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**Discussion of proposed rule
language changes discussed in
the exemption request**

Proposed language change
discussed in the NRC's January 2021
regulatory basis document

Alignment of Licensing Processes and Lessons Learned from New Reactor Licensing

RIN Number: 3150-AI66

NRC Docket ID: NRC-2009-0196

Regulatory Basis for Public Comment



January 15, 2021

APPENDIX F – PHYSICAL SECURITY AND FITNESS-FOR-DUTY REQUIREMENTS

2.3 Discussion of Alternatives

2.3.2 *Alternative 2: Limited-Scope Rulemaking and Guidance*

2.3.2.1 *Description of Alternative 2*

The NRC would require implementation of an FFD program that meets all Part 26 requirements, except Subpart K, at initial fuel load by amending paragraphs 26.3(a) and (c) to replace the words “before the receipt of special nuclear material in the form of fuel assemblies” with “before initial fuel load.”

§ 26.3 Scope.

(a) Licensees who are authorized to operate a nuclear power reactor under 10 CFR 50.57, and holders of a combined license under 10 CFR Part 52 after the Commission has made the finding under 10 CFR 52.103(g) shall comply with the requirements of this part, except for subpart K of this part. Licensees who receive their authorization to operate a nuclear power reactor under 10 CFR 50.57 after the date of publication of this final rule in the Federal Register and holders of a combined license under 10 CFR Part 52 after the Commission has made the finding under 10 CFR 52.103(g) shall implement the FFD program ~~before the receipt of special nuclear material in the form of fuel assemblies.~~

§ 26.3 Scope.

(a) Licensees who are authorized to operate a nuclear power reactor under 10 CFR 50.57, and holders of a combined license under 10 CFR Part 52 after the Commission has made the finding under 10 CFR 52.103(g) shall comply with the requirements of this part, except for subpart K of this part. Licensees who receive their authorization to operate a nuclear power reactor under 10 CFR 50.57 after the date of publication of this final rule in the Federal Register and holders of a combined license under 10 CFR Part 52 after the Commission has made the finding under 10 CFR 52.103(g) shall implement the FFD program **before initial fuel load.**

Proposed language change
discussed in the licensee's
exemption request submittal

Southern Nuclear Operating Company

ND-21-0991

Enclosure

Vogtle Electric Generating Plant (VEGP) Units 3 and 4

Exemption Request:

Applicability of 10 CFR 26.3, Scope, Until Initial Fuel Load

1.0 PURPOSE

In accordance with the provisions of 10 CFR 26.9, Southern Nuclear Operating Company (SNC), as a Combined License (COL) holder under 10 CFR 52, hereby requests an exemption from the requirements of 10 CFR 26.3(a) and 10 CFR 26.3(c)(2), as applicable to Vogtle Electric Generating Plant (VEGP) Units 3 and 4. Specifically, SNC requests a schedular exemption from the 10 CFR 26.3(a) and 10 CFR 26.3(c)(2) milestones:

- *after the Commission has made the finding under 10 CFR 52.103(g)*
- *before the Commission has made the finding under § 52.103(g)*

The requested exemption would implement the following milestones in lieu of the above milestones:

- *after initial loading of fuel into the reactor vessel*
- *before initial loading of fuel into the reactor vessel*

§ 26.3 Scope.

(a) Licensees who are authorized to operate a nuclear power reactor under 10 CFR 50.57, and holders of a combined license under 10 CFR Part 52 ~~after the Commission has made the finding under 10 CFR 52.103(g)~~ shall comply with the requirements of this part, except for subpart K of this part. Licensees who receive their authorization to operate a nuclear power reactor under 10 CFR 50.57 after the date of publication of this final rule in the Federal Register and holders of a combined license under 10 CFR Part 52 ~~after the Commission has made the finding under 10 CFR 52.103(g)~~ shall implement the FFD program before the receipt of special nuclear material in the form of fuel assemblies.

§ 26.3 Scope.

