

U.S. Nuclear Regulatory Commission Public Meeting Summary

May 25, 2023

Title: 10 CFR Part 26, Fitness for Duty Programs - Question and Answer Session on Implementing the November 2022 Final Rule

Meeting Identifier: 20230408

Date of Meeting: April 26, 2023

Location: Webinar

Type of Meeting: Information Meeting with a Question and Answer (Q&A) Session.

Purpose of the Meeting(s): The U.S. Nuclear Regulatory Commission (NRC) technical staff supporting Title 10 of the *Code of Federal Regulation* (10 CFR) Part 26, "Fitness for Duty Programs" in the NRC Office of Nuclear Security and Incident Response (NSIR), Division of Physical and Cyber Security Policy (DPCP) held a public meeting to discuss questions on implementing the "Fitness for Duty Drug Testing Requirements" Final Rule, which was published in the Federal Register on November 22, 2022 (87 FR 71422).

General Details: The meeting began at 1 p.m. EDT. The NRC staff made a presentation and then held a Q&A session with interested stakeholders, industry representatives, and members of the public. The meeting was attended by over 90 individuals, including Fitness-for-Duty (FFD) program personnel from licensee sites, staff from the Nuclear Energy Institute (NEI), contractors and vendors, and NRC headquarters and regional staff. A list of attendees is included as an attachment to this meeting summary. The meeting ended at 1:57 p.m. EDT.

Summary of Presentations: The NRC slide presentation provided resources for implementing the final rule and reviewed and responded to three implementation questions previously received by the NRC. No stakeholders or members of the public made formal presentations, however, engagement with the attendees did occur during the Q&A Session. The NRC staff addressed the following five questions:

- **Question 1 – Can an individual not screened for unescorted access/unescorted access authorization (UA/UAA) serve as a hydration monitor?** Neither the final rule nor the new Regulatory Guide (RG) 5.89 issued with the final rule address this issue. The final rule does explain under 10 CFR 26.109(b)(1) that if a hydration monitor is used to observe a donor that was unable to provide an acceptable quantity of urine during the initial specimen collection attempt (i.e., a shy bladder), the collector must first explain the hydration process and acceptable donor behavior to the hydration monitor and then record the name of the hydration monitor on the Federal custody-and-control form.
- **Question 2 – Can a hydration monitor have a personal relationship with the donor?** RG 5.89 addresses this topic in Section C.1.A(6) and states: "If a collector transfers responsibility for monitoring a donor to a hydration monitor, the collector should verbally confirm that the hydration monitor does not have a personal relationship with the donor(s)."

- **Question 3 – Can a donor in the hydration process be remotely monitored?** Neither the final rule nor RG 5.89 discuss this topic. However, RG 5.89 in Section C.1.A(1) states that “The NRC intends the term “monitoring” to mean that the collector or hydration monitor maintains visual (i.e., direct line of sight) and aural contact with the donor to ensure that the donor is adhering to the hydration process instructions and is not attempting to subvert the collection process.”
- **Question 4 – Can another specimen collector complete the collection process for a donor in the hydration process?** Under 10 CFR 26.109(b)(1), the collector that initiated the collection process with a donor may assign responsibility for monitoring a donor during the hydration process to another trained collector meeting the requirements in 10 CFR 26.85(a). Part 26 does not prohibit another trained collector meeting the requirements under 10 CFR 26.85(a) from completing the collection process for a donor in the hydration process. RG 5.89 in Section C.1.D(6) states that if “the hydration monitor is not qualified as a collector, then the donor shall be transferred to an available collector when the donor is ready to attempt to provide a specimen (10 CFR 26.107(a)).”
- **Question 5 – When does the NRC anticipate updating the FFD program inspection procedures to support the rule changes?** The NRC is currently revising the inspection procedures for FFD programs and anticipates publishing updated procedures towards the end of 2023 or early 2024.

Action Items/Next Steps:

- No action items resulted from this public meeting.

Attachments: ADAMS Accession Nos.

- [ML23102A055](#) – NRC Public Meeting Announcement – 10 CFR Part 26, Fitness for Duty Programs - Question and Answer Session on Implementing the November 2022 Final Rule
- [ML23122A176](#) – NRC Public Meeting Presentation on April 26, 2023 – 10 CFR Part 26, Fitness for Duty Programs, Question and Answer Session on Implementing the November 2022 Final Rule
- [ML20143A034](#) – Regulatory Guide 5.89, Rev.0, Fitness-for-Duty Programs for Commercial Power Reactor and Category I Special Nuclear Material Licensees, November 2022.

