



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

SEP 14 1981

EA 81-76

EGM 81-29

MEMORANDUM FOR: Carl E. Anderson, Director
Enforcement and Investigation, Region II

FROM: Dudley Thompson, Director
Enforcement and Investigations, IE

SUBJECT: PROPOSED ACTION - FLORIDA POWER AND LIGHT COMPANY

This is to document our agreement with the proposed course of action in this case as set forth in your September 2, 1981 memorandum (copies furnished earlier to Regional Enforcement Coordinators). Our agreement is primarily based on the DOT interpretation of 49 CFR 173.392(d), shipment of bulk LSA material, that states, "any packaging of your choice may be used, provided there is compliance with all requirements of §173.392(d)." The DOT interpretation is stated in their letter to the licensee dated May 4, 1981, attached.

Whether or not shipment records indicate that individual drums were the intended containers is not relevant here because of DOT's interpretation. Further, the licensee's ex post facto determination that the material shipped met the requirements for §173.392(d) has precedent, in that in an earlier enforcement case, Jersey Central Power and Light Company, determined by analysis after the fact that liquid leaking from a container was not radioactive and there was no leakage from inner packages containing radioactive material. The JCPL violation was later withdrawn.

Dudley Thompson
Dudley Thompson, Director
Enforcement and Investigations, IE

Enclosure:
RII memo, with encl.

- cc w/encl:
- | | |
|--------------|---------------------------|
| H. Thornburg | T. Brockett |
| N. Moseley | J. Metzger |
| T. Harpster | R. Carlson, RI, w/o encl. |
| J. Lieberman | J. Streeter, RIII |
| R. Wessman | J. Gagliardo, RIV |
| G. Barber | A. Johnson, RV |

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