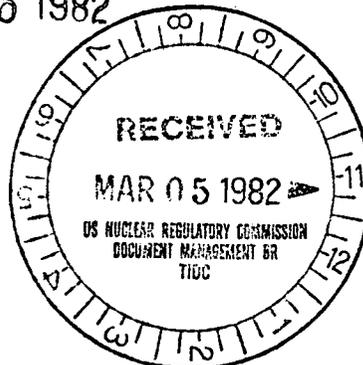


Certified By *[Signature]*

JAN 26 1982

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Duke Power Company
ATTN: Mr. W. O. Parker, Jr.
Vice President, Steam Production
P. O. Box 2178
Charlotte, NC 28242

Gentlemen:

Subject: Report Nos. 50-269/81-25, 50-270/81-25 and 50-287/81-25

Thank you for your response of December 23, 1981, informing us of steps you have taken to correct the violation brought to your attention in our letter of November 25, 1981. We will examine your corrective actions and plans during future inspections.

While you acknowledged that the violation occurred and provided the response required by 10 CFR 2.201, your letter took exception to the characterization and classification of severity level of the violation. Our evaluation of the issues you raised is included as an enclosure. Based on that evaluation we have concluded that the violation was appropriately characterized and its classification as a Severity Level III was proper.

Should you have any further questions regarding this matter, please contact us.

Sincerely,

[Handwritten initials]

James P. O'Reilly
Regional Administrator

Enclosure:
Evaluation and Conclusions

cc: J. E. Smith, Station Manager

bcc: NRC Resident Inspector
Document Management Branch
State of North Carolina

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PDR ADDCK 05000269
Q PDR

IEO/3/11

OFFICE	RII:ETI <i>[initials]</i>	RII:EIS	RII:EIS <i>[initials]</i>		
SURNAME	AFGibson:cmc	CEConer	CEAlderson		
DATE	1/22/82	1/25/82	1/25/82		

Enclosure

EVALUATIONS AND CONCLUSIONS

Duke Power Company, in its response dated December 23, 1981, admitted the violation identified in the NRC letter and Notice of Violation of November 25, 1981, but took exception to the characterization of the violation and the severity level assigned. The licensee's exceptions are presented below along with the NRC's evaluation and conclusions.

1. Characterization of Violation

LICENSEE'S POSITION

The licensee states that Chem-Nuclear is authorized to receive licensed byproduct material and claims that the first sentence, second paragraph of the violation (i.e., "... the licensee disposed of licensed byproduct material by transfer to an unauthorized recipient.") implies that the recipient was not authorized to receive byproduct material. The licensee further claims that the actual violation concerned the State's limit of 1% free-standing liquid, not the licensed byproduct material.

EVALUATION AND CONCLUSION

The licensee's observation that Chem-Nuclear is authorized to receive licensed byproduct material is generally correct; however, Chem-Nuclear's license, issued by the State of South Carolina restricts the quantity and form of byproduct material which Chem-Nuclear may receive. Specifically, Condition 26 of the license establishes restrictions on the form of byproduct material as follows:

"Unless otherwise specified in this license, the licensee shall not receive any liquid radioactive waste regardless of the chemical or physical form. Solidified radioactive waste shall have no detectable free standing liquids. For purposes of this condition, the terminology "no detectable free standing liquids" is defined as follows:

- (a) One percent (1%) liquid by waste volume until December 31, 1980.
- (b) Effective January 1, 1981, one-half percent (0.5%) by waste volume or one gallon of non-corrosive liquids per container, whichever is less.

In lieu of the requirements of sub-paragraph (b) above, solidified waste containing liquids in excess of one-half percent (0.5%) by waste volume, but less than one percent (1%) liquid by waste volume, may be received and disposed of in approved high integrity containers."

As a result of this license condition, Chem-Nuclear was specifically prohibited from receiving the byproduct material in the form that it was shipped by Duke Power Company. Therefore, Chem-Nuclear was not an authorized recipient and the transfer violated 10 CFR 20.301 and 10 CFR 30.41 as characterized by the violation.

2. Severity Level

LICENSEE'S POSITION

The licensee states that no details are provided to support the determination of Severity Level III under Supplement IV (subtitled "Health Physics, 10 CFR Part 20") of 10 CFR Part 2, Appendix C. Rather, the licensee believes that classification as a Severity Level IV in accordance with Supplement V (subtitled "Transportation") is more appropriate.

EVALUATION AND CONCLUSION

The severity level categorizations contained in Supplement V to 10 CFR Part 2, Appendix C relate to the requirements contained in 10 CFR Part 71, "Packaging of Radioactive Material for Transportation and Transportation of Radioactive Material Under Certain Conditions," and to the regulations of certain other Federal agencies relative to transportation of radioactive materials. The licensee was not cited for violation of any Federal transportation regulation; therefore, use of Supplement V would be inappropriate.

On the other hand, Supplement IV categorizes violations of 10 CFR Part 20, and violations of 10 CFR 20.301 relative to disposal of byproduct material by transfer to an unauthorized recipient are appropriately categorized as a Severity Level III violation in accordance with paragraph C.6 of Supplement IV.