

FINAL SUPPORTING STATEMENT
FOR
AMENDMENT TO
10 CFR PART 26, FITNESS-FOR-DUTY PROGRAMS

(3150-0146)

EXTENSION

DESCRIPTION OF THE INFORMATION COLLECTION

The U.S. Nuclear Regulatory Commission (NRC) requires licensed facilities to comply with requirements in Title 10 of the Code of Federal Regulations (CFR) Part 26 to control the work hours of individuals performing the duties in a nuclear power plant identified in 10 CFR Part 26.4(a). The ability of licensed facilities to comply with these requirements may be negatively impacted by the Coronavirus Disease 2019 (COVID-19) Public Health Emergency (PHE). To facilitate licensees' requests for exemptions to the work hour control regulations, the NRC is providing an online form to submit the required information for a specific exemption request.

In April 2020, the NRC requested emergency review of the information collection because this information is essential to the mission of the agency and was needed before the expiration of the normal time limits under the Office of Management and Budget's regulations at 5 CFR 1320 that implement the provisions of the Paperwork Reduction Act of 1995. The NRC could not reasonably comply with the normal clearance procedures because an unanticipated event (COVID-19 PHE) has occurred.

The NRC requested and received OMB approval to add this form to the previously approved information collection OMB Control Number 3150-0146 for a period of 6 months. Under the existing collection under OMB Control No. 3150-0146, licensees are already able to seek exemptions from the requirements of 10 CFR Part 26, Fitness-For-Duty Programs.

With the current submission, the NRC is seeking to extend the expiration date for this form to match the expiration date for the Part 26 clearance (April 30, 2021). The current submission describes the burden associated with the form but does not make additional changes to the Part 26 clearance.

This information collection applies to holders of, and certain applicants for, nuclear power plant construction permits and operating licenses under the provisions of 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities" who may voluntarily submit the form to request an exemption from work hour controls specified in 10 CFR 26.205(d)(1)-(7) as allowed by 10 CFR 26.9, "Specific exemptions."

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection of Information

10 CFR 26.205(d)(1)-(7) identifies specific work hour control requirements for individuals subject to the requirements of 10 CFR Part 26. If due to the impacts of the COVID-19 PHE, the NRC is prepared to grant, upon request from individual licensees, exemptions from the work hour controls specified in 10 CFR 26.205(d)(1)-(7) as allowed by 10 CFR 26.9, "Specific exemptions." Under the existing collection at OMB Control No. 3150-0146, licensees are already able to seek these exemptions. NRC introduced an online form to simplify filing because the existing system may be burdensome for licensees under current conditions.

The objective of the exemptions from 10 CFR 26.205(d)(1)-(7) is to ensure that the control of work hours and management of worker fatigue do not unduly limit licensee flexibility in using personnel resources to most effectively manage the impacts of the COVID-19 PHE on maintaining the safe operation of these facilities. Specifically, the licensee can submit an exemption request if (1) a licensee's staffing levels are affected by the COVID-19 PHE, (2) a licensee determines that it can no longer meet the work-hour controls of 10 CFR 26.205(d)(1)-(d)(7), and (3) the licensee can effect site-specific administrative controls for COVID-19 PHE fatigue-management for personnel specified in 10 CFR 26.4(a). The information collected by the online form is the minimum needed by NRC to make a determination on the acceptability of the licensee's request for an exemption. In addition to the online form, licensees can submit their exemption requests through the NRC's Electronic Information Exchange or by email.

2. Agency Use of Information

The NRC uses the information collected by this form to determine that licensees' exemption requests are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

3. Reduction of Burden through Information Technology

The requested information will be submitted via a web-based electronic form. The NRC staff estimates that 100 percent of the responses will be filed electronically. Respondents can submit exemption requests outside of the portal under the clearance for Part 26, OMB Control No. 3150-0146.

4. Efforts to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements.

5. Effort to Reduce Small Business Burden

The requirements in Part 26 do not affect small businesses or entities.

