

**NEI 03-01 [Revision 2]**

# **Nuclear Power Plant Access Authorization Program**

**September 2008 (Draft)**



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**Nuclear Energy Institute**

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**September, 2008**



## **ACKNOWLEDGEMENTS**

This document, NEI 03-01, *Nuclear Power Plant Access Authorization Program*, was developed by members of the NEI Advisory Task Force after the AA CM Order was issued in 2003. This document has served as the cornerstone document for the industry and this revision incorporates regulatory changes and industry experiences since Revision 1 was issued in April 2004. The industry professionals identified below, experts on access authorization programs, drawing upon practical lessons learned during the application of the previous requirements provided valuable insights to update the program. The changes provide a more efficient and effective program. NEI also wishes to acknowledge the extensive review and comment by those industry representatives who shaped the final form of this document:

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## **EXECUTIVE SUMMARY**

**NEI 03-01, *Nuclear Power Plant Access Authorization Program***, provides standard industry criteria for implementing the Access Authorization Rule and to establish consistency in access authorization programs throughout the industry in the implementation of the Nuclear Regulatory Commission (NRC)-issued *Order for Compensatory Measures Related to Access Authorization*. With a decade of experience with previous NEI guidelines, several lessons have been incorporated to maintain the industry programs that provide high assurance that only trustworthy and reliable people will be allowed into protected areas of nuclear power plants.

These updated performance criteria are consistent with most current industry practices and have the potential for increased program efficiency. Additionally, **NEI 03-01** is organized to facilitate the sharing of access data among authorized entities through the Personnel Access Data System.

**NEI 03-01, Revision 2**, incorporates NRC access authorization and fitness-for-duty program requirements and implements individual licensee security plan access authorization commitments. Separately, licensees are committed through the PADS Participation Agreement to follow **NEI 03-01 Revision 2** as it is a PADS series document defined within the agreement.

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## **NUCLEAR POWER PLANT ACCESS AUTHORIZATION PROGRAM**

### **1 INTRODUCTION**

- a. This document, *Nuclear Power Plant Access Authorization Program*, hereinafter referred to as NEI 03-01, has been designed to establish consistency in access authorization (AA) programs throughout the nuclear power industry in the implementation of a NRC-issued order which directed *Compensatory Measures for Access Authorization (AA CM)*, Appendix A, Reference A.1 and pertains to operating nuclear power plants and certain other NRC-licensed facilities.
- b. In addition, this document supports the establishment, implementation and maintenance of a fitness-for-duty (FFD) program as required by 10 CFR Part 26.
- c. This document also includes implementation criteria for applicable personnel access authorization requirements of 10 CFR § 73.56, and criminal history checks of 10 CFR § 73.57. Revision 1 to this document incorporated additional requirements from *Design Basis Threat for Radiological Sabotage for Operating Power Reactors (DBT)*, Appendix A, Reference A.10.
- d. The NRC's Implementing Guidance for Access Authorization, Appendix A, Reference A.2, is quite detailed and was relied on for developing the elements of this program. Only the non-Safeguard portions of the NRC guidance have been included in this document and it is intended for use by both licensees and contractor/vendors. Supplement 1 to this document provides additional criteria, at the Safeguards level, for licensees.
- e. NEI 03-01 incorporates the concept of "Authorization" as defined in 10 CFR 26.5. Within this document the elements of "Authorization" are assigned as integral parts of two broader industry concepts unescorted access authorization (UAA) and unescorted access (UA). This document provides a process and delineates criteria for authorizing and maintaining an individual's UAA and/or UA consistent with the requirements of 10 CFR Part 26. In addition, UAA (including specified elements of "Authorization") requirements for licensee-approved contractor/vendor programs are defined. Finally, program information that must be shared with other licensees is also specified within this document.
- f. As defined in Section 4 of this document the terms UAA and UA include, by definition, applicable 10 CFR Part 26 elements such that references to UAA, UA or UAA/UA throughout this document include the respective 10 CFR Part 26 elements which compose an "Authorization."
- g. Previous to NEI 03-01, industry guidance focused on the granting of UA to the protected area. However, there are individuals who do not have UA but are in positions of trustworthiness and reliability subject to the requirements of 10 CFR § 73.56 and/or 10

CFR Part 26. This document provides a method of establishing and maintaining UAA independent of physical plant access.

- h. The AA CM directs a program that, in some cases, supersedes previously issued requirements of 10 CFR Part 26, 10 CFR § 73.56 and 10 CFR § 73.57. Appendix A lists the references used in developing this comprehensive document. If a licensee or C/V believes there is a conflict between the requirements of this document and regulations or orders, NEI should be immediately informed to aid in maintaining consistent interpretation of requirements throughout the industry.
- i. Previous versions of NEI 03-01 contained industry standard forms. Experience has shown that there is a recurring need to change the standard forms to adapt to changes within the industry. Embedding the forms in NEI 03-01, which becomes a part of the licensee's Physical Security Plan, makes the change process difficult. Therefore, a separate document, NEI 08-06 entitled Nuclear Power Plant Access Authorization and Fitness-for-Duty Program Forms, containing industry standard forms, has been created and referenced within this document where appropriate. The minimum components for the forms are depicted in Appendix B, NEI Access Authorization and Fitness-for-Duty Forms.

