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U.S. NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING

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SFAQ 2022-02 (SAE PROGRAM REQUIREMENTS)

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THURSDAY

NOVEMBER 16, 2023

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The public meeting met via Video-
Teleconference, at 2:00 p.m. EST, Brian Zaleski,
Facilitator, presiding.

PRESENT

BRIAN ZALESKI, NSIR, Facilitator

BARD BAXTER, NSIR

HOWARD BENOWITZ, OGC

TONY BOWERS, NSIR

PAUL HARRIS, NSIR

PUBLIC PARTICIPANTS

JOHNNY ROGERS

P-R-O-C-E-E-D-I-N-G-S

(2:02 p.m)

MR. ZALESKI: My name is Brian Zaleski. I am a Fitness for Duty / Access Authorization Specialist at the U.S. Nuclear Regulatory Commission.

Thank you for joining this meeting to discuss Security Frequently Asked Question 2022-02 SAE Program Requirements. It's not really a security-related topic.

That's the -- Sorry, let me accept more people to the meeting. That's just the conduit by which we received this question, so this isn't a security-related topic per se. I just want to make sure we start off the meeting by saying that.

This meeting today is being transcribed to make sure that we can accurately reflect the conversation that we have today with each other and ensure that the NRC is able to capture all the feedback that we receive today at this meeting on this draft response to this SFAQ.

It is important that we make sure that the response that we are drafting is accurate and complete as possible. That is the intent of this meeting today.

Okay, so the first slide I just wanted to,

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again, the topic of our conversation is a question that we received on SAE program requirements. We are hosting a webinar today. Folks can also call in via telephone if they do not have access to the internet.

If you have a comment or a question there will be opportunities during the discussion today to provide that information. I would request that you use the "raise hand" feature at the top of the screen, okay. Yes, somebody already clicked that raised hand feature.

I can pull it up and show you. Here is the "raise hand" feature. If you click that I will get a light or a hand that will raise and then I will be able to look and see who requests to speak. That will be the most beneficial way to do that.

You could provide a comment or a question in the chat box, but I may not be seeing some of those, so I would appreciate it if you would raise your hand.

Okay. The meeting agenda today will be opening remarks. I'll be making just a few brief remarks and then we have about an hour and 20 minutes to discuss the SFAQ. If we need that much time, that's great.

We will provide everybody the opportunity

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to offer a comment or to ask a question as they desire and then we will conclude the meeting by 3:30 p.m., that's D.C. time or Rockville time.

Okay, so what type of a meeting is this? It's two things. The purpose of this meeting is to provide licensees and other entities with the opportunity to discuss a draft response to a question that the NRC received on 10 CFR Part 26, Fitness for Duty Program applicability to substance abuse experts that provide services to licensees and other entities.

The NRC has a variety of meeting categories. This one is identified as an Information Meeting with a Question-and-Answer Session. What that means is that individuals that are attending this meeting will have an opportunity to ask questions of the NRC staff, so that's me, my colleague Paul Harris is online, and we have the Office of the General Counsel participating as well if questions are received that require attention from anybody from the NRC that's in attendance and they'll be able to answer those questions.

We may not have answers to all questions received and we may need to take some things back. We'll make sure to identify that if that's the case.

Note that we are not actively soliciting

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comments towards regulatory decisions at this meeting. So this topic is a question on an existing Rule requirement and we are trying to respond to that question by providing guidance.

Again, I had talked about how to ask a question or make a comment. Please raise your hand in the Teams feature. The raised hand feature is just a hand, open hand. Okay, let me let some more folks in.

Okay, great. All right, so that's the ground rules for this meeting today. I am going to make some brief remarks to frame up the discussion and then I will finish my brief remarks, open up to talk briefly about the SFAQ, highlight the elements of the question in our draft response, and then we can open the floor up for dialogue.

