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December 29, 1999

Harold B. Ray
Executive Vice President

64FR 40394
July 26, 1999

(10)

Mr. David L. Meyer
Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration
Mail Stop: T-6 D59
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001

SUBJECT: Public Comment on the Pilot Program for the New Regulatory Oversight Program (64 Federal Register 60244 - November 4, 1999)

Dear Mr. Meyer:

This letter provides Southern California Edison's (SCE's) comments on the New Regulatory Oversight Program pursuant to the subject Federal Register Notice. SCE has actively participated in many of the public meetings and workshops which have been held in response to this important initiative. Our participation to date has included participation as an individual utility, as part of the ad hoc Shadow Plant Program and as a member of the Nuclear Energy Institute.

SCE has also actively participated in, and supports, the Nuclear Energy Institute's comments which are being submitted separately.

In addition, attached please find supplemental comments from SCE regarding areas of particular interest.

We believe that with the resolution of these remaining issues, the new reactor oversight process can be successful in achieving its goals to:

- Ensure that nuclear power plants continue to operate safely
- Improve Nuclear Regulatory Commission efficiency
- Reduce unnecessary regulatory burden
- Enhance public confidence

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Mr. David L. Meyer

- 2 -

December 29, 1999

We look forward to a productive dialogue with the Nuclear Regulatory Commission and other stakeholders as the current oversight process evolves into a more objective, risk informed and performance based inspection, assessment and enforcement process.

If you have additional questions regarding our comments, please feel free to contact me or Mr. A. E. Scherer at (949) 368-7501.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew B. Blay". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Attachment

cc: NRC Document Control Desk

ATTACHMENT

PI Metrics as Regulatory Requirements:

The Nuclear Regulatory Commission (NRC) is proposing significant revisions to its processes for overseeing the safety performance of commercial nuclear power plants that include integrating the inspection, assessment, and enforcement processes. The proposed changes would establish an oversight process which requires the measurement of performance using specific metrics. We believe that these performance indicators (PIs) will not only measure licensee performance, but they will – by their very nature – create a set of incentives and disincentives which will influence operational priorities and behavior. As such, the performance indicators will themselves impact the safety of plant operation.

Given this impact, SCE believes that the same rigorous process should be used to adopt, utilize and revise these metrics that would be used for a regulatory requirement. That is, care should be exercised that: (1) the metrics do not unintentionally motivate behavior which is contrary to safety (or inconsistent with regulatory requirements); (2) the NRC should be explicit concerning the bases for the metrics in existing regulations (or necessary changes to the regulations should be adopted); (3) the opportunity for public comment should be afforded for any changes to the metrics to be used; and, (4) adequate definitions should be provided to ensure that metrics are consistently used by all licensees.

Reporting Due Date:

The current reporting guidance states that "The data is submitted electronically to the NRC by the 14th calendar day of the month following the end of the reporting quarter." No reason related to the public health and safety has been provided as the basis for this criterion. While timeliness is a valid consideration in establishing a time limit, it appears prudent to also consider the impact of too short a time limit with regard to the constraints of the data acquisition process. This includes both aspects of licensee input and NRC Inspection Report input.

We recognize that the Pilot Plants were able to successfully submit the data in 14 days during the program period. Nevertheless, the final reporting time limit should be based on balancing the desire for timely reporting with the ability for all plants to support the process, on a long term basis, and without causing unnecessary revisions to the data.

The reporting time should be based on having adequate time to acquire, review, and approve the transmittal of this important information. We understand that several indicator errors were documented by the NRC and reported in a November 14, 1999 Public Meeting. Comments from several stakeholders at that meeting also appeared to reflect a public desire for accurate reporting over a quicker report of potentially suspect data.

Even though plants are able to submit data in 14 days, several Pilot Plants recognized the need for additional assurance in the data before submittal and recommend that greater emphasis should be given to PI collection and verification. Similarly, SCE's experience (while participating in the Shadow Plant Program) is that we were able to meet the 14 day criteria by submitting data that we regarded as a "best available" data, knowing that subsequently discovered minor errors could be corrected during the following report period. This best effort approach to data collection and reporting may have been acceptable for a pilot program but we believe would be inappropriate for actual program implementation. In addition, some data (such as official dosimetry reports at some plants, and the SR89-90 quarterly composite samples) requires more than 14 days to process. This would result in "unofficial" data being reported in the indicator with changes made in the following quarter. We are concerned that changing data in such a manner would likely undercut public confidence in the program.

SCE considers the PI information too important to hasten data collection to meet an unnecessarily aggressive 14 day reporting requirement. Rather, consistent with other NRC practices, SCE suggests that a longer period would be more prudent and would reduce any "time pressure induced" human errors in reporting the PI data.