## **2 PURPOSE AND SCOPE**

- a. This document is applicable to commercial nuclear power plant licensees and licensee-approved C/V UAA and FFD programs. It has been designed to provide a standard industry approach in the collection of information used to evaluate the trustworthiness and reliability of personnel for whom UA to the protected area has been requested and other individuals supporting the UAA/UA and FFD programs. This standard approach ensures consistent application of regulations and is fundamental to the sharing of access data within the industry. All UAA/UA and FFD information shared with other licensees shall be developed in accordance with regulatory requirements using the criteria in this document.
- b. NEI 03-01 Revision 2 is a Personnel Access Data System (PADS) manual as described in the Agreement of Participation in the Personnel Access Data System hereinafter referred to as the PADS Participation Agreement. Licensees are committed to follow the requirements specified in NEI 03-01 through the PADS Participation Agreement. In addition, by committing to NEI 03-01, Revision 2, in the physical security plan, the licensee acknowledges responsibility to maintain its access authorization program in accordance with NRC rules and regulations.
- c. Revision 2 must be implemented by March 31, 2009. All elements completed and maintained under prior versions of NEI 03-01 remain valid under future versions of this document.

- d. The AA CM contains 2 licensee-only requirements that are beyond the scope of PADS and this document. Licensees must consider whether site procedures are needed to address AA CM guidance Section B.1.1 and Subsection B.1.3.c.1.(i).B.

### 3 RESPONSIBILITY

- a. Each licensee is responsible for determining whether to authorize UAA and to grant UA at its facilities. In making this determination, a licensee may rely on program elements completed by another licensee or licensee-approved C/V program.
- b. Once an UAA element is complete, a licensee or licensee-approved C/V may maintain an employee's UAA element as authorized herein.
- c. Once all elements are completed and UAA is authorized by a licensee, a licensee-approved C/V may maintain an employee's UAA as authorized herein.
- d. Each licensee approving a C/V program will ensure the latest revision of this document has been provided to each of its C/Vs for use and require that the criteria herein be met. Audits are used to assure that licensee-approved C/V UAA programs, supporting the granting of UA to the protected area, meet regulatory requirements. Licensees are responsible for ensuring that program deficiencies are corrected.

### 4 DEFINITIONS & ACRONYMS

**Note:** Any term appearing in this document that is not defined in this document but defined in regulation i.e., 10 CFR Part 26, 10 CFR 73.56. etc., has the meaning specified in the regulation. In addition, some definitions have deliberately been reduced from the scope permitted in regulation.

**10 CFR**—Title 10 Code of Federal Regulations

**AA CM**—Nuclear Regulatory Commission-issued *Order for Compensatory Measures Related to Access Authorization*, dated January 7, 2003

**Access-denied**—The clearance condition where an individual is not considered trustworthy and reliable based upon the reviewing official's evaluation of potentially disqualifying information.

**Administrative withdrawal of UAA/UA**—A process to temporarily withhold UAA/UA from an individual while action is taken to complete or update an element of the UAA requirements.

**Adulterated specimen**—A urine specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent of urine or showing an abnormal concentration of an endogenous substance.

**Annual**—Requirements specified as “annual” should be scheduled at a nominal 12-month periodicity. Performance may be conducted up to 3 months before to 3 months after the scheduled date. The next scheduled date is 12-months from the originally scheduled date, unless a mid-cycle activity is conducted to establish a new scheduled date.

**Background Investigation (BI)**—Information from all BI elements to be collectively evaluated by the reviewing official pursuant to a determination of trustworthiness and reliability of an individual. Depending upon the BI period, the BI elements may include any or all of the following: verification of true identity, employment verification with suitable inquiry (includes education in lieu of employment and military service as employment), a credit check, and character and reputation determination.

**Behavioral Observation Program (BOP)**—An awareness program that meets requirements of both the access authorization and fitness-for-duty programs. Personnel are trained to possess certain knowledge and abilities (K&A’s) related to drugs and alcohol and the recognition of behaviors adverse to the safe operation and security of the facility by observing the behavior of others in the workplace and detecting and reporting aberrant behavior or changes in behavior that might reflect negatively on an individual’s trustworthiness or reliability.

**Best effort**—Documented actions that a licensee or C/V who is subject to 10 CFR Part 26 Subpart C takes to obtain suitable inquiry and employment information in order to determine whether an individual may be granted authorization, when the primary source of information refuses or indicates an inability or unwillingness to provide the information within 3 business days of the request and the licensee or other entity relies on a secondary source to meet the requirement.

**Business Day**—Monday through Friday, excluding federal holidays

**Collection site**—A designated place where individuals present themselves for the purpose of providing a specimen of their urine, oral fluids, and/or breath to be analyzed for the presence of drugs or alcohol.

**Collector**—A person who is trained in the collection procedures of 10 CFR 26 subpart E, instructs and assists a specimen donor at a collection site, and receives and makes an initial examination of the specimen(s) provided by the donor.