The draft response the NRC issued on October 6, 2023, is the draft response for discussion today. This SFAQ is available in the NRC's Agency-wide Documents Access and Management System, otherwise known as ADAMS, under Accession Number ML22208A126.

There is an easier way to locate this document. It is already included in the meeting notice for this meeting. I will show you that on my screen just so you can see it.

I am on the main NRC website, www.nrc.gov

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and on the right-hand corner there is a "Public Meetings" section. If you click on today's date, which is November 16th, all the meetings the Agency is holding today will appear. Scroll down to our public meeting, which is right here, and if I click on the "more information" it will pull up a website and at the bottom of the website there are two documents listed that you can click on.

The first one is the draft response and the second one is just a PDF of this meeting notice that you are looking at right now. Okay, so that's the housekeeping measure. I wanted to make sure that you are able to access this document if you have not already done so.

The next step would be just to frame up what our topic is. So we're talking about substance abuse experts. This is a relatively new element within the Rule, and relatively new, I guess it's 15 years now since the March 31, 2008, Part 26 Final Rule was finalized, but it's a relatively new element of the Rule consistent with Part 26 being in effect since 1990.

So I am just going to read briefly a statement that was in that Rule to frame up what the SAE is. "Another significant change is the

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establishment of a new position within FFD programs, the substance abuse expert, SAE. The SAE is responsible for performing a determination of fitness, which is determining whether there are indications that an individual may be in violation of the licensee's or other entity's FFD policy or is otherwise unable to safely and competently perform his or her duties, in those instances in which an individual may not be fit for duty for reasons related to drug or alcohol abuse."

So this is a particular position that was established in 2008. It did not exist prior to 2008. Why is that? There were three reasons in that Rule that the Agency provided in terms of why the SAE position was established in 2008. I think it's important for us to understand what those reasons are before we talk about the question at hand.

The first reason for establishing the SAE position is that some MROs who provide services under Part 26 have indicated that they did not feel qualified to assess the presence and severity of substance abuse disorders, make treatment recommendations, and determine when an individual who has had a substance abuse disorder may again be safely and competently perform duties under this Part, may

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again, sorry, may again be able to safely and competently perform duties under this Part.

So the MRO, for folks that may not be aware, that's the Medical Review Officer who reviews test results with individuals and they may identify that an individual is taking medicine and may be not physically able to perform their job or they make a determination that someone has violated the Rule by using an illegal substance.

However, they may not be qualified to make a determination after that person tests positive and goes through treatment to assess whether they are capable of returning to the workplace in a safe manner, and that's what the SAE function really is.

The second reason in the Final Rule was that healthcare professionals other than licensed physicians may have the requisite knowledge and skills to serve as SAEs under the Rule.

So the Rule provided the required qualifications and training necessary to perform as an SAE, a clinical psychologist for example. In addition, you could also be a medical doctor, but you would need to have the unique skills and qualifications and clinical expertise in assessing substance abuse disorders.

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So the second one really established the elements of what an individual must have in their background to perform in the SAE function.

The third reason was that FFD programs were permitted to accept the determinations of fitness and treatment plans from other Part 26 programs. So this was an element added in 2008.

So if you violate the Rule, you test positive for drugs at one site and you are denied access, you receive treatment and evaluation, you return to duty, you are granted access again, you're in a follow-up testing program, and then you subsequently leave and go try to work somewhere else. The determination that that prior licensee made that you are fit for duty follows that individual.

And so because of that, granting that individual access at another site based on that evaluation performed by another licensee, the Commission made sure that those evaluations were consistent across the board. You couldn't have variability there because that would create real problems for a licensee being able to use these determinations of fitness.

So those are the three reasons that shapes up what we are talking about today.

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The Rule is relatively new in Part 26 world space. It has been in place since 2015, or, sorry, the SAE has been in place since 2009. The Rule was effective 2008, but I think 2009 is when the Rule requirements were implemented.

