

**ATTENDANCE LIST
NRC AND NEI MEETING
JULY 6 , 2000**

ON JULY 6 , 2000, THE FOLLOWING INDIVIDUALS ATTENDED THE MEETING BETWEEN THE NUCLEAR REGULATORY COMMISSION AND NUCLEAR ENERGY INSTITUTE HELD IN ROOM O-6B4 OF ONE WHITE FLINT BUILDING, ROCKVILLE, MARYLAND.

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5. Greg Smith	Region I	610-337-5263
6. Steve Lewis	NRC/OGC	301-415-1684
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10. David J. Bonthron	FPL	561-694-3355
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12. Robert Kelm, Sr.	PADS	419-824-2111
13. Kathleen E. Burkett	AEP	616-466-3335
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Enclosure

**INDUSTRY PROPOSED CHANGES
FROM NUMARC 89-01 TO NEI 99-08
(As amended during the June 2000, New Orleans
Access Authorization Workshop and Conference)**

The purpose of this document is to provide an analysis and justification for program improvements proposed by the nuclear power industry for the conduct of the Unescorted Access Authorization (UAA) program. The changes are predicated upon ten years of experience with the current standard document, US Nuclear Regulatory Commission Regulatory Guide (RG) 5.66, which endorsed and incorporated NUMARC 89-01 as an Appendix.

1. Background Investigation Elements

- a. Reduces the period for the background investigation from five years to three years.
(NUMARC 89-01, Section 6.2)

Rationale for Change: As established in NUMARC 89-01, the industry has been conducting five-year background investigations since the publication of 10 CFR § 73.56. Although, current authority states "...utilities may consider these applicants for unescorted access based upon an inclusive three-year retrospective employment check if the entire five-year cannot be covered." The industry developed NUMARC 89-01 based upon limited experience. The NRC position that a five-year scope for a BI was appropriate to support the UAA program was accepted. Recent information obtained from the 27 nuclear plants (15 companies) disclosed that during the period January 1, 1995 to December 31, 1999, 33,283¹ BI's were conducted and 3,140 personnel were denied access at those nuclear power plants. Further, an analysis of the data provided by the 27 sites disclosed that only 17² of the workers were denied access based on events that occurred within the 4th and 5th year of the BI scope. Licensees report that the most time-consuming elements of the BI are those being verified as having occurred in the 4th and 5th year. Verification of these elements seems to produce little or no relevant information affecting trustworthiness and reliability decisions.

In at least one of the BI elements, employment/unemployment history, the licensees have detected a growing trend of employers to disclose only minimal data, if any at all, during the conduct of employment checks. In a growing number of instances, employer's claim that they do not keep the requested in-depth information for periods greater than three years. Many employers decline to answer any questions citing a company policy of non-disclosure.

¹ The totals depicted represent data provided by 27 nuclear plants nationwide.

² Not all sites reporting data were able to provide site-specific details requested.

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in verifying night school courses when the applicant's time was already accounted for through employment checks. The change also eliminates confusing wording that resulted in varying interpretations of the education requirement.

- e. Criminal History, Section 5.4, clarifies fingerprint submittal requirements. (1) Once fingerprints are determined to be unclassifiable by the FBI for any reason other than poor quality submission, and a name and date of birth search is conducted no further submission is required.

(2) Any criminal history developed by contractor/vendors (C/V) or their background investigation screening companies must be presented to the licensee on or before a request for UA is made. (NUMARC 89-01 – None)

Rationale for Change: (1) It is a waste of resources to continue to send fingerprints to the FBI, which cannot be classified. If on original submittal, the FBI concurs that the submittal is the "best" possible, then the name and date of birth check should be considered sufficient.

(2) Regulation requires the licensee to "base its decision to review and evaluate all pertinent information developed." Utilities have found past circumstances where information was not provided in a timely manner, jeopardizing the program as well as the utility.

- f. Military Service, Section 5.5, allows obtaining a copy of a DD Form 214 as needed to verify employment. Additionally, when a request is made to a military record source, the request for Military Records check must be submitted within five (5) business days of the granting of UA. Plus, in the event that the military record source is non-response, two follow-up attempts to obtain the information are required. Finally, there is clarification that it is unnecessary to check active Reserve or National Guard service unless the applicant served on active duty beyond the annual Reserve/National Guard active-duty requirements within the previous three years. (NUMARC 89-01, Section 6.2.4)

Rationale for Changes: Licensees reported that the average wait to obtain requested military history information from the National Personnel Records Center (NPRC) has been approximately seven (7) months with a range of one (1) to thirty-three (33) months. In a recent survey, licensees had not received a total of 133 military records checks requested from NPRC³. These licensees also reported that there have been only two (2) instances since 1995 in which information that was not reported by the applicant and not previously known to the licensee was received and subsequently affected a trustworthiness and reliability determination. Typically, verification of military employment is best achieved through direct contact with the prospective worker's last command. However, if the last command were unable to respond appropriately due to

³ The totals depicted represent data provided by 27 nuclear sites (15 companies) or 42% nationwide.

cause for a subsequent clinical evaluation to determine continued trustworthiness and reliability. We have been informed that tele-medicine (use of video over phone lines) has been professionally accepted (by the American Psychological Association) as a means of conducting clinical interviews. Licensee-developed information may at any time be the triggering agent for a clinical interview.

2. Evaluation Criteria

In instances where trustworthiness and reliability become an issue after the granting of UAA/UA, licensees are required to reapply the same, originally used evaluation criteria. (NUMARC 89-01, Section 7.1)

Reason for Change: The current requirements focus only on the granting of initial UAA/UA. Each individual with current UAA/UA status is under the behavioral observation program and, where appropriate, exhibited behaviors subsequent to the granting of UAA/UA may need to be evaluated against these criteria to assess continued trustworthiness and reliability of the individual.

3. Access Authorization Categories

Temporary, Section 7.1, includes a new requirement that fingerprints be submitted to the FBI within five (5) business days of granting Temporary UAA/UA. (NUMARC 89-01, Section 6.4 e.)

Rationale for Change: Until the electronic submission of fingerprints to the NRC/FBI is implemented, a five (5) business day submittal-window will alleviate some administrative burden in the conduct of the criminal history check. Currently licensees must obtain checks for payment of the NRC fees. Some licensees issue an individual check per fingerprint fee while other licensees batch the fingerprints and attach a single check. The five-day latitude should assist in reducing administrative handling of the fingerprints and enable the licensees to consolidate the submittals.

4. Behavioral Observation Program

The phrase "Behavioral Observation" has been substituted for "Continual Behavioral Observation Program (CBOP)" to be more in consonance with current terminology. (NUMARC 89-0,1 Section 9.0)

Rationale for Change: The intent of the program is to monitor activities of workers through workday interactions, not round-the-clock as the word "continual" implies.

5. Arrest Reporting

The requirement to report arrests now requires that the individual be informed in writing and has been moved to a separate main section.

- c. Eliminated section on Grandfathering. No grandfathering specifics are included but the subject is mentioned in the Introduction, for historical purposes.

Rationale for Change: No new UAA candidates can be grandfathered. Certain industry workers are still maintained in the program, having been included under the initial grandfathering clause of RG 5.66/NUMARC 89-01. An individual with UAA/UA, that was established as of April 25, 1991, in accordance with 10 CFR § 73.56 (c)(1), and continues to have UAA/UA, is considered to meet regulatory requirements. (NUMARC 89-01, Section 11)