**Confirmatory drug or alcohol test**—A second analytical procedure to identify the presence of alcohol or a specific drug or drug metabolite in a specimen. The purpose of a confirmatory test is to ensure the reliability and accuracy of an initial test result.

**Confirmed test result**—A test result that demonstrates that an individual has used drugs and/or alcohol in violation of the requirements of this part or has attempted to subvert the testing process by submitting an adulterated or substituted urine specimen. For drugs, adulterants, and substituted specimens, a confirmed test result is determined by the Medical Review Officer (MRO), after discussion with the donor subsequent to the MRO’s receipt of a positive confirmatory drug test result from the HHS-certified laboratory and/or a confirmatory substituted or adulterated validity test result from the HHS-certified laboratory for that donor. For alcohol, a confirmed test result is based on a positive confirmatory alcohol test result from an evidential breath testing device (EBT) without MRO review of the test result.



**Contractor/vendor (C/V)**—Any company or any individual not employed by a licensee who is providing work or services to a licensee either by contract, purchase order, oral agreement, or other arrangement that supports UAA/UA or FFD-related requirements.

**Critical Group**—Those individuals qualified for and assigned duties as: armed security officers, armed responders, alarm station operators, and response team leaders as defined in the licensee security plan; and reactor operators, senior reactor operators and non-licensed operators. Non-licensed operators include those individuals responsible for the operation of plant systems and components, as directed by a reactor operator or senior reactor operator. Non-licensed operators also monitor plant instrumentation and equipment and principally perform their duties outside of the control room.

**Determination of fitness**—A process designed to evaluate an individual when there are indications that the individual may be in violation of the licensee or C/V's FFD policy or is otherwise unable to safely and competently perform his or her duties.

**Donor**—The individual from whom a specimen is collected.

**Employment Action**—A change in job responsibilities or removal from a job, or the employer-mandated implementation of a plan for substance abuse treatment in order to avoid a change in or removal from a job, or any military non-judicial punishment because of the individual's use of drugs or alcohol.

**Employment/Unemployment history verification**—A check for specified periods of employment, military service as employment, education in lieu of employment and unemployment on a best effort basis from information claimed by the individual on the personal history questionnaire.

**Fitness-for-Duty (FFD) Authorization (FFDA)**—An industry term equivalent to the definition of "Authorization" as defined in 10 CFR 26.5. An element of UA that identifies the status of an individual's required fitness-for-duty elements, which are then evaluated by a reviewing official to determine whether the individual's trustworthiness, reliability and fitness-for-duty. The required elements for FFDA are: suitable inquiry (including education in lieu of employment and military service as employment); self-disclosure; pre-access drug and alcohol testing; being subject to both a licensee-approved behavior observation and random drug and alcohol testing program; BOP training (including legal action reporting responsibilities).

**Formal Action**—The initiation of any UAA/UA element by a licensee at the licensee facility.

**Illegal drug**—Any drug that is included in Schedules I to V of section 202 of the Controlled Substances Act [21 U.S.C. 812], but not when used pursuant to a valid prescription or when used as otherwise authorized by law.

**Initial Unescorted Access Authorization**—An access category used to identify persons in the process of obtaining UA at a nuclear power plant for the first time, or after a lapsed clearance beyond the established 3-year cutoff, or after last UAA/UA was denied or terminated unfavorably as defined in Section 6.2.

**Invalid result**—The result reported by an HHS-certified laboratory for a specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, contains inconsistent physiological constituents, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result.

**Knowledgeable and Practiced (K&P)**—An individual audit team member who has current or previous access authorization program experience and who is responsible for validating that overall program performance is meeting the objective of screening individuals to provide high assurance that individuals are trustworthy and reliable to have or maintain UAA/UA.

**Legal action**—A formal action taken by a law enforcement authority or court of law, including being held, detained, taken into custody, charged, arrested, indicted, fined, forfeited bond, cited, or convicted for a violation of any law, regulation or ordinance (e.g., felony, misdemeanor, traffic or military criminal history, etc.), or the mandated implementation of a plan for treatment or mitigation in order to avoid a permanent record of an arrest or conviction in response to the following activities:

- (1) The use, sale or possession of illegal drugs
- (2) The abuse of legal drugs or alcohol; or
- (3) The refusal to take a drug or alcohol test.

**Medical Review Officer (MRO)**—A licensed physician who is responsible for receiving laboratory results generated by a Part 26 drug testing program and who has the appropriate medical training to properly interpret and evaluate an individual's drug and validity test results together with his or her medical history and any other relevant biomedical information.

**Need-to-know**—Term used to refer to the requirement that, in order to gain access to personal information collected in fitness-for-duty and access authorization programs, an individual must require such access in order to perform his or her job and is authorized access to the information under the provisions of 10 CFR Part 26, 10 CFR § 73.56 or 10 CFR § 73.57. An individual's privacy rights under state and federal law continue to be protected.

