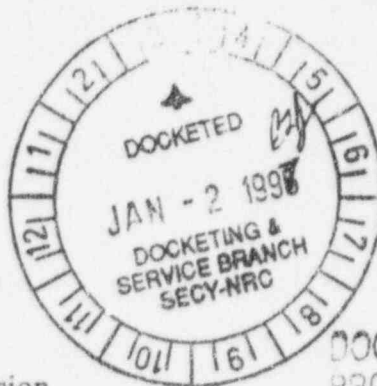


December 18, 1996



ComEd

The Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
Attn: Docketing and Service Branch

DOCKET NUMBER
PROPOSED RULE **PR** 30, 32 et. al.
(61 FR 51835)

**SUBJECT: Commonwealth Edison (ComEd) Comments on Proposed Rule
Revisions to Deliberate Misconduct by Unlicensed Persons
(FR 51835, Vol. 61, No. 194)**

The purpose of this memo is to provide comments to the NRC Staff on the proposed revision to its Deliberate Misconduct Rule. The comment period for this revision of the rule expires December 18, 1996. Our comments are provided below:

As noted in Federal Register Notice 51835, Vol. 61, No. 194, the NRC is amending its regulations to extend the Deliberate Misconduct Rule to six categories of persons: 1) applicants for NRC licenses; 2) applicants for, or holders of, certifications of compliance; 3) applications for, or holders of, early site permits, standard design certification, or combined licenses for nuclear power plants; 4) applications for, or holders of, certifications of registration; 5) applicants for, or holders of, quality assurance program approvals; 6) and the employees, contractors, subcontractors and consultants of the first five categories of persons, so that they may be subject to enforcement action for deliberate misconduct.

ComEd has comments with regards to two specific areas, preliminary or draft information that is provided to the staff and how potentially erroneous information in a staff SER may be handled under this proposed rule.

We have concerns regarding the proposed revision to the rule as it does not address preliminary or "for information only" information that may be sent to the NRC staff. Situations arise where licensees provide such information to the staff to support teleconferences or meetings. Preliminary information sometimes changes over time, and it is ComEd's belief that such situations should not be misconstrued and conclusions reached that there was "deliberate misconduct" in such cases. To clarify this matter, ComEd believes that this type of situation should be addressed in the final rule. In addition, we recommend that a more clear, concise definition of deliberate misconduct be included in the proposed rule or policy.

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(61 FR 51835)

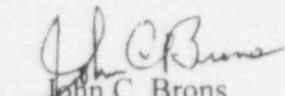
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The second matter pertains to how potentially erroneous information in a staff Safety Evaluation Report (SER) may be handled under this proposed rule. In the development of a staff SER, there is a potential for the staff to reach conclusions that may not be consistent with the information provided in a licensee's submittal. In the broadest sense, the staff may conclude that those types of situations could constitute "willful misconduct" on the part of the licensee.

Commonwealth Edison has high expectations of its employees, and how they interact with the NRC. Therefore, we would expect our employees to behave in a manner that "willful misconduct" is not an issue, and should it occur, we as an organization will not tolerate it. This, however, does not obviate the need for NRC staff to promulgate rules or policies in this area that are crisp and clear.

Please feel free to contact this office if you have any questions pertaining to this review.

Sincerely,



John C. Brons
Vice President
Nuclear Support

bcc: Attachment - FR Notice