LIST OF ATTENDEES

10 CFR Part 26, Fitness for Duty Programs - Question and Answer Session on Implementing the November 2022 Final Rule, 04/26/2023

No.	Name	Affiliation
1	Amanda McKie	AEP - Indiana Michigan Power
2	Tammy Bond	AEP - Indiana Michigan Power
3	Amy Dillon	Ameren
4	Amy Findley	Ameren
5	Christopher Crook	Arizona Public Service
6	Melissa Darlington	Arizona Public Service
7	Theresa Jones	Arizona Public Service
8	John Conly	CERTREC
9	Beth Warsco	Confidential Services Inc.
10	Andrew Anderson	Constellation
11	Beth Woodcock	Constellation
12	Cole Wolpert	Constellation
13	Jonathan Duval	Constellation
14	Ryan Joseph Wong	Constellation
15	Stephen Henry	Constellation
16	Valeri Wade	Constellation
17	Cristina Edens	Curtiss Wright
18	Kelly Carlsen	Day & Zimmermann
19	Angela Timmons	Dominion Energy
20	Brandon Jefferson	Dominion Energy
21	Keith Yarnall	Dominion Energy
22	Mary L Daron	Dominion Energy
23	Patrick Anhalt	Dominion Energy
24	Cynthia Bomyea	DTE Energy
25	Leah Paul	DTE Energy
26	Teddy Reed	Duke Energy
27	Alex Ellis	Energy Harbor
28	Eric Burnworth	Energy Harbor
29	Maureen Gilday	Energy Harbor
30	Robin Leasure	Energy Harbor
31	Scott Bambic	Energy Harbor
32	Eileen M. Moore	Energy Solutions
33	Cheryl Deville	Entergy
34	Robin Cook	Entergy
35	Steve Chambliss	Entergy
36	Mallory Rosales	Eversource
37	Monique Hart	Eversource
38	Sonya Jones	Eversource

No.	Name	Affiliation
39	Vicki Hensley	Framatome
40	Wade Mattox	GE Power Portfolio
41	Amy Bouchard	Holtec
42	Linda Schratz	Holtec
43	Richard Smialowicz	Holtec
44	Meagan Kirkland	INPO
45	Timothy Chapin	INPO
46	Michael Covert	Luminant
47	Bill Gross	NEI
48	Johnny Rogers	NEI
49	Jacob Fakory	New Jersey DEP
50	Jonathan Zeitz	New Jersey DEP
51	Dawn Odom	NextEra Energy
52	James Denton	NextEra Energy
53	Mark Ginsberg	NextEra Energy
54	Stella Dumais	NextEra Energy
56	Sheryl Sweet	NextEra Energy
57	David Brower	Pacific Gas and Electric
58	Donald Townsend	Pacific Gas and Electric
59	Lynette Fisher	Pacific Gas and Electric
60	Cajya Darling	PSEG Nuclear
61	Russell Cronk	PSEG Nuclear
62	Tammy Hoyle	PSEG Nuclear
63	April Walden	Southern Nuclear
64	Cassie Brantley Key	Southern Nuclear
65	Heather Rice Pena	Southern Nuclear
66	Mickeal Peel	Southern Nuclear
67	Selena Carelock	Southern Nuclear
68	Martin Reta	STP
69	Stephanie Rodgers	STP
70	Daniel Novick	Talen Energy
71	Michael Palmer	Talen Energy
72	Michele Hockenbury	Talen Energy
73	Brenda Kay Sowter	TVA
74	Carol Pulliam	TVA
75	Mimi Nakicha King-Patterson	TVA
76	Amanda Marshall	U.S. NRC
77	Brian Zaleski	U.S. NRC
78	Ismael Garcia	U.S. NRC
79	Neil Sheehan	U.S. NRC
80	Ronald Jacobson	Xcel Energy
81	Brian Kloiber	-

No.	Name	Affiliation
82	Dennis Ezell	-
83	Harry Mullica	-
84	Jesse	-
85	Kelly Pettus	-
86	Lisa Belgio	-
87	Matt	-
88	Maureen	-
89	Teleconference attendee	-
90	Teleconference attendee	-
91	Teleconference attendee	-
92	Teleconference attendee	-