**NEI**—Nuclear Energy Institute

**Nominal**—The limited flexibility that is permitted in meeting a scheduled due date for completing a recurrent activity that is required under this part, such as the nominal 12-month frequency required for FFD refresher training in 10 CFR 26.29(c)(2) and the nominal 12-month frequency required for certain audits in 10 CFR 26.41(c)(1). Completing a recurrent activity at a nominal frequency means that the activity may be completed within a period that is 25 percent longer or shorter than the period required in this part. The next scheduled due date would be no later than the current scheduled due date plus the required frequency for completing the activity.

**NRC**—Nuclear Regulatory Commission

**Personal History Questionnaire (PHQ)**—Information provided in a written statement by an individual applying for UAA that provides the personal information required to assist in processing UAA/UA elements.

**Personal Information**—All information, unique to an individual, that is collected or developed during the implementation of the UAA or FFD program requirements.

**Positive result**—The drug testing result reported by a licensee testing facility or HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentration. A result reported by an HHS-certified laboratory that a specimen contains a drug or drug metabolite below the cutoff concentration is also a positive result when the laboratory has conducted the special analysis permitted in 10 CFR 26.163(a)(2). For alcohol testing, a positive result means the result reported by a collection site when the BAC indicated by testing a specimen exceeds the cutoff concentrations established in 10 CFR Part 26.

**Potentially Disqualifying Information (PDI)**—Any derogatory information (e.g., unfavorable information from an employer, developed or disclosed criminal history, credit history such as but not limited to collection accounts, bankruptcies, tax liens, judgments, unfavorable reference information, evidence of drug or alcohol abuse, discrepancies between information disclosed and developed) that is required to be evaluated against a licensee or C/V's adjudication criteria. A subset of PDI is FFD PDI (the 10 CFR Part 26 acronym equivalent is PDFFDI, Potentially Disqualifying Fitness-for-Duty Information) and includes information demonstrating that an individual has—

1. Violated a licensee's or approved C/V's FFD policy;
2. Had authorization denied or terminated unfavorably from or made ineligible for UA to any nuclear facility, Technical Support Center (TSC) or Emergency Operations Facility (EOF) for a violation of a fitness-for-duty program, falsification of employment or self-disclosure statement, the sale, use or possession of illegal drugs or the consumption of alcohol within a protected area of a nuclear power plant;
3. Used, sold, or possessed illegal drugs;
4. Abused legal drugs or alcohol;
5. Subverted or attempted to subvert a drug or alcohol testing program;
6. Refused to take a drug or alcohol test;
7. Been subjected to a plan for substance abuse treatment (except for self-referral); or
8. Had legal action or employment action taken for alcohol or drug use.

**Protected area**—An area encompassed by physical barriers and to which access is controlled in accordance with 10 CFR 73.

**Reinstatement of Unescorted Access Authorization**—An UAA that has been reestablished within 365 days consistent with UAA requirements specified in Sections 6.4 and 6.5.

**Reinvestigation**—A periodic inquiry or assessment conducted to ensure that individuals continue to meet UAA/UA or FFD program suitability requirements as defined in Section 9.

**Reviewing official**—The licensee or, if applicable, C/V persons designated by their company to be responsible for reviewing and evaluating all data collected about an individual, including potentially disqualifying information, in order to determine whether the individual may be authorized UAA or granted UA.

**Self-disclosure**—An individual applying for UAA is required to report criminal and FFD personal information in a PHQ that is verified during the suitable inquiry portion of the BI and evaluated relative to the individual's trustworthiness, reliability and fitness-for-duty. And, as required while in a behavioral observation program, the individual is required to report all legal actions at the time of occurrence.

**Semi-structured Interview**—An interview with an individual applying for UAA or a person maintaining UAA, conducted by a psychiatrist or a licensed psychologist with clinical experience as required by applicable state requirements, containing questions determined appropriate by the interviewing psychiatrist or licensed psychologist which vary the focus and content of the interview, depending on the written assessment, the observations of the interviewer, and the interviewee's responses to questions. The semi-structured interview may contain any other evaluative measure determined appropriate by the psychiatrist or licensed psychologist.

**Substituted specimen**—A specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human physiology.

**Subversion and subvert the testing process**—A willful act to avoid being tested or to bring about an inaccurate drug or alcohol test result for oneself or others at any stage of the testing process (including selection and notification of individuals for testing, specimen collection, specimen analysis, and test result reporting), and adulterating, substituting, or otherwise causing a specimen to provide an inaccurate test result.

**Suitable Inquiry (SI)**—A best-effort verification of self-disclosed FFD information and an employment history check, which is obtained by questioning previous employers and/or educational institutions to determine if the individual was, in the past:

1. violated a licensee or employer's fitness-for-duty policy;
2. been denied or terminated unfavorably at any nuclear power plant for any reason, including fitness for duty;
3. used, sold or possessed illegal drugs;
4. abused legal drugs or alcohol;
5. refused to take a drug or alcohol test;
6. subverted or attempted to subvert a drug or alcohol testing program;
7. been subject to a plan (except self-referral) for treating substance abuse;
8. been subject to a law enforcement authority or court of law action for alcohol or drug use related to any of the following:
  - (a) The use, sale or possession of illegal drugs
  - (b) The abuse of legal drugs or alcohol; or
9. been subject to employment action taken for alcohol or drug abuse involving any of the following

- (a) A change in job responsibilities or removal from a job or
- (b) Mandated implementation of a plan for substance abuse treatment in order to avoid a change in or removal from a job.

