

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Nebraska Public Power District
Cooper Nuclear Power Station

Docket 50-298
EA 82-46

As a result of the special inspection conducted at the Cooper Nuclear Power Station, Nemaha County, Nebraska on March 11 and 22, 1982 and the investigation conducted on March 15-30, 1982, it appears that violations of NRC requirements have occurred. These violations relate to the timely installation and testing of the prompt public notification system required by 10 CFR 50.54(s)(2)(i) and Section IV.D.3 of Appendix E to 10 CFR Part 50. It appears that, contrary to information provided to the NRC by the Nebraska Public Power District (NPPD) in January, February, and March 1982, the prompt public notification system, which was required to be installed and tested by February 1, 1982, was not, and had not been as of March 12, 1982. This condition apparently arose as a result of inadequate involvement of licensee's management to assure compliance with the prompt notification system requirement and not from the action of the licensee's lead engineer who provided erroneous information to the licensee's staff.

Accordingly, in order to emphasize the need for direct licensee management involvement in the full spectrum of NRC-licensed activities and the need for complete and accurate communication with the Commission, civil penalties of \$96,000 are being proposed for each of three material false statements made related to NRC requirements for prompt public notification and civil penalties of \$12,000 are being proposed for the failure between March 1 and March 12, 1982 to install and initially test a prompt notification system.

In accordance with the NRC Enforcement Policy (10 CFR Part 2 Appendix C) 47 FR 9987 (March 9, 1982) and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282 PL 96-295 and 10 CFR 2.205, the violations and the associated civil penalties are set forth below.

- I. During a telephone conversation in January 1982 between C. A. Hackney, NRC Region IV and NPPD's Manager of Licensing and a licensing engineer, in a February 8, 1982 letter to NRC Region IV from the NPPD's Division Manager of Licensing and Quality Assurance, and during a March 9, 1982 oral briefing to NRC by various NPPD personnel, the licensee stated that the prompt public notification system for the Cooper Nuclear Station had been installed and was operational.

Contrary to the above, when the statements referred to were made, the NPPD prompt notification system was not installed and operational. Each of the statements made by licensee representatives in January 1982, on February 8, 1982 and on March 9, 1982 concerning the status of the prompt notification system constituted a material false statement within the meaning of Section 186 of the Atomic Energy Act of 1954, as amended. The statements were false in that as of March 9, 1982 the prompt notification system was neither installed nor operational. The false statements were material in that had the NRC known of the true situation action would have been taken by NRC to assure compliance.

Each material false statement is a Severity Level II violation and is assessed a proposed civil penalty of \$96,000. A cumulative civil penalty of \$288,000 is proposed for the three material false statements.

- II. The Commission's regulations, specifically, 10 CFR 50.54(s)(2)(i) and Section IV.D.3 of Appendix E to 10 CFR Part 50 require that each facility holding an operating license shall by February 1, 1982 demonstrate that administrative and physical means have been established for alerting and providing prompt instructions to the public within the plume exposure pathway emergency planning zone.

Contrary to the above, during an inspection conducted on March 11, 1982, the NRC determined that the licensee had not demonstrated that administrative and physical means had been established for alerting and providing prompt instructions to the public within the plume exposure pathway emergency planning zone. Specifically, five of the mobile sirens identified by the licensee in its Emergency Plan as part of its prompt notification system had not been removed from their shipping containers and a sixth mobile siren had a missing part. Further, during the investigation, statements from representatives of the local volunteer fire fighting organizations who were to use the mobile sirens indicate that they had not received indoctrination or training prior to March 12, 1982 with respect to their role in the operation of the prompt public notification system. As a result, the facility was operated with an inoperable public notification system from February 1, 1982 through March 12, 1982, inclusive, a period of 40 days.

For the first 12 days in March, 1982 each day of failure to meet the requirements for a prompt public notification system constitutes a separate Severity Level III violation. A daily civil penalty of \$1,000 is being proposed for each day for a cumulative civil penalty in the amount of \$12,000 for these violations.

Pursuant to the provisions of 10 CFR 2.201, Nebraska Public Power District is hereby required to submit to this office within 30 days of the date of this Notice a written statement or explanation, including for each alleged violation: (1) admission or denial of the alleged violation; (2) the reasons for the violation if admitted; (3) the corrective steps which have been taken and the results achieved; (4) the corrective steps which will be taken to avoid further violations; and (5) the date when full compliance will be achieved. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, Nebraska Public Power District may pay the civil penalties in the total amount of \$300,000 or may protest imposition of the civil penalties in whole or

in part by a written answer. Should Nebraska Public Power District fail to answer within the time specified, this office will issue an order imposing the civil penalties in the amounts proposed above. Should Nebraska Public Power District elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, such answer may: (1) deny the violations listed in this Notice in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalties should not be imposed. In addition to protesting the civil penalties in whole or in part, such answer may request remission or mitigation of the penalties. In requesting mitigation of the proposed penalties, the five factors contained in Section IV (B) of 10 CFR Part 2, Appendix C should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. Nebraska Public Power District's attention is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalties due, which have been subsequently determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalties, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282.

FOR THE NUCLEAR REGULATORY COMMISSION


Richard C. DeYoung, Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this 9th day of August 1982