

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF NUCLEAR REACTOR REGULATION  
WASHINGTON, D.C. 20555-0001

December 20, 2022

**DRAFT NRC REGULATORY ISSUE SUMMARY 2022-XX  
PERSONNEL ACCESS AUTHORIZATION REQUIREMENTS FOR NON-IMMIGRANT  
FOREIGN NATIONALS WORKING AT NUCLEAR POWER PLANTS**

**ADDRESSEES**

All holders of and applicants for a power reactor operating license under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities."

All holders of and applicants for a power reactor early site permit or combined license under 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants."

**INTENT**

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to remind licensees of the requirement in 10 CFR 73.56(d)(3), "Verification of true identity," that prior to granting or reinstating unescorted access (UA) or certifying unescorted access authorization (UAA) to non-immigrant foreign nationals for the purpose of performing work, licensees shall validate that the foreign national's claimed non-immigration status is correct and that verifying employment eligibility is an important component of the required validation. This is important to ensure that individuals to whom a licensee intends to grant UA or certify UAA to nuclear power plant protected or vital areas or any individual for whom a licensee or applicant intends to certify UAA, 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.

This RIS does not transmit any new requirements and does not require any specific action or written response on the part of addressees.

**BACKGROUND INFORMATION**

In October 2017, the NRC's Office of Investigations, in collaboration with the U.S. Department of Homeland Security, Homeland Security Investigations, identified several instances where foreign nationals were granted UA or certified UAA at U.S. nuclear power plants for the purpose of work using visa categories that do not permit foreign nationals to work in the U.S.

The issue of verifying the employment eligibility of a foreign national was first addressed by the NRC in RIS 2002-13, "Confirmation of Employment Eligibility" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML021720225, August 27, 2002; not publicly available). In this RIS, the Commission stated that "it is crucial that licensees exercise greater diligence in implementing their access authorization programs." This RIS concluded that confirming a foreign national's employment eligibility was an important element of the

background investigation undertaken to verify the true identity of an applicant seeking UA at a U.S. nuclear power plant. The 2002 RIS was followed with a Commission order on January 7, 2003.

NRC Order EA-02-261, “Order for Compensatory Measures Related to Access Authorization” ([ML030060360](#)), implemented the Commission’s position on employment eligibility. Specifically, Section B.1.3.c of the attachment to NRC Order EA-02-261 contained a requirement that: “Licensees should confirm eligibility for employment through INS [Immigration and Naturalization Service] and thereby verify and ensure, to the extent possible, the accuracy of a social security number or alien registration number.” To facilitate licensee verification of a foreign national’s employment eligibility, on September 26, 2007, the NRC entered into a Memorandum of Understanding (MOU) with the U.S. Citizenship and Immigration Services (USCIS) to allow NRC licensees to use the agency’s Systematic Alien Verification for Entitlements (SAVE) electronic database. Use of the USCIS SAVE database is one acceptable means of verifying a foreign national’s employment eligibility as part of validating the foreign national’s true identify. There is no charge to licensees to use this service.

## SUMMARY OF ISSUE

The regulatory requirements in 10 CFR 73.56(d)(3) were first promulgated in March 2009.<sup>1</sup> Specifically, 10 CFR 73.56(d)(3) requires:

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 that the social security number that the individual has provided is his or hers, and, in the case of foreign nationals, validate the claimed non-immigration status that the individual has provided is correct. In addition, licensees and applicants shall also determine whether the results of the fingerprinting required under § 73.57 confirm the individual's claimed identity, if such results are available.

Moreover, 10 CFR 73.56(a)(4) also requires:

The licensee or applicant may accept, in part or whole, an access authorization program implemented by a contractor or vendor to satisfy appropriate elements of the licensee’s access authorization program in accordance with the requirements of this section. Only a licensee shall grant an individual unescorted access. Licensees and applicants shall certify individuals' unescorted access authorization and are responsible to maintain, deny, terminate, or withdraw unescorted access authorization.