**Terminated favorably**—The UAA/UA that has been terminated because it is no longer required. The individual was determined to be trustworthy and reliable and fit for duty up to the point in time that the termination occurred.

**Terminated unfavorably**—The UAA/UA that has been terminated because the licensee has determined that the individual cannot be considered trustworthy and/or reliable to hold UAA/UA, is unfit for duty, or has violated an access authorization or FFD policy.

**Unescorted Access Authorization (UAA)**—Status in the access authorization process after the individual satisfactorily completes all required elements as specified in Section 6 (including the FFDA elements self-disclosure, suitability inquiry and drug and alcohol testing elements defined in 10 CFR Part 26), which were evaluated by a reviewing official who then made a favorable determination relative to the individual's trustworthiness, reliability and fitness-for-duty.

**Unescorted Access (UA)**—Status granted to an individual after satisfactorily completing all regulatory requirements for UAA and FFDA, and the individual is provided plant access training; is subjected to a behavioral observation program; is placed in a random drug and alcohol testing program; and is provided the physical means to gain UA to the protected area.

**Updated Unescorted Access Authorization**—An UAA/UA that has been restored after authorization was terminated under favorable conditions during a period greater than 365 days but less than 3 years prior to restoration as specified in Section 6.3.

## 5 INDIVIDUALS SUBJECT TO THE ACCESS AUTHORIZATION PROGRAM

- a. The following individuals are subject to the access authorization program and must be screened in accordance with applicable sections of this document.
  - 1. Any individual to whom a licensee grants UA to nuclear power plant protected or vital areas or any individual for whom a licensee authorizes UAA;
  - 2. All persons who are required by a licensee to physically report to the licensee's Technical Support Center or Emergency Operations Facility as specified within licensee emergency plans and procedures;
  - 3. Background investigation screener personnel responsible to control, collect and process information that will be used by the reviewing official to make access determinations;
  - 4. Personnel who evaluate information for the purpose of processing individuals for UAA/UA who has unfettered access to the file and records of person applying for or holding UAA/UA or who is responsible for data management upon which UAA/UA decisions may be based; and
  - 5. FFD program personnel;

- (a.) who are involved in the day-to-day operation of the program;
  - (b.) who can link test results with the individual who was tested before an FFD policy violation determination is made, including, but not limited to the MRO;
  - (c.) who make determinations of fitness;
  - (d.) who make authorization decisions;
  - (e.) who are involved in selecting or notifying individuals for testing; and
  - (f.) who are involved in the collection or on-site testing of specimens.
- b. Licensees shall grant UA to all individuals who have been certified by the NRC, in writing, as suitable for such access. Such individuals are not required to be entered into the industry information-sharing mechanism described in Section 12. However, the NRC periodically dispatches NRC-contracted personnel to a licensee facility specifically requesting the licensee to conduct a UAA/UA element. In such cases, the NRC specifies what elements of UAA/UA need to be accomplished by the licensee. The licensee must perform the requested element(s), and enter the resulting data into the industry data-sharing mechanism.
- c. If an individual is identified as having either an access-denied status in the information-sharing mechanism defined in Section 12, or an access authorization status other than favorably terminated, licensees must limit the individual's access. Licensees shall not permit the individual to enter any nuclear power plant protected area or vital area, under escort or otherwise, or take actions by electronic means that could impact the licensee's operational safety, security, or emergency response capabilities, under supervision or otherwise. However, access may be granted if the reviewing official evaluates the circumstances and determines that such access is warranted.
- d. In addition, if a licensee is aware of information about an individual that characterizes him or her as untrustworthy or unreliable for UAA/UA under their program, the licensee reviewing official shall evaluate the information and determine whether to allow escorted access to that individual.

## 6 PROGRAM ELEMENTS

- a. The requirements for UAA are separated into the following authorization categories:
  - 1. initial UAA,
  - 2. updated UAA, and
  - 3. reinstatement of UAA.
- b. The determining factor that differentiates the use of any of these categories is:
  - 1. whether the individual has previously held UAA;
  - 2. the lapsed time (the total number of days that the individual's authorization is interrupted to include the day after the individual's last period of authorization was terminated and the intervening days until the day on which the licensee authorizes UAA or grants UA to the individual) since the individual last held UAA; and

3. whether or not the UAA/UA has been terminated favorably.
- c. Once authorized UAA, the individual may be maintained in a UAA-authorized status ready to be granted UA provided that the individual is monitored under a BOP and completes appropriate training.