6. Consequences to Federal Programs or Policy Activities if the Collection is Not Conducted or is Collected Less Frequently

If the collection were not conducted, the NRC will not be able to make a timely determination of the acceptability of a licensee's exemption request.

7. Circumstances which Justify Variation from OMB Guidelines

Not applicable

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package was published in the *Federal Register* on April 23, 2020, (85 FR 22757). Additionally, NRC staff contacted eight stakeholders via email. The stakeholders were operating reactor owner/operator licensee representatives from Dominion Energy, Duke Energy Progress, LLC, Entergy Corporation, Energy Northwest, Exelon Corp., Luminant-Vista Energy, Nebraska Public Power District and Xcel Energy. The NRC received one anonymous out-of-scope comment as a result of the FRN, no additional responses or comments were received as a result of the FRN or the staff's direct solicitation of comment.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b).

11. Justification for Sensitive Questions

No sensitive information is requested. If sensitive information is provided by licensees within these submittals there are processes for appropriate marking them non-public for security reasons or marking sections as "proprietary" per 10 CFR 2.390(b).

12. Estimate of Industry Burden and Costs

The estimate to prepare and submit the exemption request form is 2 hours. The annual estimated burden is a total of 80 hours (40 requests x 2 hours per request) following approval of the initial emergency clearance request. The total annual cost is estimated to be \$22,240 (80 hours x \$278/hour). This burden was included in the totals for Part 26 at the time of the emergency clearance request. The total for Part 26 remains at 719,726 hours and 442,883 responses.

The \$278 hourly rate used in the burden estimates is based on the Nuclear Regulatory Commission's fee for hourly rates as noted in 10 CFR 170.20 "Average cost per

professional staff-hour.” For more information on the basis of this rate, see the Revision of Fee Schedules; Fee Recovery for Fiscal Year 2019 (84 FR 22331, May 17, 2019).

13. Estimates of Other Additional Costs

There are no additional costs associated with the online form. The Part 26 cost burden remains unchanged at \$75,581.

14. Estimated Annualized Cost to the Federal Government

The estimated annual cost to the Federal Government in reviewing the technical and regulatory adequacy of the exemption request is 40 reports x 10 hours/report x \$278 per hour = \$112,200. This total cost in ROCIS remains \$496,080.

15. Reasons for Change in Burden or Cost

The estimated burden for Part 26 remains unchanged at 719,726 hours and 442,883 responses. The estimated 80 hours and 40 responses associated with the online Work Hours Exemption Request Form were previously added to the Part 26 totals in April 2020. Any burden associated with the use of the form beyond the expiration date of April 2021 will be included in the renewal of the information collection to be submitted in early 2021.

16. Publication for Statistical Use

None.

17. Reasons for Not Displaying the Expiration Date

The expiration date is displayed on the online form.

18. Exceptions to the Certification Statement

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

Statistical methods have not been used in this collection of information.

APPENDIX A

DESCRIPTION OF INFORMATION COLLECTION REQUIREMENTS CONTAINED IN 10 CFR PART 26

10 CFR 26.205(b), (c), (d)(1) – (d)(7), (d)(7)(i) – (d)(7)(iii), (d)(8), (e), and (e)(3) – (e)(4) ensure that licensees and other entities properly implement work hour controls, including waivers of those controls, for personnel performing activities on systems, structures, and components that a risk-informed evaluation process has shown to be significant to public health and safety. These records enable each licensee and other entity to review and correct any problems in maintaining control of work hours, to enable the NRC to inspect the licensee's and other entities' fatigue management program, and to provide information for periodic audits. Section 26.203(d)(1) establishes the recordkeeping requirements for section 26.205(c) and (d)(1); section 26.203(d)(2) establishes the recordkeeping requirements for 26.205(d)(2) through (d)(6); section 26.203(d)(4) establishes the recordkeeping requirements for section 26.205(e)(1) through (e)(3); and section 26.203(d)(4) establishes the recordkeeping requirements for section 26.205(e)(4).

- 10 CFR 26.205(b) requires each licensee to calculate the work hours of each individual subject to this section as the amount of time each individual performs duties for the licensee.
- 10 CFR 26.205(c) requires each licensee to schedule the work hours of each individual who is subject to this section consistent with the objective of preventing impairment from fatigue due to the duration, frequency, or sequencing of successive shifts.
- 10 CFR 26.205(d)(1) requires each licensee to implement work hour controls for each individual to ensure that, except as permitted by the waiver provisions in section 26.207, the individual's work hours do not exceed 16 work hours in any 24-hour period, 26 work hours in any 48-hour period, and 72 work hours in any 7-day period.
- 10 CFR 26.205(d)(2) requires each licensee to ensure that each individual has adequate rest breaks between successive work periods, during which the individual does not perform any duties for the licensee other than one shift turnover, either at the beginning or the end of a shift, but not both.
- 10 CFR 26.205(d)(3) requires each licensee to ensure that each individual has, at a minimum, the number of days off specified in this paragraph or comply with the requirements for maximum average work hours in section 26.205(d)(7).
- 10 CFR 26.205(d)(4) requires each licensee to ensure that each individual has, at a minimum, the number of days off specified in this paragraph and exempts licensees from the requirements of paragraph (d)(3) or (d)(7) of this section for individuals specified in section 26.4(a)(1) through (a)(4) for the first 60 days of an outage, while the individuals are working on outage activities.
- 10 CFR 26.205(d)(5) requires each licensee to ensure that each individual has, at a minimum, the number of days off specified in this paragraph and exempts licensees from

the requirements of paragraph (d)(3) or (d)(7) of this section for individuals specified in section 26.4(a)(5) for the first 60 days of a unit outage, security system outage, or increased threat condition.

- 10 CFR 26.205(d)(6) specifies that the 60-day periods in paragraphs (d)(4) and (d)(5) of this section may be extended for each individual in 7-day increments for each non-overlapping 7-day period in which the individual has worked not more than 48 hours during the unit or security system outage or increased threat condition, as applicable.
- 10 CFR 26.205(d)(7) provides each licensee with a voluntary alternative to the minimum days off requirements of section 26.205(d)(3), by permitting the licensee to comply with the requirements for maximum average work hours.
- 10 CFR 26.205(d)(7)(i) establishes the alternative requirement to maintain each individual's weekly average of work hours at less than 54, calculated using an averaging period of up to 6 weeks, which advances by 7 consecutive calendar days at the finish of every averaging period.
- 10 CFR 26.205(d)(7)(ii) requires each licensee, when an individual's work shift starts at the end of a calendar day and concludes during the next calendar day, to either account for all of an individual's work hours as worked on the day the shift started or work hours on the calendar days on which they were actually worked.
- 10 CFR 26.205(d)(7)(iii) requires each licensee to state in its FFD policies and procedures the work hour counting system in section 26.205(d)(7)(ii) the licensee is using.
- 10 CFR 26.205(d)(8) requires each licensee to explicitly state in its FFD policies and procedures the work hour control requirements with which it is complying: minimum days off provisions of section 26.205(d)(3) or maximum average work hour provisions of section 26.205(d)(7).
- 10 CFR 26.205(e) requires each licensee to evaluate the effectiveness of its control of work hours for individuals who are subject to Subpart I, at a minimum of once per calendar year. If any plant or security system outages or increased threat conditions occurred since the licensee completed the most recent review, the licensee must include in the review an evaluation of the control of work hours during the outages or the increased threat conditions. The review must be completed within 30 days of the end of the review period. Paragraphs 26.205(e)(1) and (e)(2) describe the topics that must be included in the reviews.
- 10 CFR 26.205(e)(3) requires each licensee to document the methods used to conduct reviews and the results of those reviews.
- 10 CFR 26.205(e)(4) requires each licensee to record, trend, and correct, under the licensee's corrective action program, any problems identified in maintaining control of work hours consistent with the specific requirements and performance objectives of Part 26.