

CLARIFICATION OF PERSONNEL ACCESS AUTHORIZATION REQUIREMENTS FOR NON-IMMIGRANT FOREIGN NATIONALS WORKING AT NUCLEAR POWER PLANTS

Office of Nuclear Security and Incident Response
April 28, 2020



Agenda

Time	TOPIC
10:00 AM-10:10 AM	Introductions and Opening Remarks
10:10 AM-10:25 AM	Background and RIS Purpose (Verification of True Identity)
10:20 AM-10:35 AM	NRC OI Involvement
10:35 AM-10:50 AM	U.S. Immigration and Customs Enforcement - Employment of non-immigrant foreign nationals
10:50 AM-11:25AM	Stakeholder Comments and Questions
11:25 AM-11:30 AM	Closing Remarks

Introductions and Opening Remarks

Overview of Access Authorization Program Requirements

- 10 CFR 73.56, “Personnel Access Authorization Requirements for Nuclear Power Plants”
- 10 CFR 73.57, “Requirements for criminal history records checks of individuals granted unescorted access to a nuclear power facility, a non-power reactor, or access to Safeguards Information”
- These requirements govern the granting unescorted access to U.S. Nuclear Plants and include: 1) a background investigation, 2) a criminal history check through the FBI, as well as additional checks with other Federal partners, 3) psychological and drug and alcohol testing.

Access Authorization Program Objective 10 CFR 73.56(c)

The licensee's or applicant's access authorization program must provide **high assurance that the individuals subject to these requirements are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety** or the common defense and security, including the potential to commit radiological sabotage.

Regulatory Background for Access Authorization Program Enhancement

- **January 7, 2003** - Access Authorization Order and Implementing guidance on establishing true-identity;
- **April 2004** - Industry Guidance Document (NEI 03-01, Rev. 1 SGI attachment) captured the intent to verify alien registration number
- **October 26, 2006** - Statements of Consideration - Power Reactor Security Requirements Proposed Rule, 71 FR, 62664, 62747
 - “Validation,” indicates that licensees, applicants and C/Vs would be required to **take steps to access information in addition to that provided by the individual** from other reliable sources to ensure that the personal identifying information the individual has provided to the licensee is authentic....
- **March 27, 2009** – Codified Verification of true-identity (10 CFR 73.56(d)(3)) - Power Reactor Security Requirements Final Rule, 74 FR, 13925, 13980

Regulatory Background for Access Authorization Program Enhancement

- **May 2009** - Industry Guidance Document (NEI 03-01, Rev. 3. Sec.7.3 Verification of True Identity)
- **October 2011** - Regulatory Guide 5.66, Rev.2, endorsed the latest version of the industry's guidance document
- **November 3, 2017**- NEI Personnel Access Data System (PADS) System Administrator Bulletin 2017-09—Verification of Non-Immigration Status
 - **Reaffirmed** it is necessary to conduct an appropriate verification of the individual's immigration status as permitted by the USCIS, verify true-identity of the individual and retain records documenting completion of both requirements.

10 CFR 73.56(d)(3) – Verification of True Identity

“Licensees, applicants, and contractors or vendors shall verify the true identity of an individual who is applying for unescorted access or unescorted access authorization in order to ensure that the applicant is the person that he or she has claimed to be. At a minimum, licensees, applicants, and contractors or vendors shall validate ... **in the case of foreign nationals, validate the claimed non-immigration status that the individual has provided is correct...**”

NEI 03-01, “Nuclear Power Plant Access Authorization Program”

- Section 7.3 - Verification of True Identity
 - (a)(4) the licensee ... contractor/vendor (C/V) “shall verify identity by, in the case of foreign nationals, validate the claimed non-immigration status that the individual has provided is correct.”
 - (c) requires licensees to consider the additional actions as specified in Supplement 1 to NEI 03-01.
 - Supplement 1 states: B.1.3.c - “...**Licensees should confirm eligibility for employment through U.S. Citizenship and Immigration Service (CIS) [USCIS]** and thereby verify and ensure to the extent possible, the accuracy of a social security number [or] alien registration number...”
 - Use of “USCIS Save” is a verification of employment eligibility that can be initiated for non-U.S. citizens prior to their arrival at the site.

Opportunity for Regulatory Clarification

- An investigation revealed that some foreign national contract employees supporting refueling outage work at U.S. nuclear power plants were working in the U.S. without proper visas and/or work authorization.
- The NRC is confident there are no security threat concerns present regarding these foreign nationals beyond attempting to work in the U.S. without the proper visas and/or work authorization because security programs at nuclear power plants are robust and include many integrated layers of defense (i.e., access authorization, behavioral observation, fitness for duty, insider mitigation, and physical security programs).
- NRC worked closely with investigators to identify other foreign nationals who may have misrepresented their work eligibility in the U.S. as a part of the access authorization process.

NRC Clarification of Personnel Access Authorization Requirements

- NRC issued draft RIS 2020-XX, “Clarification of Personnel Access Authorization Requirements for Non-Immigrant Foreign Nationals Working at Nuclear Power Plants,” on March 31, 2020 for public comment (30-days) – Close date of April 30,2020
- The purpose of the RIS is to reinforce the existing requirement that prior to granting or reinstating unescorted access, or certifying unescorted access authorization to non-immigrant foreign nationals for the purpose of performing work, licensees shall take reasonable steps to access reliable, independent sources of information, in addition to the information provided by the applicant, to verify the applicant's claimed non-immigration status.
- The comment period of the RIS is being extended 45-days (June 15, 2020)

Summary

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- At a minimum, licensees, applicants, and contractors or vendors shall validate in the case of foreign nationals, the claimed non-immigration status that the individual has provided is correct.
 - Licensees should confirm eligibility for employment through U.S. Citizenship and Immigration Service (CIS) [USCIS] SAVE (NEI 03-01).
 - The licensee granting unescorted access or certifying unescorted access authorization is responsible for ensuring the non-immigrant foreign national is authorized with the correct visa category to perform the specific work in the U.S. for which access or authorization is granted.
 - The issue and expiration dates shown on the visa determine its validity, and it can only be used within those dates for the sole purpose for which it was issued.

U.S. Nuclear Regulatory Commission Office of Investigations

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Comments/Questions

Draft Regulatory Issue Summary

Draft RIS 2020-XX, “Clarification of Personnel Access Authorization Requirements for Non-Immigrant Foreign Nationals Working at Nuclear Power Plants”

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Closing Remarks