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PROPOSED RULE
(54 FR 50610)

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USNRC

Southern California Edison Company

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HAROLD B. RAY
VICE PRESIDENT

February 5, 1990

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Mr. Samuel J. Chilk, Secretary
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch

Subject: **10 CFR Part 2, Appendix C Policy and Procedures for
Enforcement Actions; Policy Statement
(54 Fed. Reg. 50610 - December 8, 1989)**

Dear Mr. Chilk:

This letter provides comments from Southern California Edison (SCE) in response to your request concerning the subject matter. In addition, SCE is a participant in the NUMARC Ad Hoc Advisory Committee on Maintenance and has participated in the development of comments by NUMARC which are being submitted in parallel. Our comments are in addition to those submitted by NUMARC.

- 1. In the supplemental information to the Policy Statement, it is stated that:

"In the Revised Policy Statement ... the Commission stated its intention to emphasize maintenance in enforcing existing requirements for power reactors."

"Use of the Commission's enforcement program in this manner to emphasize the importance of meeting existing requirements related to maintenance is warranted because of ... the decision to hold in abeyance the rulemaking on maintenance."

(Emphasis added.)

In our view, there is no adequate definition of "existing requirements" which could serve as a basis for application of the special factor for violations which are thought to be related to maintenance. Indeed, this fact seems to be central to much of the recent discussion between the NRC and industry concerning maintenance. SCE believes that the development of requirements concerning maintenance should proceed in advance of specially escalated enforcement for their violation.

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2. The language of the change to 10 CFR 2 itself includes:

"For the purpose of application of this factor, a cause of the violation shall be considered maintenance-related if the violation could have been prevented by implementing a maintenance program consistent with the scope and activities defined by the Revised Policy Statement ... In assessing this factor, consideration will be given to, among other things, whether a failure to perform maintenance or improperly performed maintenance was a programmatic failure." (Emphasis added.)

Again, we do not believe "existing requirements" adequately define what is necessary in a maintenance program in order for a licensee to reasonably be able to avoid application of the special factor. Therefore, we conclude that the language adopted is too vague for its purpose and must necessarily result in arbitrary interpretation after the fact.

In summary, we believe that licensees should be able to understand requirements in sufficient detail to take the action required to avoid sanctions such as those implemented by the subject Policy Statement with reasonable confidence. In this instance, we do not believe that is possible under the circumstances.

Thank you for your consideration, and if you have any questions, or if you would like additional information, please let me know.

Sincerely,

R. M. Rosenblum

cc: John B. Martin, Regional Administrator, Region V
C. W. Caldwell, NRC Senior Resident Inspector, San Onofre
Thomas E. Tipton, NUMARC