



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 17, 2015

Mr. Joseph E. Pollock, Vice President
Nuclear Operations
Nuclear Energy Institute
1201 F Street NW, Suite 1100
Washington, DC 20004

Dear Mr. Pollock:

The U.S. Nuclear Regulatory Commission (NRC) staff has considered a request to endorse proposed guidance dated August 19, 2014, from the Nuclear Energy Institute (NEI) entitled "Change Process with respect to BDB [beyond-design-basis] applications" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14245A443). The NEI guidance addresses several key aspects of evaluating and documenting changes to nuclear power plants, procedures, and processes when licensees are implementing improvements to address mitigating beyond-design-basis external events (BDBEEs). The major topics addressed within the guidance include: (1) the relationship between activities associated with Order EA-12-049, "Mitigation Strategies of Beyond-Design-Basis External Events," and established licensing basis documents such as updated final safety analysis reports (UFSARs), security plans, and emergency plans; and (2) the expected need during some beyond-design-basis external events for plant operators to take actions that depart from plant license conditions, technical specifications, or other regulatory requirements.

The NEI guidance on a change process for BDB applications correctly describes the relationship between controls for changes to the plant and procedures when those changes affect only structures, systems, and components (SSCs) or human actions associated with either existing design-basis events or Order EA-12-049 for BDBEEs. The NRC staff issued interim staff guidance JLD-ISG-2012-01 endorsing, with clarifications, NEI-12-06, "Diverse and Flexible Coping Strategies (FLEX) Implementation Guide," which provides the current guidance for evaluating and documenting changes that only impact plant features or procedures associated with Order EA-12-049. Provided that such changes do not also involve changes to the plant or procedures as described in the UFSAR, the associated guidance in NRC endorsed documents such as NEI 96-07, "Guidelines for 10 CFR 50.59 [Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.59] Implementation," and NEI 97-04, "Design Basis Program Guidelines," would support "screening out" those changes and not needing to evaluate them in accordance with the regulatory processes associated with the UFSAR (i.e., 10 CFR 50.59 and 50.71). The same is true for other key licensing basis documents such as the security plan and emergency plan, and their related change control and reporting requirements, provided the changes being evaluated impact only mitigating strategies for BDBEEs and do not affect the content of the other licensing basis documents.

It is reasonable for the guidance supporting implementation of the requirements of Order EA-12-049 to initially focus on the overall integrated plans related to mitigating strategies for BDBEEs and delineate between change control and reporting requirements for different licensing basis documents. However, there will be some changes associated with mitigating strategies for BDBEEs that will likely affect the description of SSCs and procedures within the UFSAR or other licensing basis documents. The integration of mitigating strategies into the design and operation of nuclear power plants will require coordinating and integrating licensing basis documentation similar to previous additions of major program documents (e.g., quality assurance, fire protection). While it is appropriate to define specific change control and reporting requirements for distinct programs, experience has shown that some plant or procedure changes affect multiple programs and therefore require evaluations and reporting in the context of multiple licensee controlled documents. Licensees should be cautious about trying to isolate information within a single licensing basis document in an effort to limit change control evaluations and reporting requirements. It is important to balance efforts related to efficiency with the need to maintain the accuracy and usefulness of the UFSAR and other program documents. The development of the Mitigation of Beyond-Design-Basis Events (MBDBE) rulemaking and related regulatory guidance provides an opportunity to better define the integration of the various licensing basis documents to address lessons learned from the Fukushima Dai-ichi accident.

A related topic addressed within the NEI guidance document dated August 19, 2014, involves the possible need to invoke provisions of NRC regulations that allow operators to depart from plant license conditions, technical specifications, or other regulatory requirements, if such action is needed, to protect the public health and safety. The possible need to invoke regulations such as 10 CFR 50.54(x), 10 CFR 72.32(d), and 10 CFR 73.55(p) arises because specific actions to mitigate BDBEEs will be determined based on actual plant conditions should such an event occur. The unpredictable nature of BDBEEs and the flexible strategies developed to deal with them make it impractical to address the plant configurations and actions within conventional technical specifications or license conditions. In the absence of addressing such BDBEEs within the traditional licensing basis documents, the related procedures may prompt authorized licensee personnel to consider invoking the provisions of § 50.54(x) and the implementing guidelines may include actions that would require departing from license conditions, technical specifications, or other regulatory requirements (i.e., guidelines addressing emergency conditions can call for “pre-planned” actions that depart from configurations or procedures prescribed by license conditions, technical specifications or other regulatory requirements). However, the requirements of § 50.54(x) and (y) need to be followed in that departure from license conditions or technical specifications during such emergency conditions must be specifically approved by the authorized licensee personnel during the actual event. Procedures and guidelines may identify possible decision points related to these regulatory provisions, but do not relieve licensee personnel from the responsibility to assess conditions and decide whether or not they need to depart from requirements defined in license conditions, technical specifications, or other regulatory requirements to protect public health and safety.

The NRC staff is currently developing the MBDBE rulemaking that is expected to include requirements related to the control and reporting of changes related to Order EA-12-049 and other activities being addressed within the proposed regulation. This rulemaking activity and the preparation of related guidance documents provides an opportunity to consider lessons learned from implementing the order and address the integration of mitigating strategies for BDBEEs within the suite of licensing basis documents.

The NRC finds the industry guidance acceptable for use for evaluating changes associated with BDBEEs being made in accordance with the NRC post-Fukushima Orders.

If you have any questions, please contact Bill Reckley at 301-415-7490 or william.reckley@nrc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "William M. Dean".

William M. Dean, Director
Office of Nuclear Reactor Regulation

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Sincerely,

/RA by Jennifer Uhle for/

William M. Dean, Director
Office of Nuclear Reactor Regulation

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