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Mitigation Strategies for Beyond Design Basis Events

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General Comment

See attached file(s)

Attachments

50155comment

The proposed 10 CFR 50.155(f) "Change Control," allows licensees to make changes to their plan as long as they perform an evaluation that demonstrates that 10 CFR 50.155 and 10 CFR part 50 Appendix E, Section VII continue to be met.

As part of the rulemaking package the NRC staff specifically requested stakeholder input on this topic. I applaud that openness.

This policy would have the potential to allow the elimination of many of the basic tenants of the FLEX strategy that has been extensively vetted by both NRC staff and licensees throughout the mitigating strategies order audit process. As was proposed by the nuclear industry in NEI 12-06 revision 0, the FLEX strategy relies on multiple and diverse methods to compensate for the uncertainty of a beyond-design basis event. Allowing licensees the latitude to interpret the rule without NRC prior approval could weaken many of the defense-in-depth provisions that make FLEX such an advance in safety for US nuclear power plants. Simply put, licensees could exploit the vagaries of the rule language to eliminate many of the diverse and flexible provisions contained in NEI 12-06 (e.g. alternate connections, backup equipment, out-of-service controls, etc.) from the strategy. Further, giving licensees the ability to determine how to meet the regulation, outside of an endorsed method, could lead to much future uncertainty, conflict, and unnecessary expense in the inspection process. In past testimony to the Commission, the NRC's senior staff indicated that the safety evaluations being prepared by the NRC staff for the mitigating strategies order would capture what the staff found acceptable and would facilitate inspection forever. Allowing licensees to make unilateral changes to their plans with no criteria other than their interpretation of rule compliance has the potential to invalidate these safety evaluations and thus make inspection very difficult.

Once the regulation goes into effect, licensees are obligated to follow it unless they have a duly authorized exemption. Thus, if a licensee were to contemplate a change to their plan that would not require NRC prior approval, meeting the regulation(s) would a necessary step even without rule language stipulating conformance with 10 CFR 50.155/10 CFR 50 appendix E. I recommend that when evaluating and documenting changes to the 10 CFR 50.155 strategy outside of the provisions of an applicable, previously NRC-endorsed mechanism, licensees also demonstrate that the proposed change does not reduce the overall effectiveness of the plan. Such changes that could reduce the effectiveness of the strategy should continue to require prior NRC approval. This caveat, if adopted, should also provide clear direction to licensees that the requested approval from NRR is a letter approval, not a license amendment.