

NRC Draft Regulatory Issue Summary:

**Personnel Access Authorization Requirements
for Non-Immigrant Foreign Nationals
Working at Nuclear Power Plants**

Office of Nuclear Security and Incident Response

April 28, 2025



Agenda

2:00pm – 2:10pm	Introduction and Opening Remarks	NRC
2:10pm – 2:45pm	Discussion of the Draft Regulatory Issue Summary	NRC
2:45pm – 2:55pm	Open Discussion with Stakeholders	All
2:55pm – 3:00pm	Closing Remarks/Adjourn	NRC

Background



- In October 2017 – the NRC, in collaboration with the Department of Homeland Security, identified several instances where an NRC licensee had failed to appropriately validate the claimed non-immigration status of a foreign national prior to granting unescorted access (UA) and/or unescorted access authorization (UAA).
- **10 CFR 73.56(d)(3), “Verification of true identity,”** requires licensees, applicants, contractors, and vendors to verify the true identity of a individuals applying for UA or UAA.
 - In the case of foreign nationals, this requires validation that the claimed non-immigration status that the individual has provided is correct.

Background *(cont.)*



- Based on the 2017 events and NRC staff review, the NRC issued Enforcement Guidance Memorandum **(EGM) 20-001**, **“Enforcement Discretion Not to Cite Certain Violations of 10 CFR 73.56 Requirements”**
 - The current revision (Rev. 4) of the EGM ([ML24166A021](#)) is set to expire on June 30, 2025
- In 2020, the NRC also began the process to develop and issue a regulatory issue summary (RIS) to provide clarification regarding the NRC identity-verification requirements for non-immigrant foreign nationals.

Draft RIS & Public Engagement History



First draft

- **March 31, 2020:** NRC published in Federal Register ([85 FR17770](#))
- **April 28, 2020:** NRC held public meeting seeking public comment

Second draft

- **June 13, 2022:** NRC published in Federal Register ([87 FR35798](#))
- **August 9, 2022:** NRC held public meeting seeking comment

Third draft

- **December 20, 2022:** NRC published in ADAMS ([ML22354A108](#))
- **January 12, 2023:** NRC held public information meeting

April 2025 Draft RIS

To support today's discussion, the NRC has published a fourth draft of the RIS ([ML25083A260](#)) and a comment-resolution document ([ML24212A201](#)) intended to address outstanding comments received on prior drafts and at the January 2023 public meeting.

RIS Key Messages:

Purpose of the RIS



- Reminds licensees of the true identity verification requirements of 10 CFR 73.56(d)(3), including the need to validate that a foreign national's claimed non-immigration status is correct, and that confirming employment eligibility is an important component of this validation.

RIS Key Messages:

Changes from previous version

- Updates were made to the draft RIS to clarify the following:
 - When confirming employment eligibility, licensees need only confirm whether the non-immigrant foreign national is eligible to work in the U.S. (rather than the specific *type* of work that the non-immigrant foreign national is authorized to perform).
 - A licensee 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.
 - Options available to licensees in the case of exigent circumstances.

RIS Key Messages: **Validation Process**

- As part of the validation process, steps must be taken to access information independent from that provided by the foreign national to ensure that the information provided is authentic.
 - The NRC makes the U.S. Citizenship and Immigration Services (UCIS) Systematic Alien Verification for Entitlements (SAVE) electronic database available to licensees free of cost for this purpose, as one acceptable method to meet the regulatory requirements.
 - Visual inspection of documents alone does not meet the intent of the requirement in 10 CFR 73.56(d)(3).

RIS Key Messages:

Contractor & Vendor Programs

- Consistent with 10 CFR 73.56(a)(4), a licensee may accept an access authorization program implemented by a contractor or vendor to satisfy appropriate elements of the licensee's access authorization program.
- Although contractors and vendors do not have access to the USCIS SAVE database, they can perform the same employment verification using E-Verify.
 - E-Verify is a web-based program administered by USCIS and the U.S. Social Security Administration.

RIS Key Messages:

Contractor & Vendor Programs *(cont.)*

- While a licensee may accept a contractor or vendor program, only the licensee may grant UA or certify UAA.
- If relying on a contractor/vendor, the licensee needs to ensure that the contractor or vendor has performed the necessary steps to independently validate a foreign national's claimed non-immigration status.

RIS Key Messages:

Exigent Circumstances

- In instances where licensees need to manage exigent circumstances, licensees can permit access through other means permitted by NRC regulations.
 - For example, a licensee may consider arranging escorted access of a non-immigrant foreign, as is permitted under the visitor and escort provisions in 10 CFR 73.55(g), “Access Controls.”

Validation of Claimed Non-immigration Status

- The Statements of Consideration for the 2006 Power Reactor Security **Proposed Rule** clarified that the term “validate” was used 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 information presented is authentic.

Confirmation of Employment Eligibility



- Since the issuance of RIS 2002-13, “Confirmation of Employment Eligibility,” in August 2002, the Commission has maintained the position that confirming employment eligibility is an important element of the background investigation undertaken to verify an applicant’s true identity.
- In January 2003, the NRC issued EA-02-261, “Order for Compensatory Measures for Access Authorization,” which required licensees to “confirm eligibility for employment through [U.S. Immigration and Naturalization Service] and thereby verify and ensure to the extent possible, the accuracy of the social security number or alien registration number”

Confirmation of Employment Eligibility *(cont.)*



- In a November 2011 letter rescinding NRC Order EA-02-261, the NRC indicated that all requirements of the Order were incorporated into the 2009 Final Rule.
 - The NRC thereby maintained the requirement to confirm employment eligibility under 10 CFR 73.56(d)(3).
- The NRC position was further reinforced through the endorsement of NEI 03 01, “Nuclear Power Plant Access Authorization Program,” Revision 3, Supplement 1, in October 2011.
 - Supplement 1 recommends that licensees use the SAVE program to confirm the employment eligibility of non-immigrant foreign nationals.

Next Steps

- The NRC plans to issue the Final RIS prior to the expiration date of the EGM (Rev. 4) on June 30, 2025.
- The NRC plans to revise EGM 20-001 to include updated language that reflects the NRC's clarification on employment eligibility verification requirements.
 - The EGM will be renewed for a period of time to allow licensees to make any necessary changes to their programs/processes to conform with the NRC's requirements (as clarified in the RIS).

Next Steps *(cont.)*

- The NRC also plans to revise the relevant NRC inspection guidance in NRC Inspection Procedure 71130.01, “Access Authorization” (as recommended in EGM 20-001).
 - Revisions will provide clarity regarding expectations for NRC inspectors when verifying the steps taken by licensees when conducting identity verification of non-immigrant foreign nationals.

Next Steps *(cont.)*

- Licensees planning to begin using the USCIS SAVE program will need to establish a memorandum of understanding (MOU) with the NRC.
 - The NRC maintains a template to facilitate this process, and NRC staff is available to assist.
 - Additional guidance is included in Enclosure 1 to the Draft RIS.
- Licensees may also elect to procure the services of a contractor or vendor to conduct employment verification (e.g., using the E-Verify system).

Discussion/Questions/Comments

Closing Remarks