Okay, so let's review the SFAQ question and the draft NRC response. So the description of the question is as follows, "Is the SAE, who is remote and not involved in day-to-day FFD program activities, required to meet FFD requirements such as placement in the FFD random pool and subjection to the Behavior Observation Program?" So that's the question.

We have elements that talk about "remote" and we have elements that talk about "day-to-day." Those two pieces apply to different elements of our regulatory requirements.

I am not going to read the background because I'll go to that in a second, but it's presenting the regulatory requirement in 26.4(g), that's the applicability section for individuals that would be required to be subject to an FFD program. I will go into that in a second.

The justification for the question is that "there is considerable confusion in interpreting the meaning of 'those involved in day-to-day

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operations' of the FFD program." Those specific words are actually in our Rule in 26.4(g). "SAE personnel do not hold routine access to site (unless contracted) and routinely provide services remotely on occasion via electronic teleconferencing."

"Evaluations performed in this manner are not treatment but are the first stage of the evaluative process. Further diagnostic evaluation and actual treatment occurs off-site with clinicians that are not part of the FFD program."

"An interpretation of 'day-to-day' operations is needed to clarify intent to determine if SAE personnel, who occasionally perform SAE functions and work remotely are subject to the FFD program requirements."

Okay, so the topic is substance abuse experts, the new Rule in 2008, and whether individuals that are performing as an SAE that are remote, meaning they are not at a licensee's site, and are only occasionally performing that function for licensee's program under Part 26, are subject to the FFD program based on this day-to-day operation piece. We'll talk about that in a second.

The proposed solution to this question is "SAE personnel who are remote and not involved in day-

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to-day FFD operations should not be subject to FFD requirements."

So what does that mean, not subject to the FFD requirements? So anybody with unescorted access to a power plant is subject to an FFD program. They are asked to answer questions in advance of being evaluated to be granted access, they are tested, they are subject to behavior observation, they receive training, et cetera. So those are the basic FFD program requirements.

All right, so let's just briefly highlight the regulatory requirements that we were asked about. So 26.4, this is a copy of the eCFR, 10 CFR 26.4(g). 26.4 is "FFD Program Applicability to Categories of Individuals."

So, broadly, there are two ways that you are subject to a Part 26 program as an individual. You either are granted unescorted access to primarily power plants, although Category 1 fuel fabrication facilities also are subject we are primarily talking about operating power plants. So if you are granted unescorted access you are subject to an FFD program. The other group of individuals, it's not related to access, whether they have unescorted access, it's related to their job function, and that's where the

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FFD program personnel and some other individuals fall under.

So FFD program personnel do not necessarily have to have unescorted access. If they had unescorted access they would already be subject to an FFD program, but if they were not granted unescorted access to a power plant or another licensed facility subject to Part 26 they would be subject to an FFD program because of the function they perform.

The provision here in (g) says "All FFD program personnel who are involved in the day-to-day operations of the program and whose duties require them to have the following types of access or perform the following activities."

So it's a two-step process here. You are FFD program personnel because you perform a specific function. I highlighted "all persons who make determinations of fitness." That's where a substance abuse expert falls in.

That's by definition what a substance abuse expert does, they make determinations of fitness, so they perform the activity that subjects them to the Rule.

The question is, is this topic or this piece of it, day-to-day operations of the program.

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All right, so that's the piece where we see "day-to-day operations" and this is where we, in the NRC world, say that an SAE is subject to Part 26 because of the function you perform.

All right, so let's go back to the SFAQ and discuss the elements of the response. The beginning of the response, and I highlighted a couple elements, I'll just give it at a high level, so the beginning of the response just basically does what I spoke about at the start of this, you know, March 2008 the Final Rule established the position of a substance abuse expert.

We talk about what SAEs do under the Rule, they perform determinations of fitness. There are three different circumstances that would warrant an SAE to be performing a determination of fitness.

