



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

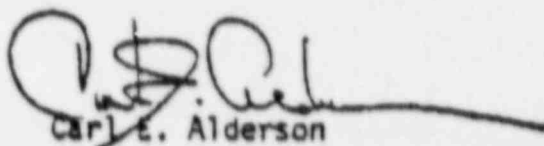
FROM: Carl E. Alderson, Director, Enforcement and Investigation Staff, Region II

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, RIY  
A. Johnson, RV

CONTACT: A. F. Gibson  
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**DRAFT**

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

Gentlemen:

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

This refers to our letter of March 2, 1981 which transmitted a Notice of Violation regarding failure to comply with packaging requirements of 49 CFR 173 which was categorized as a Severity III violation in accordance with the Interim Enforcement Policy (45 FR 66754). It also refers to your responses of March 27 and July 13, 1981 to that Notice.

After careful evaluation of your responses and additional information which you supplied from the U.S. Department of Transportation, we have concluded that a violation of 49 CFR 173 did not occur. Therefore, the citation is hereby withdrawn and our records will be corrected accordingly.

With regard to the circumstances which lead to the damage to the individual containers, we noted that your response described actions that you had taken to preclude recurrence and we have no further questions at this time.

We appreciate your cooperation with us.

Sincerely,

James P. O'Reilly  
Director

cc: J. K. Hays, Plant Manager

**DRAFT**

MAY 4 1981

Mr. Alan J. Gould  
Florida Public Power and Light  
P. O. Box 529100  
Miami, Florida 33152

Dear Mr. Gould:

This responds to your recent letter to Mr. James Shaler of this Bureau about an interpretation of the regulations for transportation of bulk low level radioactive waste under provisions of §173.392(d). Simply stated, any packaging of your choice may be used provided there is compliance with all requirements of §173.392(d).

It is important to keep in mind that the DOT regulations are intended to apply only to the minimum requirements for the transportation of the hazardous materials, and any additional requirements imposed by a consignee or carrier for acceptance of a shipment are not at issue in the regulations.

Sincerely,

*Thomas J. Charlton*

Thomas J. Charlton  
Chief, Standards Division  
Office of Hazardous Materials  
Regulation  
Materials Transportation Bureau

1 111 28  
ATTEN:  
CHUCK HUSEY  
REGIONAL DIRECTOR  
DEPUTY DIRECTOR -  
ASSISTANT TO DIRECTOR  
DIRECTOR, RRFI  
DIRECTOR, EPOS  
DIRECTOR, ENP/INV  
DIRECTOR, ETI  
PUBLIC AFFAIRS OFFICER