**Note:** Individuals granted UAA/UA in accordance with grandfather provisions, Section 6.6, NEI 03-01 Revision 1 and Revision Original as well as a predecessor document, US NRC Regulatory Guide 5.66, *Access Authorization Program For Nuclear Power Plants*, Section 11.0, Appendix A, NUMARC 89-01, *Industry Guidelines for Nuclear Power Plant Access Authorization Programs*, are not required to be re-screened to meet the requirements of Sections 6.2-6.5. However, reinvestigations, psychological re-assessments and annual supervisory reviews are required in accordance with Sections 7.8.2 and 10 within the specified frequency.

- d. UAA elements completed prior to authorizing UAA or granting UA may be maintained (see Sections 6.6.1 and 7) indefinitely for an individual covered by an approved BOP. Additional drug and alcohol testing is not required if the individual was subject to a random drug and alcohol testing program throughout the period since previous negative test results were received.
- e. For individuals whose last UAA/UA was terminated unfavorably, whose UAA/UA was suspended due to violation of a FFD program policy or whose last UAA/UA or request for UAA/UA was denied, the individual's trustworthiness and reliability must be re-established through the conduct of an initial UAA including the actions contained within Sections 6.1.2, through 6.1.7, as appropriate.
- f. Licensees who are seeking to grant UA or authorize UAA to an individual who is subject to another Commission-approved access authorization program or another access authorization program that complies with the requirements contained within this document may rely on those access authorization programs or access authorization program elements to comply with the requirements.
- g. The licensee who is seeking to grant UA or the licensee who is seeking to authorize UAA is required to ensure that the program elements to be accepted have been maintained consistent with the requirements of this section by the other access authorization program.
- h. All operating US nuclear power plants and certain other facilities committed to the requirements contained within this document therefore, are able to share and rely upon information that has been collected and evaluated in accordance with the performance of this program.
- i. Licensees who are seeking to authorize UAA and/or grant UA relying upon FFD Authorization elements to an individual who has been subject to an FFD program under 10 CFR Part 26 subpart K, (Construction) may not rely on that 10 CFR Part 26 subpart K program or its program elements to meet the requirements of NEI 03-01, except if the 10 CFR Part 26 subpart K program or program element(s) of the FFD program for

construction satisfy the applicable requirements specified in Section 6.2-6.6 of this document.

## **6.1 REVIEWING OFFICIAL**

- a. The licensee or as applicable, approved C/V, is required to designate in writing one or more individuals as a reviewing official to make access determinations relative to an individual's, trustworthiness and reliability and fitness for duty. The designated reviewing official must have a demonstrated knowledge of all aspects of the access authorization program and applicable FFD program requirements impacting an individual's access authorization.
- b. In every case, the reviewing official shall evaluate trustworthiness and reliability based on an accumulation of information including PDI, BOP data, and/or any subsequent determination of fitness. This information must support a trustworthiness and reliability determination prior to the licensee authorizing UAA or granting UA or allowing maintenance of UAA/UA or a FFD Authorization. The individual must be informed of the basis for any denial of UAA/UA. Items to consider include:
  1. The self-disclosed and BI-developed activities of the individual;
  2. The consistency and completeness of self-disclosed and BI-developed information;
  3. Results of true identity verification of the individual, such as comparing PHQ data to BI-developed information, credit report, validation of the SSN, criminal history check results or other data sources; and
  4. The reason for inconsistencies detected through review of collected information, i.e., intentional, innocent, or an oversight. Willful or intentional acts of omission or untruthfulness would be grounds for denial of UAA/UA.
- c. Whenever an individual who is granted UA is subsequently terminated unfavorably, the organization responsible for controlling access to the PA must be notified prior to or simultaneous with the unfavorable termination.
- d. The individual must be notified in writing that any document submitted by the individual as part of the UAA/UA process must contain accurate, complete and truthful information, and the consequences for failure to do so.
- e. The following actions related to providing and sharing the personal information required are sufficient cause for denial of UAA/UA:
  1. Refusal to provide written consent for the suitable inquiry;
  2. Refusal to provide, or the falsification of any personal information including, but not limited to, the failure to report any previous denial or unfavorable termination of authorization;
  3. Refusal to provide written consent for the sharing of personal information with other licensees or C/Vs; and
  4. Failure to report any legal actions.



- f. The reviewing official may determine that UAA/UA shall be denied or terminated at any time based on disqualifying information even if all information required has not been provided. However, UAA may not be authorized and/or UA may not be granted until all UAA or UA elements are completed and have been favorably evaluated by the reviewing official.

#### **6.1.1 PDI That Has Not Been Reviewed**

- a. If PDI is disclosed or discovered and has not been reviewed and favorably resolved by a previous licensee, the reviewing official shall ensure that appropriate actions are taken.