One of those is potentially disqualifying FFD information is identified about an individual who has applied for authorization. So, an example of FFD PDI is an individual tested positive under Part 26 at another licensee's site or they self-report that they had a legal action, a DUI for example.

The second element or second circumstance is when an individual has violated the substance abuse provisions of a licensee or other entity's FFD policy.

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The primary one would be you tested positive, right, you tested positive for drugs or alcohol, prohibited substances, under the Rule.

The third one is when an individual may be impaired by alcohol, prescription, or over-the-counter medications or illegal drugs. So those are the three circumstances.

26.189 talks about the determination of fitness process, when and who is qualified to perform that function. So, there are -- It's generally related to substance abuse issues, so that's the SAE's wheelhouse, that's what they do, but you may also identify impairment that's not related to substance abuse issues.

For example, a mental health issue or a physical illness. In that case a substance abuse expert would not be the most qualified to evaluate that individual. A psychiatrist would be if the individual is taking a specific medication for a mental health issue. Or say, for instance, an individual has sleep apnea, right, and they're falling asleep on the job, it may not be because they are abusing alcohol or misusing drugs, it's because they have sleep apnea, right.

So there are elements of different types

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of issues qualified professionals could evaluate, but in this case substance abuse experts are focused on substance abuse issues.

All right, and so here is the topic at hand that talks to us about what the Commission's intent was for the substance abuse expert and applicability to the FFD program.

This is the statement in the preamble of the Part 26 Final Rule. "The Commission provided clear direction on FFD program applicability to SAEs in the preamble of the 2008 Part 26 final rule when it concluded the discussion of 10 CFR 26.4(i)(1), which described individuals who are not subject to the FFD program."

I know it seems a little counterintuitive, but there is an element in 26.4(i) where it says these folks are not subject to a program, but it concluded the discussion by saying this, "However, 26.4(g) of the Final Rule requires MROs and SAEs to be subject to Part 26 as well as any EAP," that's Employee Assistance Professional, "who serves as a substance abuse expert for a licensee's or other entity's FFD program." "Individuals who serve in these positions play the key roles of determining whether an individual is fit to safely and competently perform

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the duties that require the individual to be subject to this part, that is, the SAE."

"Although the NRC recognizes the significant logistical difficulties and costs that may be associated with covering these individuals, the NRC concluded that the MROs and SAEs play such critical roles in the effective functioning of the FFD program that ensuring their continuing honesty and integrity by requiring them to be subject to the rule is warranted."

Okay, so that's the Commission's intent. That's the NRC's intent in issuing the Final Rule with respect to MROs and SAEs and applicability.

Now we do have that topic under 26.4(g), which is FFD program personnel and it says "day-to-day" and MROs and SAEs are covered within those because they perform activities covered in that list. But the Rule is very clear, or the preamble is very clear, about the Commission's intention that MROs and SAEs are subject to an FFD program.

So that's the response to the question - an SAE is subject to the FFD program requirements. It's independent of whether they are onsite or remote, they would be subject. If they are onsite and have unescorted access, of course, they are subject for

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that reason, but they are subject to the Rule.

Then we further discuss in this SFAQ about how we're mindful that you have this "day-to-day" statement in there and it does apply to the other individuals that are listed there because the Commission did not make a statement in terms of the intent of applicability.

So the licensee does have the ability to make a determination through their policies and procedures about who would be considered FFD program personnel based on the function they are performing, right.

We are mindful that "involved in the day-to-day operations" of the FFD program, obviously after implementing for a while, might not be the most helpful terminology to be used, but that's the terminology that we have in the Rule.

There are very few functions, as we know based on 15 years of experience now, or 14 years based on when we implemented the Rule, many of the FFD program personnel do not perform functions on a daily basis, every single day, very few people actually do that.

Most are not doing it on a day-to-day basis, so "day-to-day operations" is probably not the

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best terminology to have been used to characterize functions performed by these individuals.

