

April 18, 2003

Mr. James W. Davis, Director
Operations Department
Nuclear Energy Institute
Suite 400
1776 I Street
Washington, D.C. 20006-3708

SUBJECT: Access Authorization Program Questions and Answers

Dear Mr. Davis:

In response to your letters dated March 7 and April 10, 2003, requesting NRC concurrence on three industry questions raised at the NEI's Access Authorization Implementation Workshop held in January 2003, the staff provides the following responses.

Question 1:

What are acceptable licensee standards for trustworthiness and reliability acceptable for an individual who evaluates personal information for the purpose of processing applicants for the access authorization program? [Ref: AA CM Guidance C.1.10.a in NEI 03-01, Section 11.3]

NEI Answer:

Anyone at a licensee site with UAA/UA has met all requirements for trustworthiness & reliability.

For other personnel, sufficient background information will have been collected and adjudicated by the employer to provide reasonable assurance that the individual is trustworthy and reliable to performance duties related to proper handling of information, records and databases entrusted to him or her. An acceptable program would include (appropriate NEI 03-01 Section referenced if covered):

- 7.1 Consent for the investigations;
- 7.2 Evaluation of completed Personal History Questionnaire (Initial);
- 7.3 Verification of true identity;
- 7.4 Employment/unemployment history verification;
- 7.5 Credit checks and evaluation;
- 7.6 Character and reputation evaluation;
- 7.8 Psychological evaluation; and
- Local criminal history check.

NRC Staff:

NRC Compensatory Measure C.1.10 requires that licensees protect specific information. In part, licensees must ensure the trustworthiness and reliability of personnel that have access to the information and protect it accordingly. Implementation and application of the guidance provided by the staff in NRC's Access Authorization Compensatory Measures Guidance, Section C.1.10.a, dated January 7, 2003, would be an acceptable method to satisfy the requirement.

Question 2:

Can a list of employers who refuse or are unwilling to provide employment information be used to meet the requirements of AA CM, Guidance B.1.4.b.1(i) A & B?

NEI Answer:

Yes, a list of employers who have been documented not to respond to requests for employment verifications as discussed in B.1.4.b.1(i) A & B may be used if properly documented and controlled. Procedures for developing and maintaining the list shall, as a minimum address:

1. The process for adding and removing names from the list.
2. Proper documentation of a company's policy to not respond to requests.
3. Revalidation of each company on the list at least once every six months.

NRC Staff:

No. The NRC Compensatory Measure B.1.4 requires an employment verification for each applicant. The objective of AA CM, Guidance B.1.4.b.1 is to clearly describe the expectation for "best effort" and to verify claimed employment for each applicant. Creating a list of known employers who do not produce or relinquish information would not satisfy the requirement to make inquiries for each applicant. The "best effort" approach described in the guidelines alleviates the need to conduct repetitive requests, on behalf of an individual applicant, to the same employer if that employer refuses, indicates an unwillingness, or indicates an inability to respond to the request. Your proposal to generically obtain information regarding employers unwillingness to respond to inquiries would not satisfy the Compensatory Measure B.1.4 which requires an employment verification for each applicant and is not consistent with the guidance contained in B.1.4.b.1 which describes the NRC staff's position regarding "best effort."

Question 3:

Can an individual's unescorted access be reinstated if the last criminal history records check and/or credit check exceed five years? [Ref: AA CM Guidance B.1.2.d and B.1.2.e in NEI 03-01, Section 9.]

NEI Answer:

Yes, an individual who was terminated favorably within the last 365 days may have UA/UAA restored when the requirements of AA CM Guidance B.1.2.d or B.1.2.e are met. There will be some cases where a reinvestigation was due at some point after UA/UAA was terminated by the last licensee. If a reinvestigation is required by AA CM Guidance C.1.6 it should be promptly conducted.

Note that the AA CM order, Section III.A requires that reinvestigations be completed by January 7, 2004. For reinstatements conducted prior to this date, the reinvestigation may be delayed consistent with the licensees program for implementing AA CM Guidance C.1.6.

NRC Staff:

The staff has reviewed the NEI answer and agrees, in part. Specifically, individuals who are terminated favorably within the last 365 days may have UA/UAA restored if the requirements of NRC's Compensatory Measure B.1.2 are satisfied and are consistent with the guidance contained in B.1.2.d and B.1.2.e. However, NRC Compensatory Measure C.1.6 specifies reinvestigation requirements. If an applicant satisfies the requirements for reinstatement but does not satisfy the requirements for reinvestigation, the reinvestigation must be completed prior to granting unescorted access to the individual.

NRC Compensatory Measure C.1.6 has an implementation date of January 7, 2004. Individuals that have unescorted access to the licensed facility but do not satisfy the requirements of Compensatory Measure C.1.6 shall have their unescorted access terminated.

With regard to any comments or additional questions concerning this letter, please contact Brad Baxter at (301) 415-6742 or Michael Burrell (301) 415-6415 of my staff.

Sincerely,

M. Christopher Nolan, Acting Section Chief */RA G. West for/*
Licensee Personnel Security Section
Division of Nuclear Security
Office of Nuclear Security and Incident Response

NRC Staff:

The staff has reviewed the NEI answer and agrees, in part. Specifically, individuals who are terminated favorably within the last 365 days may have UA/UAA restored if the requirements of NRC's Compensatory Measure B.1.2 are satisfied and are consistent with the guidance contained in B.1.2.d and B.1.2.e. However, NRC Compensatory Measure C.1.6 specifies reinvestigation requirements. If an applicant satisfies the requirements for reinstatement but does not satisfy the requirements for reinvestigation, the reinvestigation must be completed prior to granting unescorted access to the individual.

NRC Compensatory Measure C.1.6 has an implementation date of January 7, 2004. Individuals that have unescorted access to the licensed facility but do not satisfy the requirements of Compensatory Measure C.1.6 shall have their unescorted access terminated.

With regard to any comments or additional questions concerning this letter, please contact Brad Baxter at (301) 415-6742 or Michael Burrell (301) 415-6415 of my staff.

Sincerely,

M. Christopher Nolan, Acting Section Chief */RA G. West for/*
Licensee Personnel Security Section
Division of Nuclear Security
Office of Nuclear Security and Incident Response

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*See previous concurrence

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NAME	B.Baxter	C.Nolan		
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