

The following text is an inquiry to the U.S Nuclear Regulatory Commission (NRC) from a member of the public concerning section 26.205, “Work hours,” of 10 CFR Part 26, “Fitness for Duty Programs” and the NRC staff’s draft response to the inquiry. This draft response has been made publicly available for the purpose of obtaining stakeholder comment. Following consideration and resolution of stakeholder comment, it is the NRC staff’s intent to issue the inquiry and a response as an NRC staff response to Frequently Asked Questions About Managing Fatigue.¹ Comments on the draft staff response can be directed to david.desaulniers@nrc.gov.

Inquiry: I work for a company that supplies contractors to do covered work for different nuclear facilities. We use workforce software to track our employees. My question is on travel time from plant to plant. Are we subject to count travel time if we are moving an employee from one licensee plant to another licensee plant? Whether they are the same company or not? It's confusing because we track all of our employees in our workforce system, but each plant has their own procedure for their WHR.

Response: This question concerns compliance with the requirements of section 26.205, “Work hours,” of 10 CFR Part 26, “Fitness for Duty Programs.” Paragraph 26.205(b) states, “For the purposes of this section, a licensee shall calculate the work hours of individuals who are subject to this section as the amount of time the individuals perform duties for the licensee. Except as permitted by paragraphs (b)(1) through (b)(5) of this section, the calculated work hours must include all time performing duties for the licensee, including all within-shift break times and rest periods during which there are no reasonable opportunities or accommodations appropriate for restorative sleep.”

The matter of whether and how this requirement applies to travel time of personnel, including contractors, traveling between nuclear power plant sites is addressed in guidance, specifically Regulatory Guide (RG) 5.73, “Fatigue Management for Nuclear Power Plant Personnel”;² the Nuclear Energy Institute’s NEI 06-11, Revision 1, “Managing Personnel Fatigue at Nuclear Power Reactor Sites”;³ and NRC responses to Frequently Asked Questions About Managing Fatigue. The guidelines from these sources separately address several considerations important to answering this question, which are: (1) the conditions for considering travel time as work hours, (2) the circumstances of the transition from work at one site to work at another site, and (3) the guidelines for controlling work hours for these transitions.

Time Spent Traveling from One Site to Another Site

Guidance for the accounting of travel time is provided in conjunction with the frequently asked question (FAQ) response titled “Travel Time.” As stated in the NRC’s response:

Travel time that is required by the licensee is work performed for the licensee. This time should be counted as work hours. Travel is a non-covered duty and the time spent traveling should be included in the calculation of work hours (e.g., for determining the

¹ NRC responses to Frequently Asked Questions About Managing Fatigue can be found at <https://www.nrc.gov/reactors/operating/ops-experience/fitness-for-duty-programs/faqs/manage-fatigue.html>.

² Agencywide Documents Access and Management System (ADAMS) Accession No. ML083450028.

³ ADAMS Accession No. ML083110161.

applicability of work hour controls and waiver requirements) as would any other noncovered duty.

Specific guidance for the accounting of travel time, including distinguishing travel time from normal commuting time, is provided in conjunction with the FAQ response.

Circumstances of Transitioning Work from One Site to another Site

NRC Regulatory Position C.10 of RG 5.73 addresses two cases. The first case is a specific circumstance in which individuals transition from work at one site to work at another site in close succession. The second case is all other circumstances.

For the first case, the Regulatory Position directly provides guidance for when individuals who are performing covered work transition between outages at separate sites when the interval between outages is 9 days or less. Regulatory Position C.10 applies regardless of whether the individual is a licensee employee or a contractor/vendor (C/V) and whether the licensee or company is the same for the sites between which the individuals are travelling. Note that Regulatory Position C.10 replaces, in part, guidance in Section 8.3 of NEI 06-11, Revision 1. The guidance it replaces addressed only travel between sites of the same licensee.

For the second case, the guidance in Regulatory Position C.10 refers the reader to Comment 11 in Appendix B of RG 5.73. The NRC staff response to Comment 11 addresses transitions between sites under other circumstances:

For individuals (either employees of a licensee or a C/V) who transition between sites under other circumstances, the NRC staff expects that the appropriate implementation guidance contained in Section 7.3 of NEI 06-11, Revision 1, would apply.

Work Hour Guidelines for Transitions from One Site to Another Site

As noted in the preceding section of this FAQ response, the NRC has provided guidance for the control of work hours for two different circumstances: (1) the case of individuals transitioning from work at one site to work at another site in close succession and (2) all other circumstances.

For transitions between outage work sites, when the interval between outages is 9 days or less, the guidelines for the control of work hours are provided by RG 5.73, Regulatory Position C.10. This guidance states the following:

Licensee employees and contractor/vendor personnel may go from an outage at one site to an outage at another site. When a licensee employee or contractor/vendor performs covered work for a licensee during two or more unit outages or security system outages (or a combination thereof), and the interval(s) between successive outages is less than 9 days, the receiving licensee should determine that the individual has had a 34-hour break period within the 9 days that precede the day on which the individual begins working for the receiving licensee. In addition, when the individual begins work for the receiving licensee, the licensee should ensure that individual's hours worked did not and will not exceed the following limits:

1. 16 work hours in any 24-hour period

2. 26 work hours in any 48-hour period
3. 72 work hours in any 7-day period

(See also comment 11 in Appendix B to this guide.)

The above work hour control guidance is a subset of the guidelines of NEI 06-11, Revision 1, Section 7.3, "Transitioning Onto a Shift or Between Covered Groups or Into a Covered Group." The guidance is a subset because the transition of individuals between outages in close succession is a special case of the more general circumstances addressed by the guidance of NEI 06-11, Revision 1, Section 7.3. Guidance of NEI 06-11, Revision 1, Section 7.3 that is not included in RG 5.73, Regulatory Position C.10 consists of guidelines for minimum days off based on shift durations (i.e., 8-hour, 10-hour, 12-hour shifts). These guidelines were not included in Regulatory Position C.10 because individuals in transition between successive outages presumably would not be on shift work during the transition period.

The NRC recognizes that for contractor individuals arriving on site, work hour records may not be readily available. The NRC's Frequently Asked Questions About Managing Fatigue address this consideration and licensee responsibility for identifying past work history of contractors arriving on site. The guidance states, in part, that licensees must make reasonable efforts to verify that individuals performing covered work are fit for duty. Before an individual starts performing covered work, the licensee should inquire of the individual if they have had the appropriate number of days off in the preceding seven-day period. This FAQ response further summarizes and points to Section 7.3 of NEI 06-11, Revision 1, as endorsed by RG 5.73, as it addresses the more general circumstance of a contractor arriving on site to perform covered work and is not limited to the case of individuals transitioning from work at one site to work at another site in close succession.