Okay. I just want to conclude real quickly and just talk about two more applicable areas to FFD program personnel because they are so critical and critically important to the functioning of an FFD program.

The Rule also requires that these individuals have a background investigation, a criminal and credit history check, and a psychological assessment performed. Now these are standard fare for anybody with unescorted access, but, again, this would apply to individuals that would not have unescorted access, too.

These fall under the Part 73.56 requirements. Those are the access authorization requirements. That's what is referenced there. So if you are granted unescorted access you go through both Part 26 and also Part 73.

Another element that individuals that are in the FFD program personnel category is they are subject to behavior observation. Why is that important? So behavior observation is important to identify if somebody is demonstrating aberrant behavior, right, something unusual that makes you

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question whether they are able to do their job honestly, safely.

However, that might be more difficult to do if the individual is performing work remotely, right, so I understand that question and that is obviously a part of the question that we received.

The last piece that we highlight here is that we acknowledge that FFD program personnel may not be conducting their jobs at a licensee site, right.

So we require by rule that individuals that are subject to testing under Part 26 are collected at a licensee's collection facility and those are generally at the power reactor location or, you know, in a controlled area right outside the power reactor.

Individuals that work remotely in another state may not have access to a power plant where they could be collected. There is a carve-out in the Part 26 Final Rule in 2008 that says FFD program personnel, a licensee may collect them at a collection site that is not an NRC-regulated collection site, you know, licensee's collection site, but they could go to a Department of Transportation, you know, a DOT collection site and be collected there.

So it's a flexibility to provide to

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individuals that work remotely, and we understand that many SAEs, not all, but many SAEs, may work in another state and may not be co-located or near a power plant, right, so that's one of the complexities.

The other piece of this is that some sites have their MRO also serve dual purpose, dual function, MRO/SAE. So there is a variety of colors to how SAEs perform their job within the Part 26 regulated space.

So hopefully I was able to highlight the key elements of both the question and the response. I want to now open up the floor for comment and question and am happy to review anything that, you know, we discussed or put it on the screen if you need me to do that. So with that the floor is open.

MR. ROGERS: Brian, I have some comments if that's okay.

MR. ZALESKI: Yes, go ahead Johnny.

MR. ROGERS: This is Johnny. Let me get something up on my screen here. Well good afternoon and, Brian, thank you for the opportunity to meet and discuss this important FFD programmatic issue.

It's something we have had questions about in the industry for years and, of course, that's what is driving, because we do have these questions that's what is driving this latest submission of SFAQ

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In response to the SFAQ I would like to offer the following comments if I could. The Paragraph (g) that you quoted in 26.4, I like how you framed that because that's exactly how we see it, it is a two-part test for determining which program personnel must be subject to the FFD program.

You read it before, I will just quickly review it for those who maybe have just joined late, "All FFD program personnel," the codified section of 26.4 says "All FFD program personnel who are involved in the day-to-day operations of the program, as defined by the procedures of the licensees and other entities and whose duties require them to have the following types of access."

You have already brought those in front of us, Brian, the determinations of fitness you mentioned, authorization decisions and those who, you know, of course, make determinations with respect to collecting specimens onsite and that sort of thing, so all of those duties line up under that paragraph.

The SFAQ requested clarification on the NRC's interpretation of the application of that two-part test articulated in 26.4(g), specifically the SFAQ requested clarification on how to interpret the

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"day-to-day operations," that language is what we placed in the SFAQ, what you see in Paragraph (g).

Draft SFAQ resolution concludes that based upon the statements that I heard you read in the preamble of the 2008 Final Rule the FFD rule says "All individuals that perform in the position of SAE under Part 26 are subject to a licensee's FFD program."

The draft SFAQ resolution explains, number one, SAEs are categorically included. I think that was clear from your --

MR. ZALESKI: Right.

MR. ROGERS: Yes, are categorically included in the licensee FFD programs whether they are in the day-to-day operations or not.

