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July 2, 1997

U.S. Nuclear Regulatory Commission
Attn: Mr. David L. Meyer, Chief
Rules and Directives Branch
Washington, DC 20555-0001

Gentlemen:

Subject: **Southern California Edison (Edison) Comments on Draft NUREG-1606, Proposed Regulatory Guidance Related to Implementation of 10 CFR 50.59 - Changes, Tests or Experiments, (62FR24887 - May 7, 1997)**

In the subject Federal Register Notice, NRC requested comments on draft NUREG-1606, "Proposed Regulatory Guidance Related to Implementation of 10 CFR 50.59." This letter provides Edison's comments on draft NUREG-1606.

Edison believes that NSAC-125 has generally resulted in satisfactory 10 CFR 50.59 safety evaluations when correctly implemented, but that problems in implementation have occasionally arisen which indicate that further guidance on implementation would be beneficial to the industry. The NRC also concluded in SECY 97-035 that the NSAC-125 process was sound, but that additional clarification related to implementation was warranted. Industry has been working for some time on this issue by developing NEI 96-07, "Guidelines for 10 CFR 50.59 Evaluations." However, NUREG-1606 proposes substantial changes to the fundamental basis for 10 CFR 50.59 evaluations which alters the long-term established processes for performing evaluations. We believe this goes well beyond the need to enhance implementation guidance, and will not produce an overall improvement in the 10 CFR 50.59 process.

In general, we believe NUREG-1606 would lower the threshold for and broaden the scope of Unreviewed Safety Questions (USQs) in such a way as to substantially increase the regulatory burden on licensees and the NRC without a commensurate increase in safety, and divert licensee resources from greater safety significant issues to lesser safety significant issues. We are also concerned that the guidance as written, may result in some unintended consequences for both the NRC and licensees in that it may discourage licensees from pursuing beneficial plant enhancements due to additional review time and licensee resources that would be required for the additional license amendment submittals.

Edison has been actively participating in the NEI 10 CFR 50.59 task force. The comments developed by the task force address our concerns and we fully endorse NEI's comments on draft

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NUREG-1606. Our participation in the task force has led us to conclude that it would be most effective for the NRC to work with industry on this issue by building on the guidance in NEI 96-07. The task force is incorporating its recommendations into a "revised" NEI 96-07 which is nearing completion. We strongly believe that the revised NEI 96-07 best addresses the issue and recommend NRC endorsement of the "revised" NEI 96-07 rather than issuance of NUREG-1606.

We have also enclosed some additional specific comments.

Please let me know if you have any questions, or would like additional information or further discussion.

Sincerely,

Enclosure

cc: E. W. Merschoff, Regional Administrator, NRC Region IV
K. E. Perkins, Jr., Director, Walnut Creek Field Office, NRC Region IV
J. A. Sloan, NRC Senior Resident Inspector, San Onofre Units 2 & 3
M. B. Fields, NRC Project Manager, San Onofre Units 2 and 3
Nuclear Regulatory Commission, Document Control Desk

Enclosure

Edison Comments on Draft NUREG-1606

1) A strict interpretation of NUREG-1606, as currently written, would result in approximately 400-500 new USQs per year at San Onofre which would require NRC review and approval. Although, the bulk of these new USQs would be due to San Onofre's Barrier Program, which is not typical of most plants, this would clearly create a tremendous and potentially unworkable burden on both Edison and the NRC in generating the safety evaluations and obtaining review and approval of the USQs.

2) Section III.0.4, paragraph 1, requires a 50.59 evaluation whenever compensatory actions are taken to maintain SSC operability until such time as final repairs can occur to restore SSC to conformance with the original design. We believe the term "compensatory actions" needs to be specifically defined. Compensatory actions which involve an interim physical modification should require a 50.59 evaluation. Other compensatory actions which do not affect the plant design should not require a 50.59. Examples of these would be: increased operator rounds; accelerated surveillance; installation of a drip bag; and posting a fire watch.