#### **6.1.2 Request for access after a first confirmed positive drug or alcohol test result**

- a. For a request for access after a first confirmed positive drug or alcohol test result perform the following actions:
  - 1. Obtain and review a self-disclosure and employment history from the individual that addresses the shortest of the following periods:
    - (a.) since the individual's eighteenth birthday,
    - (b.) within the past 5 years; or
    - (c.) since the individual's last period of UAA was terminated.
  - 2. Verify that the self-disclosure does not contain any previously undisclosed FFD PDI before granting UAA/UA;
- b. Complete an SI with every employer the individual claims to have been employed during the period addressed in the employment history including the employer by whom the individual claims to have been employed on the day before he or she completed the employment history and obtain and review any records that other licensees or entities may have developed related to the unfavorable termination or denial of authorization.
  - 1. The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI.
  - 2. For information contained within the industry data-sharing system, the two-year expansion of the employment check SI scope is not required;
- c. Ensure that the MRO or other professional with the appropriate qualifications, as specified in 10 CFR Part 26 conducts a determination of fitness and indicates that the individual is fit to safely and competently perform his or her duties.
  - 1. If the individual's UAA/UA was denied or terminated unfavorably for a first confirmed positive drug or alcohol test result, ensure that clinically appropriate

- treatment plans and follow-up testing are developed by the MRO or appropriate professional before granting authorization.
2. Subsequent to authorizing UAA or granting UA, verify that the individual is in compliance with, and successfully completes, any follow-up testing and treatment plans.
- d. Within 10 business days before authorizing UAA or granting UA:
1. perform a pre-access alcohol test,
  2. collect a specimen for drug testing under direct observation, and
  3. ensure that the individual is subject to random testing thereafter, and
  4. verify that the pre-access drug and alcohol test results are negative before granting authorization.
- e. If the individual's UAA/UA was denied or terminated unfavorably for a first confirmed positive drug or alcohol test result and a licensee or C/V authorizes UAA and/or grants UA to the individual, ensure that:
1. the individual is subject to unannounced testing (both random and follow-up tests satisfy this requirement);
  2. all tests must have negative results;
  3. this testing must be conducted at least quarterly for 3 calendar years after the date the individual is authorized UAA and or granted UA, with a minimum of 15 tests distributed over the 3-year period, except as follows:
    - (a.) If the individual does not continuously hold UAA/UA during the 3-year period, the licensee or approved C/V shall ensure that at least one unannounced test is conducted in any quarter during which the individual holds authorization.
    - (b.) If the 15 tests are not completed within the 3-year period specified in this paragraph due to periods during which the individual does not hold UAA/UA, the testing program may be extended up to 5 calendar years to complete the 15 tests.
    - (c.) If the individual does not hold UAA/UA during the 5-year period a sufficient number of times or for sufficient periods of time to complete the 15 tests required in this paragraph, the licensee shall ensure that an MRO or appropriate professional conducts a determination of fitness to assess whether further follow-up testing is required and implement the MRO or appropriate professional's recommendations.
- f. Verify that any drug and alcohol tests required by this section, and any other drug and alcohol tests that are conducted since UAA/UA was terminated or denied, yield results indicating no further drug abuse, as determined by the MRO after review, or alcohol abuse, as determined by the result of confirmatory alcohol testing.

### **6.1.3 Request for access after a 5-year denial of authorization**

- a. For a request for access after a 5-year denial of authorization conduct an initial authorization investigation and include the following:
  1. Obtain and review a self-disclosure and employment history from the individual that addresses the 5-year period prior to authorizing UAA or granting UA ensuring that the self disclosure does not contain any previously undisclosed FFD PDI before granting UAA/UA;
  2. Complete a SI with every employer by whom the individual claims to have been employed during the period addressed in the employment history including the employer by whom the individual claims to have been employed on the day before he or she completed the employment history and obtain and review any records that other licensees or entities may have developed related to the unfavorable termination or denial of authorization.
    - (a.) The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI,
    - (b.) For those incidents documented within the industry data-sharing mechanism, the two-year expansion of the employment check inquiry scope is not required;
  3. Verify that the individual has abstained from substance abuse for at least the past 5 years;
- b. Ensure that the MRO or other professional with the appropriate qualifications, as specified in 10 CFR Part 26 conducts a determination of fitness and indicates that the individual is fit to safely and competently perform his or her duties.
  1. Ensure that any recommendations for treatment and follow-up testing from the MRO or other professional's determination of fitness are initiated before granting authorization.
  2. Subsequent to authorizing UAA or granting UA, verify that the individual is in compliance with, and successfully completes, any follow-up testing and treatment plans.
- c. Within 10 business days before authorizing UAA or granting UA:
  1. perform a pre-access alcohol test,
  2. collect a specimen for drug testing under direct observation, and
  3. ensure that the individual is subject to random testing thereafter, and v
  4. verify that the pre-access drug and alcohol test results are negative before granting UA.
  - 5.
- d. Verify that any drug and alcohol tests required in this section, and any other drug and alcohol tests that are conducted since UAA/UA was terminated or denied, yield

results indicating no further drug abuse, as determined by the MRO after review, or alcohol abuse, as determined by the result of confirmatory alcohol testing.

