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RECORD #130

TITLE: Request for Retraction of Violation by Dairyland Power
Cooperative

FICHE: 66675-156

0905/83



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137


FEB 18 1983

MEMORANDUM FOR: Facilities Radiation Protection
Inspection Staff

FROM: L. R. Greger, Chief, Facilities Radiation
Protection Section

SUBJECT: GUIDANCE ON TRANSFEROR REQUIREMENTS UNDER
10 CFR 30.41 (MEMORANDUM NO. F-30)

The attached memoranda contain guidance concerning radioactive material transfers, in particular, transfers to burial sites. You should use this guidance until further notice.


L. R. Greger, Chief
Facilities Radiation
Protection Section

Attachments:

1. Memo, Schultz to Axelrad,
dtd 11/5/82
2. Memo, Axelrad to Schultz,
dtd 2/10/83

cc w/attachments:
C. J. Paperiello
D. J. Sreniawski
D. G. Wiedeman



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

NOV 05 1982

MEMORANDUM FOR: Jane A. Axelrad, Acting Director, Enforcement Staff, IE
FROM: William H. Schultz, Enforcement Coordinator, RIII
SUBJECT: REQUEST FOR RETRACTION OF VIOLATION BY
DAIRYLAND POWER COOPERATIVE (DOCKET NO. 50-409)

The attached response from Dairyland Power Cooperative to a Region III Notice of Violation requests withdrawal of one of the cited violations (No. 2). The violation concerns adherence to an acceptance criterion contained in the burial site license. The violation was based on 10 CFR 30.41(b)(5), which we interpreted to require that applicable by-product material transfers be made in accordance with (under) terms of a license issued to the transferee. In the case in question, the transferee's license specified that drums must not be laid on their sides in the transport van. This licensee condition was not met, as determined by a South Carolina State inspector.

Since issuance of the notice of violation, we have given further consideration to our interpretation of 10 CFR 30.41 as a basis for this citation. We now conclude that the responsibilities of a person transferring byproduct material under 10 CFR 30.41 are more appropriately defined in 10 CFR 30.41(c), which limits these responsibilities to verifying that the transferee's license authorizes receipt of the type, form, and quantity of byproduct material to be transferred. Under the latter interpretation, we would not enforce transferer adherence to transferee license restrictions which do not involve type (radioisotope), form (chemical and/or physical), or quantity (maximum activity).

We propose to retract Item No. 2 of the attached notice of violation based on the above rationale and are requesting your review and concurrence of this matter due to the generic implications.

L. R. Greger is the Region III contact in this matter.

William H. Schultz
William H. Schultz
Enforcement Coordinator

Attachments: As stated

cc w/attachments:
L. R. Greger, RIII
~~████████████████████~~
A. W. Grella, IE
Enforcement Coordinators,
RI, RII, RIV, RV



UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 WASHINGTON, D. C. 20555

L.R. Greger
 R III

FEB 10 1983

PRINCIPAL STAFF	
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D/RA	SCS
A/RA	PAO
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DRMA	EC
DE/ASP	<i>L.R. Greger</i>
DEP	
ML	
OL	FILE 1000

MEMORANDUM FOR: William H. Schultz, Enforcement Specialist
 Region III

FROM: Jane A. Axelrad, Acting Director
 of Enforcement, IE

SUBJECT: REQUEST FOR RETRACTION OF VIOLATION BY
 DAIRYLAND POWER COOPERATIVE (DOCKET NO. 50-409)

We have reviewed your November 5, 1982 enclosed memorandum regarding the above-captioned case and agree with your recommendation that the violation involving the Barnwell burial site criterion that drums not be laid on their side be retracted. Our agreement is based on the premise that NRC's enforcement responsibilities, pursuant to 10 CFR 30.41(b)(5) and (c) with respect to state-licensed waste burial site requirements, do not include burial site requirements not relating to type, form and quantity. In the subject case, we agree that the requirement for positioning the drums should not have been considered a violation. If, however, a burial site's license does not authorize it to receive liquids, and a licensee transfers materials to the burial site that have not been dewatered, a citation against 10 CFR 30.41(c) for failure to verify that the burial site is authorized to receive waste containing liquid would be appropriate because the violation involves the form of the waste.

agree - (Type, form, quantity)

Jane A. Axelrad
 Jane A. Axelrad, Acting Director
 of Enforcement
 Office of Inspection and Enforcement

Enclosure: As stated

cc: L. R. Greger, RIII
 J. R. Miller, RIII
 A. W. Grella, IE
 Enforcement Directors
 RI, RII, RIV, RV

FEB 16 1983