If, in fact, the 14 day criterion is associated with matching the PI data input to the latest monthly inspection period, and promptly posting both on the NRC's web page, then that too would argue for an extension of the time period. Based on a cursory review of NRC's inspection report data at several plants, the time to receive an NRC Inspection Report -- after the close of an inspection period -- ranged up to 63 days. It would, therefore, seem reasonable that all data (NRC inspection findings and licensee PI data) should, for data consistency, be based on the same time criterion.

Finally, past experience from the Licensee Event Report (LER) process (10 CFR 50.73) would support the observation that unnecessarily short time periods are counterproductive to collect, review, and transmit important information. This conclusion is supported by the NRC's current efforts to extend the LER reporting period to 60 days.

As a result, SCE recommends changing the reporting requirement to a minimum of thirty (30) days. Such a time period should also be consistent with the time required by the NRC to characterize and issue all inspection reports for the quarter.

Security Equipment Performance Indicator:

Currently there is no regulatory restriction to a compensatory posting when a portion of the plant's Intrusion Detection System (IDS) equipment is out of service. (In fact, it is arguable that compensatory postings are actually superior to the IDS system.) Nevertheless, the Security equipment performance indicator is calculated by an algorithm and threshold which necessitates an annual average 99.75% equipment availability to maintain a GREEN categorization (for a ≥ 20 zone IDS). To ensure a 99.75% equipment availability (out of service less than 24 hours per year), will require at least some licensees to provide special round-the-clock availability of maintenance personnel.

In the past, licensees have been able to prioritize maintenance on security IDS equipment commensurate with the safety significance the IDS work and when compared to other required maintenance activities. SCE believes it is inappropriate to have an algorithm which creates the unintended consequence of artificially elevating the priority of non-safety related equipment maintenance of the IDS system above that, for example, of a channel of the Reactor Protective System.

Imposition of such unreasonably stringent requirements here, without any commensurate improvement in overall plant safety, appear to be ill advised and may in fact prove counterproductive by artificially diverting future plant maintenance priority to the IDS systems.

SCE supports the NEI recommendations to: (1) modify the algorithm to drop the "normalization factor" and (2) to delete the "YELLOW" category, since compensatory postings do not, in and of themselves, violate any rule or regulation of the Commission.

Security Findings:

The NRC proposed Significance Determination Process (SDP) for security findings is confusing in several ways. For example, the SDP flowchart immediately (first box) refers to "low risk" and "some risk" - with the only definition provided being "low risk" is "...no risk or low risk..." Risk determination should be the outcome of the process not an input assumption. In the staff process, it could be concluded that "Low Risk" means "no risk", while "Some Risk" means "any risk". This issue has been discussed by NEI at several NRC public meetings, yet it apparently remained unresolved as of November 30, 1999.

It appears that the Security SDP was based on prior enforcement compliance concepts, not forward looking risk informed concepts. This will result in public confusion about safety significance if the SDP were to be utilized in its current form. SCE believes

consistency is important for maintaining public understanding and confidence in the regulatory process and that all grades (GREEN, WHITE, etc.) should represent similar relative risk to public health and safety.

An alternative Security SDP provided by NEI (at a recent public NRC meeting) is clearer, more precise, and will result in less subjective interpretation. This approach is depicted in a new logic diagram that includes linkage to the Reactor Barrier SDP.

These changes align this cornerstone with common risk thresholds. It makes the outcome of security related findings more objective and predictable.

Enforcement Discretion:

It is understood that the NRC Office of Enforcement intends to provide a suitable "amnesty" period for exercising enforcement discretion during the initial implementation of this program. The industry, through NEI, will be working closely with the NRC on determining the appropriate period. In making that determination we believe it is prudent to allow for a sufficient period, one which should include opportunities for all inspection modules to be conducted at least once at each facility.

In addition, in granting enforcement discretion, we recommend that the NRC simply note the discrepancy in the inspection report along with the licensee's corrective action, and refrain from issuing a formal notice.

Frequently Asked Questions:

SCE concludes the NRC/NEI's Frequently Asked Questions (FAQs) are both important and valuable from an implementation perspective. The FAQs provide a mechanism to advise licensees of NRC clarifications and enhancements to the PI definitions and program implementation. It appears prudent to institutionalize the continued use of FAQs. In particular, enforcement should not be used as a regulatory tool for resolving differing PI interpretations between the NRC and licensees. Resolution through the FAQ process, for at least an interim period after implementation, would provide consistency and help ensure open communications.

SCE, therefore, recommends formalizing the continued use of the FAQ process for this purpose for at least the next three (3) years.