The second part of that, the two-part test articulated in 26.4(g) applies to the individual "other than the MRO or SAE." The problem I have with this is that I don't find any of these words in the final codified rule.

So in explaining its decision not to categorically exclude SAEs from the FFD programs under Paragraph (i), the preamble does not state that the SAEs should be included in the FFD programs under the criteria of Paragraph (g).

So focus on the preamble discussion was on

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the importance of duties performed by the SAE rather than on whether the SAE meets the criteria of being involved in the day-to-day operations of the program.

Industry agrees that if an SAE is involved in the day-to-day operations of the program they would fall under the duties of 10 CFR 26.4(g) (1) through (5) and be included in the program.

There is really no discussion about that and we get that. The preamble can interpret the regulation being promulgated which constitutes the legally binding requirement being imposed by the Agency.

But we contend that the preamble cannot impose requirements that are not contained in the regulations. The final 2008 FFD rule does not categorically mandate that SAEs be included in the licensee's FFD program.

In fact, it doesn't categorically include anybody, including SAEs. It's a two-part test described in 26.4(g) to determine whether personnel should be included in the program.

That test includes a licensee determination, and, again, I say "a licensee determination" of whether the individual is involved in the day-to-day operations. It is a licensee

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decision codified in the rule.

The draft SFAQ resolution seems to conclude that the Commission imposed a categorical rule application to SAEs in the preamble that is not imposed in the regulations themselves.

SAEs conduct substance abuse evaluations, as you noted, Brian, but these evaluations are of a non-clinical nature. I have some experience here because I work with training the SAEs.

Evaluating substance abuse levels of use and abuse are typical methods of establishing the potential for further referral. SAEs, however, or rather, do make recommendations for treatment and education, but it is the field treating clinician that performs diagnostic assessment and may include additional requirements based on that diagnosis.

SAEs no doubt play an important role in our program, but SAEs perform evaluations of a non-clinical nature. In contrast, the psychologist assessing for mental health disorders may conduct a clinical interview to determine recommendations, however, these clinicians are typically not in the FFD program.

Since Rule publication the licensees have applied the two-part test provided in Paragraph

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26.4(g) to determine whether SAEs should be included in the program or not.

Involvement in day-to-day operations is defined by procedures established by the licensees or other entities pursuant to Paragraph 26.4(g). SAEs who are routinely onsite and involved in frequent FFD program activities meet that two-part test in Paragraph 26.4(g) and are placed in the FFD program.

But many SAEs are remote as you noted and perform duties infrequently. These SAEs are not involved in the daily operations of the program as defined by the procedures of the licensees or other entities and, thus, are not required to be included in the FFD program under 26.4(g).

We are not aware, I am not aware, of any operational issues or concerns with application of the Rule evidenced by inspections and internal audits and oversight.

So, finally, I would just like to conclude with the SFAQ resolution and maybe the path forward should not reference the preamble in the 2008 Final Rule to impose a categorical requirement applicable to SAEs that is not contained in the regulation.

The statements in the preamble should be read in a manner that is consistent with the

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requirement that was promulgated in 10 CFR 26.4(g). NEI believes that the language in the preamble could be reasonable read as communicating the Commission's position that, number one, SAEs are not categorically excluded from inclusion in the FFD programs under Paragraph 26.4(i) and, number two, the duties performed by the SAE are included in the duties articulated in Paragraph 26.4(g) (1) through (5).

Thus, if an SAE is involved in day-to-day operations of the FFD program as defined by the procedures of the licensee and other entities identified in Paragraph 26.4(g) then they must be included in the FFD program.

If necessary, the NRC Staff could make the Commission aware that this is interpreting the preamble in the way to ensure consistency with regulations that were promulgated in the 2008 Final Rule.

With that, Brian, I will conclude my comments. Thank you very much for the opportunity to express these. I will turn it back over to you for questions and answers.