In the Statement of Considerations to the October 26, 2006, Power Reactor Security Requirements proposed rule, the Commission made clear that the term “validation” was being used in 10 CFR 73.56(d)(3) “to indicate that licensees, applicants and [Contractors or Vendors] 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” (71 FR 62747). The Commission further

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<sup>1</sup> The NRC amended 10 CFR Parts 50, 52, 72, and 73, including Appendices B and C to Part 73, through a final rule (“Power Reactor Security Requirements”) published in the Federal Register on March 27, 2009 (74 FR 13925).

stated that validation could be accomplished by accessing information from a variety of reliable sources including, but not limited to, Federal Government databases. It is clear from this discussion that the Commission intended licensees, when verifying a foreign national's true identity, to do more than just rely on documentation provided by an applicant when granting UA or certifying UAA.

Industry guidance from the Nuclear Energy Institute (NEI) in NEI-03-01, "Nuclear Power Plant Access Authorization Program" Revision 3, Supplement 1 dated May 2009, as endorsed by NRC,<sup>2</sup> states the following:

B.1.3.c "...Licensees should confirm eligibility for employment through U.S. Citizenship and Immigration Service (CIS) and thereby verify and ensure to the extent possible, the accuracy of a social security number [sic] alien registration number..."

On November 3, 2017, NEI issued Personnel Access Data System (PADS) System Administrator Bulletin 2017-09 (Verification of Non-immigration Status). This bulletin reminded NRC licensees that for foreign workers they should verify the claimed non-immigration status that the individual has provided is correct as a part of the background investigation. However, in part, it contained ambiguous language inconsistent with the Commission's requirement to validate the authenticity of the information provided by the individual. Specifically, the bulletin included the following statement:

Since the inception of the non-immigration verification performance requirement, two methodologies have been in place to satisfy the performance requirement; (1) The use of the Department of Homeland Security US Citizenship and Immigration Services (DHS-USCIS) Systematic Alien Verification for Entitlements (SAVE) program, and (2) The licensee's [visual] inspection of passport and Visa information identifying the status of the individual upon arrival at the licensee facility.

This NEI bulletin was not endorsed by the NRC.

The NRC rescinded NRC Order EA-02-261 by letter dated November 28, 2011 (ML112840300). The rescission letter stated that the 2009 "Power Reactor Security Requirements" rulemaking incorporated all requirements set forth in NRC Order EA-02-261. Thus, the rescission of NRC Order EA-02-261 did not remove or modify the requirement to verify a foreign national's eligibility of employment.

The Commission has determined that verifying the employment eligibility of foreign nationals seeking UA or UAA to a nuclear power plant is necessary to ensure that the integrity of a licensee's access authorization program reflects the Commission's concern stated explicitly in the 2002 RIS. A visual verification of documents provided by a foreign national would not enable the licensee to verify employment eligibility. Relying solely on visual verification of documents does not meet the regulatory requirement in 10 CFR 73.56(d)(3) and would weaken the safety and security provided by the requirement to validate the foreign national's claimed non-immigration status as part of establishing the foreign national's true identity.

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<sup>2</sup> The NRC endorsed NEI-03-01 in Regulatory Guide 5.66, "Access Authorization Program for Nuclear Power Plants," Revision 2.

