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April 18, 2001

Mr. David Meyer  
Chief, Rules and Directives Branch  
Office of Administration  
Mail Stop T6D59  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555-0001

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Subject: **Comments on the Proposed Revision to the NRC  
Enforcement Policy Regarding Individual Enforcement  
Actions [65FR14224]**  
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Dear Mr. Meyer:

This letter provides Southern California Edison's (SCE's) comments on the proposed changes to the NRC Enforcement Policy relating to enforcement action against individuals presented in the subject Federal Register Notice. SCE supports the intent of the NRC's proposed revisions, and appreciates the opportunity to provide stakeholder comments. Our comments are provided in the Attachment to this letter.

If you have any questions or require any additional information, please feel free to contact us.

Sincerely,



Attachment

Template = ADM-013

E-RIDS = ADM-03  
Add = N. HILTON (NDH)  
A. BERANEK (AFB)

ATTACHMENT  
SOUTHERN CALIFORNIA EDISON (SCE) COMMENTS  
NRC ENFORCEMENT POLICY  
ENFORCEMENT ACTIONS AGAINST INDIVIDUALS

**Comment 1**

Section IV.A.4 includes the statement "... However, if a licensee refuses to correct a minor violation within a reasonable time such that it willfully continues, the violation should be considered at least more than minor..."

The regulatory enforcement process provides a formal means for the occurrence of a violation to be identified, information collected and a conclusion reached. Where there is a dispute of law or fact, it might be inappropriate for a licensee to take disciplinary or other action against an individual. The reasonable period of time for the licensee to take action should not start until after adjudication and a decision is reached. Otherwise a licensee would be compelled to take disciplinary or other negative job actions for a situation not confirmed to be a violation.

SCE recommends the following change to the proposed wording:

However, if a licensee refuses to correct a minor violation within a reasonable time after adjudication and a decision is reached, such that it willfully continues, the violation should be considered at least more than minor

**Comment 2**

Section VII.A.3, includes the statement "...The individual engaged in **repetitive deliberate misconduct**, that is, the individual has previously been put on notice regarding such acts, either by the NRC through an individual Notice of Violation or order, or through the individual's employer, typically evidenced by disciplinary action related to prior wrongdoing by the individual."

SCE supports issuance of an Order for cases involving repetitive deliberate misconduct. However, it is not clear over what time period it is appropriate to consider events "repetitive". Other portions of the enforcement policy limit consideration of repetition to 2 years.

Accordingly, SCE recommends the following change to the proposed wording:

“The individual engaged in repetitive **(within a period of 2 years)** deliberate misconduct. That is, the individual has previously been put on notice regarding such acts, either by the NRC through an individual Notice of Violation or order, or through the individual’s employer, typically evidenced by disciplinary action related to prior wrongdoing by the individual.”

### **Comment 3**

Section VII.A.3, includes the statement “...The individual engaged in deliberate misconduct and succeeded in persuading, or attempted to persuade others to participate in wrongdoing.”

SCE supports issuance of an Order for cases involving deliberate misconduct where the wrongdoer succeeded in persuading others to participate. It is not clear, however, what criteria would be used to ascertain whether the wrongdoer “attempted to persuade” others to participate in wrongdoing.

We encourage NRC re-consideration of the difficulties and legal ramifications of implying an individual’s malevolent intent from verbal communications in the absence of action.