MR. ZALESKI: Thank you for your remarks, Johnny. I would just remind folks if anyone has a comment or a question they would like to make you can

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select the "raise hand" feature at the top menu of the Teams bar and we'll call on you or you could just unmute yourself as well and just ask the question.

I don't see anything in the chat box either at this point in time.

MR. ROGERS: Brian, Johnny again. I forgot to mention that all of these comments will be formed in a letter and we'll be submitting that as soon as possible.

MR. ZALESKI: On behalf of the Nuclear Energy Institute, correct? I'm sorry, Johnny, I don't know if you said that at the start of your comments, but I just want to make sure that's on the record that you are speaking on behalf of the Nuclear Energy Institute, correct?

MR. ROGER: Yes. Well, if I didn't say it I intended to say it, so thank you for that.

MR. ZALESKI: You may have said it, Johnny, I apologize. I just want to make sure that we're clear since you are just speaking, so we'll capture that.

MR. ROGERS: Absolutely correct. Thank you, Brian.

MR. ZALESKI: Sure. And I should say if folks have questions or comments and they want to

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communicate that to the NRC they can provide that to me by email or just generally through the docket if you believe that that's a more appropriate means of doing it.

Johnny, if you email me your feedback I'll make sure that it gets docketed accordingly and I'll do the same for anybody else's information that is provided.

MR. ROGERS: Thank you.

(Pause.)

MR. ZALESKI: Oh, the silence can be deafening, but let me hold off for a minute or two if folks are thinking about a question they may want to ask. I will make sure that I -- Let's see, here's the open discussion, the closing remarks.

This is the one slide deck where I did not actually put my information on the page. I will do that in a second. It's actually in the -- I'll put the meeting notice up, it's in the meeting notice, so everybody knows how to get in touch.

Well, there's my phone number. My email address isn't there, okay. Well I will put it on the screen. Give me one second to do that and I'll put my contact information on the screen. I should have had it as the last slide in here and I didn't do that and

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I apologize for that. Bear with me for a second.

(Pause.)

MR. ZALESKI: I'll do it in a non-elegant way, but anybody who wants to contact me my email address is brian.zaleski@nrc.gov. If you Google me you'll find that pretty fast, put my name and NRC and you'll be able to communicate comments that you might want by email and this way we can take that feedback into account in terms of next steps on the SFAQ.

I think with that, unless there are any final comments or questions, I will offer up some brief concluding remarks just to say thank you for participating today in this meeting and for offering additional information on this draft response to this question and I appreciate everybody participating today and, obviously, more to come on this topic.

We'll take your feedback into consideration and then evaluate whether we need to revise the document draft that we have at hand. With that, I will conclude today's meeting.

I appreciate all your time. Have a good rest of your Thursday and Friday and Happy Early Thanksgiving. I also would like to say we have one week from today to comply with the Final Rule requirements.

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If you haven't done so already the November 22, 2022 Rule, full compliance must be by November 22, 2023, which is next Wednesday. Oh, a question just came up. Howard? Thank you, Howard.

MR. BENOWITZ: Just in case people aren't -- Is there a deadline for submitting comments on the draft SFAQ?

MR. ZALESKI: We haven't officially established one. We are happy to take feedback. I know I mentioned the Rule, obviously folks are still working on, potentially working on implementing the Final Rule over the next week and we have the holiday, so if we get your comments, you know, sometime next month that would be very helpful and give you some time to finish wrapping up compliance with the current Rule and to take some time to spend with your families over the holidays.

I appreciate that, Howard, but I don't have an official deadline, but, obviously NEI is going to provide their feedback soon and if anybody else on the call would like to provide feedback please feel free to do so in the month of December. That would be most beneficial I think to keeping this moving forward.

All right. Thank you. Have a good

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afternoon.

(Whereupon, the above-entitled matter went
off the record at 2:41 p.m.)