One acceptable method to comply with 10 CFR 73.56(d)(3), including the requirement to verify employment eligibility, would include the licensee's visual verification of documents provided by the non-immigrant foreign national, including the official government issued photo identification (e.g., passport, Work Authorization Document, or visa), along with the use of the SAVE database and review of the visa category. This methodology is consistent with the language in the PADS bulletin to use the SAVE database and perform a visual verification of the documents provided by the foreign national. The SAVE database prompts a user to enter appropriate demographic and other information on the foreign national being considered for UA. A user typically receives a response from the SAVE database within minutes. One response might be "Non-Immigrant – Not Employment Authorized." In the event of this type of response, the foreign national cannot be granted UA if the purpose of granting such access is to allow the foreign national to work in the protected area. A second type of SAVE response might be "Non-Immigrant – Temporary Employment Authorized."<sup>3</sup> This response clearly indicates that the foreign national is entitled to work in the U.S., but it does not provide any indication of the type of business activity or work<sup>4</sup> the foreign national is authorized to perform. There are several visa categories that would allow a foreign national to perform work in the U.S., but not the types of business activity or work that are typically performed at a nuclear power plant. Typical visa categories authorizing a foreign national to perform the types of business activity or work typically required at a nuclear power plant include, but are not limited to, those categories identified in Enclosure 1 to this RIS. Enclosure 2 provides a step-by-step guide for licensees to obtain, verify, and interpret visa categories identified in SAVE. Verification of employment eligibility using SAVE can be initiated for foreign nationals prior to their arrival at the nuclear power plant site. SAVE response times are generally within minutes unless additional verification is needed by USCIS.

## CONCLUSION

Licensees must have an access authorization program that provides high assurance<sup>5</sup> that individuals granted UA or certified for UAA are trustworthy and reliable. Licensees may use any method that reliably verifies that a foreign national is eligible for employment at a nuclear power plant in the U.S. If, consistent with 10 CFR 73.56(a)(4), a licensee accepts a contractor or vendor's access authorization program to satisfy appropriate elements of the licensee's program, the licensee must ensure that the contractor or vendor reliably and effectively verifies a foreign national's employment eligibility as part of validating that the foreign national's claimed non-immigration status is correct. The licensee remains at all times responsible for certifying and granting, maintaining, denying, terminating, or withdrawing an individual's UA or UAA. This RIS reminds licensees of that requirement.

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<sup>3</sup> Additional information on SAVE responses (e.g., Non-Immigrant - Temporary Employment Authorized) and visa categories (also known as class of admission (COA) codes) can be accessed within the SAVE response itself by clicking on the links provided: [Guide to Understanding SAVE Verification Responses](#) and on page 6 [Online Resources](#).

<sup>4</sup> The phrase "type of business activity or work" means the general category of work to be performed at the licensee's facility, e.g., construction work as opposed to agricultural work, or professional services such as consulting. The reviewing official is not required to have a specific job description detailing exactly what the foreign national will be doing. The reviewing official must have a general understanding of the type of business activity or work the foreign national will be performing that justifies the granting of UA or certifying for UAA. The reviewing official must also verify that the foreign national's visa category authorizes the type of business activity or work for which UA is being granted or UAA is being certified.

<sup>5</sup> In Staff Requirements Memorandum (SRM)-SECY-16-0073, "Options and Recommendations for the Force-on-Force Inspection Program in Response to SRM-SECY-14-0088," the Commission stated that, "the concept of 'high assurance' of adequate protection found in our security regulations is equivalent to 'reasonable assurance' when it comes to determining what level of regulation is appropriate" (ML16279A345).

## BACKFITTING AND ISSUE FINALITY DISCUSSION

This RIS does not require any action or written response on the part of any licensee or applicant. Accordingly, issuance of this RIS does not represent backfitting as defined in 10 CFR 50.109(a)(1) and is not inconsistent with any applicable issue finality provision in 10 CFR Part 52. Therefore, the NRC did not prepare a backfit analysis for this RIS, or further address the issue finality criteria in Part 52.

## FEDERAL REGISTER NOTIFICATION

The NRC published a notice of opportunity for public comment on this RIS in the *Federal Register* (87 FR 35798) Docket ID NRC-2022-0119 on June 13, 2022. The agency received comments from 3 commenters. The evaluation of these comments and the resulting changes to the RIS are discussed in a publicly available memorandum which is in ADAMS under Accession No. [MLXXXXXXX](#).

## CONGRESSIONAL REVIEW ACT

This RIS is not a rule as defined in the Congressional Review Act (5 U.S.C. §§ 801-808).

## PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget (OMB), approval number 3150-0002.

### Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

## CONTACT

This RIS requires no specific action or written response. If you have any questions about this RIS, please contact the technical staff listed below or the appropriate NRC regional office.

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Note: NRC generic communications may be found on the NRC public Web site, <https://www.nrc.gov> under NRC Library/Document Collections.

Enclosures:

1. Non-immigrant Class of Admission Codes/Visa Categories
2. Systematic Alien Verification for Entitlements (SAVE) Database Step-by-Step Instruction

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**SUBJECT:** DRAFT NRC REGULATORY ISSUE SUMMARY 2022-XX  
PERSONNEL ACCESS AUTHORIZATION REQUIREMENTS FOR  
NON-IMMIGRANT FOREIGN NATIONALS WORKING AT NUCLEAR  
POWER PLANTS

**DATED:** DECEMBER 20, 2022

**ADAMS Accession No. ML22354A108**

**via email\***

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## NON-IMMIGRANT CLASS OF ADMISSION CODES/VISA CATEGORIES

Visa categories that authorize non-immigrant foreign nationals to perform the types of business services or work typically required at U.S. nuclear power plants include, but are not limited to, the following:

Class of Admission	Description
B-1	Temporary visitor for business (including Peace Corps).
H-1B	Temporary worker (other than registered nurse) with "specialty occupation" admitted on the basis of professional education, skills, and/or equivalent experience
H-2B	Nonagricultural worker performing services of a temporary nature or labor unavailable in the United States.
L-1	Intracompany transferee (executive, managerial, and specialized personnel entering to render services to a branch, parent, subsidiary, or affiliate of the company of previous employment outside the United States).
L-1A	Intracompany transferee (managers and executives).
L-1B	Intracompany transferee (specialized knowledge).
TN	Canadian or Mexican citizen professional business person engaged in business activities in the U.S. (North American Free Trade Agreement.)
TN-1	Canadian citizen professional business person engaged in business activities in the U.S. (North American Free Trade Agreement.)
TN-2	Mexican citizen professional business person engaged in business activities in the U.S. (North American Free Trade Agreement.)
V-1	Nonimmigrant spouse of lawful permanent residents waiting more than 3 years for an immigrant visa based upon an immigrant petition filed on or before the enactment date of the LIFE Act, as of December 28, 2000.
W-1	Applicant for temporary legal resident status.
WB	Temporary visitor for business admitted without visa under the Visa Waiver Program.

A complete listing of visa categories and the attendant purposes for the visas can be accessed at the following US.C.I.S. and U.S. Department of State government websites:

[Temporary \(Nonimmigrant\) Workers | USCIS](#)

<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/all-visa-categories.html>



## SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) DATABASE STEP-BY-STEP INSTRUCTION

Use of the SAVE system provides one acceptable means by which licensees can validate the correct non-immigration status of foreign nationals and verify employment eligibility.

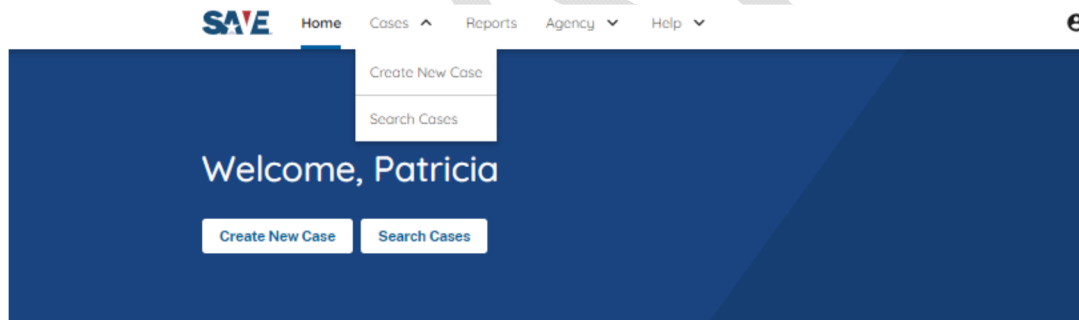
To access SAVE, the licensee should perform the following:

### **STEP ONE:**

If licensees do not already have access to SAVE, they can request an account by contacting the NRC's Access Authorization technical staff at [SAVE.AccountRequest@nrc.gov](mailto:SAVE.AccountRequest@nrc.gov). The licensee must first establish a memorandum of understanding (MOU) between the NRC and the licensee for the use of SAVE. Once the MOU is signed, an account to use SAVE will be set up for the licensee.

