point shipment No. 80-082 clearly illustrate a conflict between 10 CFR 173.392(C)(1), 173.392(D)(1) and Supplement V.C.1. Specifically the NRC has classified the incident to be a Severity Level III violation for a breach of package integrity in packages that were not required for transportation. In view of this, we believe that the NRC should reevaluate their criteria under Supplement V and reclassify this more appropriately as a level VI violation. We suggest the criteria for a Security Level III ought to be "Breach of integrity of a package required for transportation".



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA ST., N.W., SUITE 3100
ATLANTA, GEORGIA 30303

APR 15 1981

Florida Power and Light Company
ATTN: R. E. Uhrig, Vice President
Advanced Systems and Technology
P. O. Box 529100
Miami, FL 33152

Gentlemen:

Subject: Report Nos. 50-250/80-37, 50-251/80-35 and 15000039/80-23

Thank you for your letter of March 27, 1981, informing us of steps you have taken to correct the noncompliance concerning activities under NRC Operating License Nos. DPR-31 and DPR-41 brought to your attention in our letter of March 2, 1981. We have examined your corrective actions and have no further questions at this time.

We have reviewed your response to our findings and your disagreement with the assigned Severity Level III classification. Your position that the closed transport vehicle was the container and thus the punctured drums did not represent a breach of container integrity is inconsistent with your shipment records, which clearly indicate the individual drums were the intended containers. The shipment of punctured drums is evidence that your controls for assuring compliance with the requirements for 49 CFR 173.392 were not adequate.

In view of the above, we continue to regard the punctured drums in your shipment No. 80-082 as a Severity Level III violation as cited in our Notice of Violation dated March 2, 1981.

We appreciate your cooperation with us.

Sincerely,

Paul A. Kelly
for R. C. Lewis, Acting Director
Division of Resident and
Reactor Project Inspection

cc: H. E. Yaeger, Plant Manager

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FPL

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July 13, 1981
L-81-258

Mr. James P. O'Reilly, Director, Region II
Office of Inspection and Enforcement
U. S. Nuclear Regulatory Commission
101 Marietta Street, Suite 3100
Atlanta, Georgia 30303

Dear Mr. O'Reilly:

Re: Turkey Point Units 3 & 4
Docket No. 50-250 and 50-251
I&E Inspection Report Nos. 50-250/80-37,
50-251/80-35 and 15000039/80-23

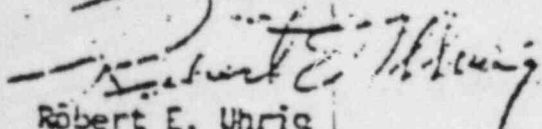
The purpose of this letter is to supplement information previously provided in FPL letter L-81-130 dated March 27, 1981. L-81-130 was written in response to the NRC letter dated March 2, 1981 wherein Turkey Point 3 & 4 was assessed with a Severity Level III Violation for failure to comply with 49 CFR 173.392(c)(1). In the NRC's opinion this was due to the fact that 21 of the containers in a low level radioactive waste shipment were found to have been punctured.

Subsequent to receiving that notice, FPL wrote to the Department of Transportation (DOT) seeking an interpretation of the provisions in 49 CFR 173.392(d) as they applied to this situation.

The DOT has determined that under the provisions of 49 CFR 173.392(d), if a shipment of material meets all of the provisions of the aforementioned section, any containers which the shipper may elect to use are not required to meet the criteria for a strong, tight package. A copy of the DOT's response, dated May 4, 1981, is attached.

The subject shipment from Turkey Point 3 & 4 did meet the requirements of 173.392(d). We hereby request that NRC reassess this violation in accordance with our letter L-81-130.

Very truly yours,


Robert E. Uhrig
Vice President
Advanced Systems & Technology

REU/JEM/ah

cc: Harold F. Reis, Esquire

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II

101 MARIETTA ST., N.W., SUITE 3100
ATLANTA, GEORGIA 30303

SEP 02 1981

SSINS 6020

MEMORANDUM FOR: Dudley Thompson, Director, Enforcement and Investigation
Staff, IE

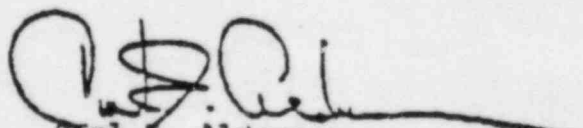
FROM: Carl E. Alderson, Director, Enforcement and Investigation
Staff, Region II

SUBJECT: ENFORCEMENT POLICY REGARDING 49 CFR 173.392
(AITS NO. F02300071)

Most licensees package radioactive waste containing low specific activity (LSA) in metal drums or boxes for transport. This packaging is used to meet the requirements of 49 CFR 173.392(c)(1) which require packaged LSA material to be shipped in "strong, tight packages". Shipment of unpackaged (bulk) LSA material is authorized by 49 CFR 173.392(d), provided the consignor complies with the conditions of that section.

Many shipments of individually packaged waste made pursuant to 173.392(c) meet the conditions of 173.392(d) and thus could be legally shipped in bulk without individual packages. In such cases, the individual packages are not required by regulation and thus enforcement action by the NRC for breach of integrity of individual packages appears inappropriate. However, NRC has traditionally taken enforcement action for breach of package integrity without regard for the provisions of 49 CFR 173.392(d).

In a current case, Florida Power and Light Company has denied a Severity III violation for punctured drums on the basis that the shipment met the requirements for bulk shipment specified by 49 CFR 173.392(d). We plan to accept this denial and withdraw the violation. Further, we do not plan to take enforcement action for future cases involving comparable circumstances. Please inform us whether or not you concur in this position.


Carl E. Alderson

cc: H. Thornburg, IE:DSRSI
R. Wessman, IE:EB
R. Carlson, RI
J. Streeter, RIII
J. Gagliardo, RIV
A. Johnson, RV

CONTACT: A. F. Gibson
242-5179

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