   Section III.V.4 proposes a definition of a compensatory action as, "redefines the plant will be operated from that previously described in the plant safety analysis." We would support defining compensatory action in this way.

3) Section III.O.4 paragraph 3 includes all "degraded conditions." It would require a 50.59 evaluation whenever any ITS systems/component corrective maintenance is not performed at the "first available opportunity." It would be also considered a violation if a USQ is declared in the 50.59 evaluation. This creates significant maintenance and nonconformance program management challenges without a significant increase in safety. We recommend the NEI 96-07 guidance which states "if the licensee intends to restore the SSC back to its previous condition (as described in the SAR), then this corrective action should be performed in accordance with 10CFR50, Appendix B, and a 50.59 evaluation is not required" be used.

4) NUREG-1606 states that any increase in probability, including indeterminable increases in probability, would result in a USQ. NUREG-1606 also requires that all "degraded conditions" not resolved at the "first available opportunity" require a 50.59. Theses two requirements could result in declaring USQs for very minor maintenance issues such as valve packing leakage, that were not resolved at the "first available opportunity."

   A definition of increase in probability as discussed in Section IV.B.3, i.e. "is increased" or "is more than negligibly increase," is needed to avoid generating unnecessary USQs which would provide no increase in safety and divert licensee resources. The NEI comments also address this point and would be acceptable for clarifying "increase in probability."

5) Previous NRC inspections at San Onofre have demonstrated that individual interpretations of "increase in probability" can vary substantially. These differences arose when one party took a deterministic licensing basis approach using engineering judgement while the other took a qualitative PRA approach. Both approaches were considered to be within the existing guidance of NRC Inspection Manual Chapter 9900. However, the approaches resulted in opposite conclusions on the 50.59 evaluation. This again demonstrates that clarification of "increase in probability" is needed such as the definition discussed in Section IV.B.3 or in the NEI comments.

6) If the guidance in NUREG-1606 is implemented, it should not be implemented retroactively. We recommend the implementation date be at least 180 days or more after the issuance date to ensure successful implementation of the revised guidance since it will require licensees to change their processes and training programs. We would also recommend that the NRC assist implementation by holding workshops on this subject for industry.

7) We recommend that Enforcement Guidance Memorandum (EGM) 96-005 be withdrawn, and enforcement guidance for 50.59 issues be re-issued once NUREG-1606 or other appropriate guidance is finalized for the reasons discussed below.

The NRC, Office of Enforcement, issues Enforcement Guidance Memorandums (EGMs) discussing implementation of the NRC enforcement policy (NUREG-1600). EGM 96-005, "Enforcement Issues Associated with FSARs, Section 8.1.3 Enforcement of FSAR Commitments," discusses enforcement issues related to 50.59 violations.

EGM 96-005 includes examples of Severity Level III violations, with attendant Civil Penalty, for the failure to perform the required 50.59 safety evaluation prior to implementation of a change in those situations in which an extensive evaluation would be needed before a licensee would have reasonable expectation that a USQ did not exist. The fact that a post-implementation 50.59 evaluation demonstrated that a USQ did not exist would not mitigate the regulatory significance of the failure to perform the required evaluation prior to implementing a change. The criteria used in the EGM on whether to issue a Severity Level III violation appears to be whether an extensive evaluation was needed to document the USQ did not exist.

Because NUREG-1606 significantly lowers the threshold for USQs, broadens the scope of 50.59 evaluations, and raises significant questions of definition and interpretation, as discussed in these comments and NEI's comments, the potential for failing to perform 50.59s or correctly determining if an USQ exists may be increased. However, the consequences of failing to perform a 50.59 or correctly identifying a USQ for even a minor issue [i.e., changing a globe valve to a gate valve, etc.], under EGM 96-005, are potentially extraordinarily severe. Therefore, we believe this EGM guidance should be withdrawn until a final NUREG-1606 or other guidance is issued which clarifies the guidance contained in draft NUREG-1606.