### **STEP TWO:**

Once a licensee/user logs into the SAVE system, there are two ways to create a new verification case: 1) from the homepage there is a welcome message - under the welcome message, select the option "Create New Case," or 2) using the toolbar at the top of the screen, select the option "Cases" and choose "Create New Case" from the drop-down menu.



### **STEP THREE:**

Enter the non-immigrant foreign national's information, which includes Name (First, Last); Date of Birth; and one additional enumerator, such as the Alien Number, SEVIS (Student) Identifier, or I-94 number. Enter as much information as available and then select "Continue." If a field formatting error alert is displayed, the field will be highlighted. The formatting error must be corrected to continue.

### **STEP FOUR:**

Select Benefit(s) being requested – choose the option "Employment" and select "Continue."

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**STEP FIVE:**

A review screen will be displayed with case details. This is a summary screen based on licensee input and selection. Ensure all case details are entered accurately prior to submitting for verification. Once confirmed, select "Initiate Verification."

**STEP SIX:**

Depending on the information that USCIS has about the applicant, a photo may be returned. The user will be prompted to compare the photo displayed in SAVE with the photo in the document provided by the applicant and make a confirmation selection using the following options:

- Yes, this photo matches**
- No, this photo does not match**
- No photo available**

Select "Continue." For additional information, if you selected "Yes, the photo matches," SAVE will respond with its case result – the Initial Verification Response. If you selected "No, this photo does not match," SAVE will respond with "Institute Additional Verification." Additional verification steps will be necessary. If you selected "No photo displayed," SAVE will respond with its case result – the Initial Verification Response.

**STEP SEVEN:**

Review the SAVE Initial Verification Response to confirm the foreign nationals claimed non-immigration status and employment eligibility.

**Applicant Status:** Non-Immigrant  
**Employment Eligibility:** Employment Authorized - Temporary Employment Authorized

A non-national of the U.S. who is admitted for a specific reason and for a limited period of time. The applicant [Guide to Understanding SAVE Verification Responses](#) for additional information. Follow your agency's policy v applicant is eligible for benefits.

SAVE Response Details

**Case Verification Number**  
0022214135531PV

**COA Code**  
H1B

**Date Admitted To**  
09/05/2025

**Employment Authorization Expiration Date**  
08/26/2025

**Response Date**  
08/02/2022

Agency Submitted

**Full Name**  
[REDACTED]

**Date of Birth**  
[REDACTED]

**Passport Number**  
[REDACTED]

**Country of Issuance**  
IND

## **STEP EIGHT:**

Confirm the COA code/visa category identified on the non-immigrant foreign national's visa is the same as that identified in SAVE. Licensees should also verify that the visa category issued to the foreign national authorizes the work for which unescorted access is being granted. Cross-reference the visa category with the COA table as identified in Enclosure 1 to this RIS or within the SAVE response itself by selecting "[Guide to Understanding SAVE Verification Responses](#)" and on page 6 of the guide select "[Online Resources.](#)"

**Note:** For additional help in using SAVE, from the main menu select "Help" from the toolbar at the top of the screen, then select the "Resources" option. This provides the user with links to helpful guidance, user manuals, and training, including direct links to the COA tables/visa categories as referenced herein.

If the SAVE database is temporarily unavailable, or a user has difficulty in interpreting a SAVE response, please contact the NRC for assistance at [SAVE.AccountRequest@nrc.gov](mailto:SAVE.AccountRequest@nrc.gov).

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