

U.S. Nuclear Regulatory Commission Public Meeting Summary

December 15, 2023

Title: Meeting to Discuss the SFAQ 2022-02 (SAE Program Requirements)

Meeting Identifier: 20231235

Date of Meeting: November 16, 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 in the Office of Nuclear Security and Incident Response (NSIR), Division of Physical and Cyber Security Policy (DPCP) that support Title 10 of the *Code of Federal Regulation* (10 CFR) Part 26, "Fitness for Duty Programs" held a public meeting to discuss Security Frequently Asked Question (SFAQ), 2022-02 SAE Program Requirements and the NRC draft response to this question. While this question was received through the SFAQ process, the content of this question is not security related. Attendees had the opportunity to ask questions of the NRC staff or make comments on the SFAQ 2022-02 draft response.

General Details:

The meeting began at 2 p.m. EST. The meeting was attended by 47 individuals, including Fitness-for-Duty (FFD) program personnel from licensee sites, Substance Abuse Experts (SAEs), staff from the Nuclear Energy Institute (NEI), and NRC headquarters staff. The majority of meeting attendees participated via Microsoft TEAMS, but several participated by teleconference. A list of attendees is included as an attachment to this meeting summary. The meeting was transcribed. The meeting ended at 2:41 p.m. EST.

Summary of Presentations:

The NRC presentation included: background information on the creation of the SAE position in the 2008 Part 26 final rule, a review of the SFAQ question, a discussion of the applicable Part 26 requirements, and highlighted key elements of the NRC's draft response.

One public comment was received during the meeting from a representative of NEI. NEI disagreed with the NRC's draft response that relied upon Commission statements in the preamble of the 2008 Part 26 final rule to conclude that "all individuals that perform in the position of SAE under 10 CFR Part 26 are subject to a licensee's or other entity's FFD program." Instead, NEI stated that FFD program applicability to SAEs is a licensee determination that is based on a two-part test for FFD program personnel described in 10 CFR 26.4(g). The two-part test consists of a licensee determination that an individual is involved in the day-to-day operations of the FFD program AND that the individual performs one or more covered activities (in the case of an SAE, the activity is "persons who make determinations of fitness"). For the complete NEI remarks, please consult the meeting transcript that is referenced under the "Additional Information" section of this meeting summary.

Action Items/Next Steps:

- Evaluate feedback received on the NRC's draft response to SFAQ 2022-02 during this public meeting as well as any written remarks submitted after this meeting. To facilitate resolution of this SFAQ, the NRC staff has requested that comments be submitted to the NRC (Brian.Zaleski@nrc.gov) by the end of December 2023.

Additional Information: Available in the NRC's Agencywide Document Access and Management System (ADAMS) under the following Accession Numbers:

- NRC Draft Response to SFAQ 2022-02, SAE Program Requirements: ML22208A126
- Meeting Notice: ML23306A335
- Meeting Summary: ML23356A128
- Meeting Transcript: ML23356A129

LIST OF ATTENDEES

11/16/2023 Meeting to Discuss the SFAQ 2022-02 (SAE Program Requirements)

No.	Name	Affiliation
1	Amy Findley	Ameren
2	Jenny Buesking	Ameren
3	Kara Rhoades	Ameren
4	Theresa Jones	APS
5	Elaine McFadyen	BHI Energy
6	Kristen Brennan	BHI Energy
7	Jennie Purcell	Brownstone Psychological Assoc.
8	Stacey Soeldner	Brownstone Psychological Assoc.
9	Cole Wolpert	Constellation
10	Jonathan Duval	Constellation
11	Sandra Peacock	Constellation
12	Peter Oropeza	Critical Assessments
13	Jana Bergman	Curtiss Wright
14	Patrick Anhalt	Dominion Energy
15	Shannon Charles	Dominion Energy
16	Cynthia Bomyea	DTE Energy
17	Teddy Reed	Duke Energy
18	Brian Staniszewski	Energy Northwest
19	Kurtis Clawson	Energy Northwest
20	Matt Deignan	Entergy
21	Linda Schratz	Holtec
22	Richard Smialowicz	Holtec
23	Michael Covert	Luminant
24	Court Reporter	Neal R Gross
25	Jerry Bonanno	NEI
26	Johnny Rogers	NEI
27	Tammy Bond	NEI
28	Tammy Hendrickson	NPPD
29	Harry Mullica	PSEG Nuclear
30	Russell Cronk	PSEG Nuclear
31	Tammy Hoyle	PSEG Nuclear
32	Cassie Brantley Key	Southern Nuclear
33	Emily Crowder	Southern Nuclear
34	Heather Rice Pena	Southern Nuclear
35	Mickeal D. Peel	Southern Nuclear
36	Vanessa Crawford	Southern Nuclear
37	Michele Hockenbury	Talen Energy
38	Brad Baxter	U.S. NRC, NSIR/DPCP/Reactor Security Branch
39	Brian Zaleski	U.S. NRC, NSIR/DPCP/Reactor Security Branch

No.	Name	Affiliation
40	Paul Harris	U.S. NRC, NSIR/DPCP/Reactor Security Branch
41	Howard Benowitz	U.S. NRC, Office of the General Counsel
42	Tony Bowers	U.S. NRC, NSIR/DPCP/Reactor Security Branch
43	Alex M Baumann	Westinghouse
44	James Gates	Xcel Energy
45	Eric	-
46	teleconference attendee	-
47	teleconference attendee	-