

TABLE 1A.—BASE CIVIL PENALTIES—Continued

e. Research reactors, academic, medical, or other small material users ²	5,500
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¹ Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.

² This applies to nonprofit institutions not otherwise categorized in this table, mobile nuclear services, nuclear pharmacies, and physician offices.

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VII. Exercise of Discretion

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C. Exercise of Discretion for an Operating Facility or a Gaseous Diffusion Plant

On occasion, circumstances may arise where a licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or with other license conditions would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate with the specific plant conditions, or unnecessary delays in plant startup without a corresponding health and safety benefit. Similarly, for a gaseous diffusion plant (GDP), circumstances may arise where compliance with a Technical Safety Requirement (TSR) or technical specification or other certificate condition would unnecessarily call for a total plant shutdown or, notwithstanding that a safety, safeguards or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required.

In these circumstances, the NRC staff may choose not to enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion, designated as a Notice of Enforcement Discretion (NOED), will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting the public health and safety. A licensee or certificate holder seeking the issuance of a NOED must provide a written justification, or in circumstances where good cause is shown, oral justification followed as soon as possible by written justification, which documents the safety basis for the request and provides whatever other information the NRC staff deems necessary in making a decision on whether to issue a NOED.

The appropriate Regional Administrator, or his or her designee, may issue a NOED where the noncompliance is temporary and nonrecurring when an amendment is not practical. The Director, Office of Nuclear Reactor Regulation or Office of Nuclear Materials Safety and Safeguards, as appropriate, or his or her designee, may issue a NOED if the expected noncompliance will occur during the brief period of time it requires the NRC staff to process an emergency or exigent license amendment under the provisions of 10 CFR 50.91(a)(5) or (6) or a certificate amendment under 10 CFR 76.45. The

person exercising enforcement discretion will document the decision.

For an operating reactor, this exercise of enforcement discretion is intended to minimize the potential safety consequences of unnecessary plant transients with the accompanying operational risks and impacts or to eliminate testing, inspection, or system realignment which is inappropriate for the particular plant conditions. For plants in a shutdown condition, exercising enforcement discretion is intended to reduce shutdown risk by, again, avoiding testing, inspection or system realignment which is inappropriate for the particular plant conditions, in that, it does not provide a safety benefit or may, in fact, be detrimental to safety in the particular plant condition. Exercising enforcement discretion for plants attempting to startup is less likely than exercising it for an operating plant, as simply delaying startup does not usually leave the plant in a condition in which it could experience undesirable transients. In such cases, the Commission would expect that discretion would be exercised with respect to equipment or systems only when it has at least concluded that, notwithstanding the conditions of the license: (1) The equipment or system does not perform a safety function in the mode in which operation is to occur; (2) the safety function performed by the equipment or system is of only marginal safety benefit, provided remaining in the current mode increases the likelihood of an unnecessary plant transient; or (3) the TS or other license condition requires a test, inspection or system realignment that is inappropriate for the particular plant conditions, in that it does not provide a safety benefit, or may, in fact, be detrimental to safety in the particular plant condition.

For GDPs, the exercise of enforcement discretion would be used where compliance with a certificate condition would involve an unnecessary plant shutdown or, notwithstanding that a safety, safeguards or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required. Such regulatory flexibility is needed because a total plant shutdown is not necessarily the best response to a plant condition. GDPs are designed to operate continuously and have never been shut down. Although portions can be shut down for maintenance, the staff has been informed by the certificate holder that restart from a total plant shutdown may not be practical and the staff agrees that the design of a GDP does not make restart practical. Hence, the decision to place either GDP in plant-wide shutdown condition would be made only after determining that there is inadequate safety, safeguards, or security and considering the total impact of the shutdown on safety, the environment, safeguards, and security. A NOED would not be used for

noncompliances with other than certificate requirements, or for situations where the certificate holder cannot demonstrate adequate safety, safeguards, or security.

The decision to exercise enforcement discretion does not change the fact that a violation will occur nor does it imply that enforcement discretion is being exercised for any violation that may have led to the violation at issue. In each case where the NRC staff has chosen to issue a NOED, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance for which enforcement discretion was used. The enforcement action is intended to emphasize that licensees and certificate holders should not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license or certificate amendment.

Finally, it is expected that the NRC staff will exercise enforcement discretion in this area infrequently. Although a plant must shut down, refueling activities may be suspended, or plant startup may be delayed, absent the exercise of enforcement discretion, the NRC staff is under no obligation to take such a step merely because it has been requested. The decision to forego enforcement is discretionary. When enforcement discretion is to be exercised, it is to be exercised only if the NRC staff is clearly satisfied that such action is warranted from a health and safety perspective.

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Dated at Rockville, Maryland, this 18th day of December, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98-34118 Filed 12-23-98; 8:45 am]

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UNITED STATES NUCLEAR REGULATORY COMMISSION

[Docket No. 50-263]

Northern States Power Company; (Monticello Nuclear Generating Plant); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-22, issued to Northern States Power Company (NSP, or the licensee), for operation of the Monticello Nuclear Generating Plant, located in Wright County, Minnesota.

Environmental Assessment*Identification of the Proposed Action*

The proposed action would make a number of administrative clarifications and corrections, title changes, and typographical corrections to the Technical Specifications.

The proposed action is in accordance with the licensee's application for amendment dated August 15, 1996, as supplemented March 19 and October 12, 1998.

The Need for the Proposed Action

The proposed action would provide clarity and administrative correctness to the Technical Specifications.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the modifications to the Technical Specifications are administrative in nature.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Impact Statement for Monticello.

Agencies and Persons Consulted

In accordance with its stated policy, on November 12, 1998, the staff

consulted with the Minnesota State official, Mr. M. McCarthy of the Department of Public Service, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 15, 1996, as supplemented by letters dated March 19 and October 12, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 17th day of December, 1998.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Project Directorate III-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-397]

Washington Public Power Supply System; Nuclear Project No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-21, issued to the Washington Public Power Supply System (the licensee) for operation of the Nuclear Project No. 2 (WNP-2) located in Benton County, Washington.

Environmental Assessment*Identification of the Proposed Action*

The proposed action would change Facility Operating License No. NPF-21 to authorize the storage of byproduct, source, and special nuclear materials at the WNP-2 site which are specifically not intended for use at the site. The proposed action is in accordance with

the licensee's application for amendment dated October 10, 1996, as supplemented by letter dated November 9, 1998.

The Need for the Proposed Action

The proposed action is necessary because certain licensed materials previously acquired as part of the deferred WNP-1 and WNP-3 projects are being controlled at WNP-2, but are not required for use at the WNP-2 site. The WNP-1 materials are under the scope of Materials License 46-17694-02 and the WNP-3 materials are under the scope of Facility Operating License NPF-21. The licensee, however, has given notice that the WNP-1 and WNP-3 projects are being terminated and a formal request has been filed for termination of the WNP-3 Construction Permit.

The licensee has determined that there is currently no market for the materials and has determined that permanent disposal is economically impractical. Storage under the WNP-2 Operating License which currently provides for possession and use of these types of materials as required for WNP-2, is the remaining option. This option does not present WNP-2 with any significant burden because operation of WNP-2 involves a continuing use and storage of these types of licensed materials.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the proposed amendment. The amendment would permit certain byproduct, source and special nuclear material already present at the site to be stored at the site.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant