

10 CFR Part 26  
Alternative to Minimum Days Off Requirements, Final Rule

3150-0146

NONSUBSTANTIVE CHANGE REQUEST

Summary

In a final rule titled, "10 CFR Part 26, Alternative to Minimum Days Off Requirements," the NRC amended its regulations governing the fitness for duty of workers at nuclear power plants. The rule gives nuclear power plant licensees the option to use a different method from the one already prescribed in the NRC's regulations for determining when certain nuclear power plant workers must be afforded time off from work to ensure that they are not impaired due to cumulative fatigue caused by work schedules.

The previous method for determining whether workers were impaired from cumulative fatigue was based on "minimum days off" requirements in 26.205(d). The final rule allows licensees to voluntarily adopt an alternative method of determining worker fatigue based on maximum average work hours over a given time period.

Burden Hours (Recordkeeping)

The NRC estimates that 22 licensees will choose to adopt the voluntary alternative method of determining worker fatigue. Under the final rule, NRC licensees and other entities subject to the requirements of 10 CFR Part 26, Subpart I, licensees must take four minor actions on a one-time basis to update their Fitness for Duty (FFD) policies and procedures and work hour tracking and scheduling systems. All hours are annualized one-time recordkeeping burden.

- Licensees choosing to implement the voluntary alternative must update their FFD procedures to describe the process for implementing this alternative. This is estimated to take 36.74 hours (1.67 hours per response x 22 respondents).
- Licensees choosing to implement the voluntary alternative must modify their work hour tracking system. This is estimated to take 168.74 hours (7.67 hours per response x 22 respondents).
- Licensees choosing to implement the voluntary alternative must modify their work scheduling system. This is estimated to take 44 hours (2 hours x 22 respondents).
- Licensees choosing to implement the voluntary alternative must state in their FFD policies and procedures which requirements they will comply with to mitigate cumulative fatigue of the applicable individuals at the nuclear power plant. They may choose to use the minimum days off or the new maximum average work hours requirements specified in the new 26.205(d)(7). In addition, they must state the work hour counting system they are using (whether counting hours worked based on the day the shift started or the day they were worked). This is estimated to take 7.26 hours (.33 hrs per response x 22 licensees).

### Total Change in Burden

The total burden change is 257 hours:

Revise FFD procedures	36.74
Modify work hour tracking system	168.74
Modify work scheduling system	44.00
Update FFD procedures to state work hour counting system	<u>7.26</u>
	256.74

### Respondents

The licensees affected by this final rule are already accounted for under Part 26, there is no increase in the number of respondents.

### Total change in responses

The licensees affected by the recordkeeping requirement are already recordkeepers under Part 26: There is no increase in recordkeeping responses.

### Insignificant burden change

This rule is in response to a petition for rulemaking from the Nuclear Energy Institute, the policy organization of the nuclear industry. Specifically, the industry requested a performance-based alternative to the minimum days off requirements in Part 26.

This final rule increases the total annual burden per respondent minimally as compared to the current requirement (the Part 26 clearance 3150-0146 currently has 666,824 burden hours) and does not expand the universe of respondents.

The 257 hour burden change associated with this rule received approval as an insignificant burden determination by OMB desk officer Christine Kymn on April 18, 2011. At the time of the approval, the NRC agreed to adjust the Part 26 burden totals via a nonsubstantive change request. The final rule published on July 21, 2011 (76 FR 43534).