

FAQ Inquiry:

To what extent, if any, does 10CFR26, Subpart I, apply to a facility that has submitted a letter to the NRC under 10CFR50.82(a)(1)(i) and 10CFR50.82(a)(1)(ii) certifying permanent cessation of power operations and that fuel has been permanently removed from the reactor?

Regulatory Context

10CFR26.3, Scope

(a) Licensees who are authorized to operate a nuclear power reactor under 10CFR50.57, and holders of a combined license under 10CFR52 after the Commission has made the finding under 10CFR52.103(g) shall comply with the requirements of this part, except for subpart K of this part.....

10CFR26.201, Subpart I, Applicability

The requirements in this subpart apply to the licensees and other entities identified in 10CFR26.3(a), and, if applicable, (c) and (d).....

Regulatory Guide 5.73, Fatigue Management for Nuclear Power Plant Personnel

C. Regulatory Position

The NRC staff considers conformance with the guidance in Revision 1 of NEI 06-11 to be an acceptable approach to meeting the requirements of 10CFR26 related to managing fatigue at nuclear power plants, subject to the following clarifications, additions, and exceptions:.....

NEI 06-11, Managing Personnel Fatigue at Nuclear Power Reactor Sites:

Section 2.2 Applicability

This guide applies to licensees who are authorized to operate a nuclear power reactor (under 10CFR50.57). Applicability to licensees who are transitioning from new plant construction to operations will be addressed in a future revision.

This guide does not apply to decommissioned plants, not authorized to operate.

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NRC Response:

The regulations in 10 CFR Part 26 specify, in part, that licensees who are authorized to operate a nuclear power reactor under § 50.57 must comply with the requirements of Subpart I in Part 26. Under 10 CFR 50.82, after the NRC docket a licensee's certifications of permanent cessation of operations and that fuel has been permanently removed from the reactor, the licensee is no longer authorized to operate the reactor under their Part 50 license. Consequently, that licensee need not comply with the provisions of 10 CFR Part 26, Subpart I. Consistent with previous licensee

10 CFR 50.82 certifications, orders may be issued requiring the licensees to retain some elements of their FFD programs. Examples of previous orders can be found here:

<http://www.nrc.gov/reading-rm/doc-collections/enforcement/security/#2>

When the previous orders were issued, Part 26, Subpart I had not been promulgated, so the fatigue provisions were not considered in the development of the orders. If the NRC issues similar orders in the future, the NRC could require licensees to retain elements of their fatigue management programs for specific personnel.

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