(a) Licensees who are authorized to operate a nuclear power reactor under 10 CFR 50.57, and holders of a combined license under 10 CFR Part 52

after initial loading of fuel into the reactor vessel

shall

comply with the requirements of this part, except for subpart K of this part. Licensees who receive their authorization to operate a nuclear power reactor under 10 CFR 50.57 after the date of publication of this final rule in the Federal Register and holders of a combined license under 10 CFR Part

52 **after initial loading of fuel into the reactor vessel**

shall implement the FFD program before the receipt of special nuclear material in the form of fuel assemblies.

§ 26.3 Scope.

(a) Licensees who are authorized to operate a nuclear power reactor under 10 CFR 50.57, and holders of a combined license under 10 CFR Part 52

after initial loading of fuel into the reactor vessel

shall

comply with the requirements of this part, except for subpart K of this part. Licensees who receive their authorization to operate a nuclear power reactor under 10 CFR 50.57 after the date of publication of this final rule in the Federal Register and holders of a combined license under 10 CFR Part

52 after initial loading of fuel into the reactor vessel

shall implement the FFD program before the receipt of special nuclear material in the form of fuel assemblies.

NRC considerations

Consideration 1:

The timing of when exactly SNC intends to transition the Vogtle 3&4 Fitness for Duty programs out of Part 26, Appendix K (i.e. construction-phase requirements)

Consideration 2:

Which instance of the text, specifically, in Part 26.4(a) SNC intends to change

§ 26.3 Scope.

(a) Licensees who are authorized to operate a nuclear power reactor under 10 CFR 50.57, and holders of a combined license under 10 CFR Part 52 **after the Commission has made the finding under 10 CFR 52.103(g)** shall comply with the requirements of this part, except for subpart K of this part. Licensees who receive their authorization to operate a nuclear power reactor under 10 CFR 50.57 after the date of publication of this final rule in the Federal Register and holders of a combined license under 10 CFR Part 52 **after the Commission has made the finding under 10 CFR 52.103(g)** shall implement the FFD program before the receipt of special nuclear material in the form of fuel assemblies.

Consideration 3:

Potential gap created by the proposed language change

§ 26.3 Scope.

(a) Licensees who are authorized to operate a nuclear power reactor under 10 CFR 50.57, and holders of a combined license under 10 CFR Part 52

after initial loading of fuel into the reactor vessel

shall

comply with the requirements of this part, except for subpart K of this part. Licensees who receive their authorization to operate a nuclear power reactor under 10 CFR 50.57 after the date of publication of this final rule in the Federal Register and holders of a combined license under 10 CFR Part

52 **after initial loading of fuel into the reactor vessel**

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52 after initial loading of fuel into the reactor vessel

shall implement the FFD program before the receipt of special nuclear material in the form of fuel assemblies.

Consideration 4:

Justification as to why this exemption is in the public interest – specifically, why site-specific information on reduced burden and the technical justification for the exemption (beyond the generic discussion in the NRC’s regulatory basis document) is not included in the submittal

From SNC's submittal...

3.4 This exemption is in the public interest

The public has an interest in the efficient execution of regulatory activities. VEGP Unit 3 and Unit 4 personnel are expected to continue performing construction activities after the 10 CFR 52.103(g) milestone. Requiring construction workers under Subpart K to meet alternate and additional Part 26 requirements to continue working after the 10 CFR 52.103(g) finding would impose an unnecessary burden on both the construction workers and the administrative staff due to the additional work needed to meet the appropriate elements of Part 26 Subpart B and Subpart C. This would ultimately result in additional cost and loss of efficiency.

After the 10 CFR 52.103(g) finding until commencing fuel loading into the reactor vessel, there is a significant reduction in the number, type, and complexity of construction activities being performed. As such, extending the implementation milestone of an FFD program that meets all Part 26 requirements except Subpart K, would not present an undue risk to safety and security. Plant procedures and controls, including NRC oversight of licensee activities as the VEGP transitions from construction to reactor operation, continue to assure the exemption would not present an undue risk to safety and security.