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**Docket:** NRC-2012-0068  
Order Modifying Licenses

**Comment On:** NRC-2012-0068-0015  
Mitigation Strategies for Beyond-Design-Basis External Events

**Document:** NRC-2012-0068-DRAFT-0013  
Comment on FR Doc # 2015-28593

*11/10/2015*  
*80 FR 69702*

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## Submitter Information

*1*

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## General Comment

See attached file(s)

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## Attachments

NEI1206R1A

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RULES AND DIRECTIVES  
ENFORCEMENT  
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SUNSI Review Complete

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Add= *S. Phil Patt (exp 7)*

Section 5, "Configuration Control", of Draft Revision 1 Revision to JLD-ISG-2012-01 states the following:

Staff Position: Section 11.8 of NEI 12-06, Revision 1A provides an acceptable method for maintaining the guidance and strategies required under Order EA-12-049.

One of the new caveats in section 11.8.3 of NEI 12-06, Revision 1A that has been added in this revision (paragraph 11.8.3.a.iii) is that a licensee can make a determination, without prior NRC review, that a change to their strategy, not in conformance with NEI 12-06 or a previously approved alternative, is acceptable as long as (in the licensee's judgement) it meets the provisions of the new MDBEE rule, 10 CFR 50.155. This seems to conflict with the provisions of the PURPOSE section, last sentence, as well as the IMPLEMENTATION section in the body of the ISG. Both of these state or imply that the NRC would evaluate alternatives to the NEI 12-06.

This change in oversight policy has 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 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) from the strategy. Further, giving licensees the ability to determine how to meet the regulation, outside of the endorsed method, could lead to much future uncertainty, conflict, and unnecessary expense in the inspection process.

Once the regulation goes into effect, licensees are obligated to follow it unless they have a duly authorized exemption. Therefore adding a provision to evaluate 10 CFR 50.155 conformance in NEI 12-06 is meaningless. I recommend that when evaluating changes to the FLEX strategy under NEI 12-06 Revision 1A, paragraph 11.8.3.a.iii, licensees also demonstrate that the proposed change does not reduce the overall effectiveness of the strategy. 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.