#### **6.1.4 Other FFD PDI within the past 5 years**

- a. For other FFD PDI within the past 5 years and prior to authorizing UAA or granting UA:
  1. Obtain and review a self-disclosure and employment history that addresses the shortest of the following periods:
    - (a.) the past 5 years;
    - (b.) since the individual's eighteenth birthday; or
    - (c.) since the individual's last period of UAA/UA was terminated.
  2. Verify that the self-disclosure does not contain any previously undisclosed FFD PDI before granting UAA/UA.
- b. Complete a SI with every employer by whom the individual claims to have been employed during the period addressed in the employment history.
  1. If the individual held UAA/UA within the past 5 years, obtain and review any records that other licensees or entities that are subject to Part 26 may have developed with regard to FFD PDI about the individual from the past 5 years.
  2. The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI.
  3. For those documented incidents the two-year expansion of the employment check inquiry scope is not required.
- c. If the reviewing official determines that a determination of fitness is required, verify that an MRO or other professional with the appropriate qualifications, as specified in 10 CFR Part 26 has indicated that the individual is fit to safely and competently perform his or her duties.
- d. Ensure that the individual is in compliance with, or has completed, any plans for treatment and drug and alcohol testing from the determination of fitness, which may include the collection of a urine specimen under direct observation.
- e. Verify that:
  1. the results of pre-access drug and alcohol tests are negative before authorizing UAA or granting UA, and
  2. that the individual is subject to random testing after the specimens have been collected for pre-access testing and thereafter.

#### **6.1.5 Maintaining Individuals Authorized UAA or Granted UA with FFD PDI**

- a. For individuals authorized UAA or granted UA with FFD PDI:

1. Ensure that the licensee's reviewing official completes a review of the circumstances associated with the information.
2. If the reviewing official concludes that a determination of fitness is required, verify that a MRO or other professional with the appropriate qualifications, as specified in 10 CFR Part 26 has indicated that the individual is fit to safely and competently perform his or her duties.
3. If the reviewing official determines that maintaining the individual's UAA/UA is warranted, implement any recommendations for treatment and follow-up drug and alcohol testing from the determination of fitness, which may include the collection of urine specimens under direct observation, and ensure that the individual complies with and successfully completes the treatment plans.

#### **6.1.6 Follow-up testing, treatment plans and determinations of fitness from another FFD program**

- a. Follow-up testing, treatment plans and determinations of fitness from another FFD program may be accepted provided they were conducted under the FFD program of another licensee or approved C/V which satisfies 10 CFR Part 26.
  1. If an individual leaves the FFD program in which a treatment and follow-up testing plan was required and is authorized UAA or granted UA by the same or another licensee or entity, the licensee who authorizes UAA or grants UA to the individual shall ensure that any treatment and follow-up testing requirements are met, with accountability assumed by the granting licensee.
  2. If the previous licensee or approved C/V determined that the individual successfully completed any required treatment and follow-up testing, and the individual's last period of UAA/UA was terminated favorably, the receiving licensee or entity may rely on the previous determination of fitness and no further review or follow-up is required.
  3. If it is impractical for the individual to comply with a treatment plan that was developed under another FFD program because of circumstances that are outside of the individual's or licensee's or other entity's control (e.g., geographical distance, closure of a treatment facility), then the granting FFD program shall ensure that an MRO or other professional with the appropriate qualifications, as specified in 10 CFR Part 26 develops a comparable treatment plan, with accountability for monitoring the individual's compliance with the plan assumed by the granting licensee or C/V.

#### **6.1.7 Determination of Fitness**

- a. A determination of fitness must be made by a licensed or certified professional (e.g., MRO, psychologist, drug and alcohol abuse counselor, etc) who is appropriately qualified and has the necessary clinical expertise, as verified by the licensee or C/V to evaluate the specific fitness issues presented by the individual.
- b. A determination of fitness must be made in at least the following circumstances:

1. when there is a basis for believing that the individual could be impaired while on duty, even though there is an acceptable medical explanation for a positive, adulterated, substituted, or invalid test result;
  2. before making return-to-duty recommendations after an individual's UAA/UA has been terminated unfavorably or denied under a licensee's or C/V's FFD policy;
  3. before an individual is authorized UAA or granted UA when FFD PDI is identified that has not previously been evaluated by another licensee or entity who is subject to 10 CFR Part 26; and
  4. when FFD PDI is otherwise identified and the licensee's reviewing official concludes that a determination of fitness is warranted.
- c. A determination of fitness that is conducted "for cause," that is in response to an individual's observed behavior or physical condition indicating possible substance abuse or after receiving credible information that the individual engaged in substance abuse, must be conducted through face-to-face interaction between the subject individual and the professional making the determination. Electronic means of communication may not be used.
1. If there is no conclusive evidence of an FFD policy violation nor a significant basis for concern that the individual may be impaired while on duty, then the individual must be determined to be fit for duty.
  2. If there is no conclusive evidence of an FFD policy violation but there is a significant basis for concern that the individual may be impaired while on duty, then the subject individual must be determined to be unfit for duty.
    - (a.) This result does not constitute a violation of the licensee's or C/V's FFD policy, and no sanctions may be imposed.
    - (b.) The professional who made the determination of fitness shall consult with the licensee's or C/V's management personnel to identify the actions required to ensure that any possible limiting condition does not represent a threat to workplace or public health and safety.
    - (c.) Licensee or C/V management personnel shall implement the required actions.
    - (d.) When appropriate, the subject individual may also be referred to the EAP.
- d. The individual, licensees or approved C/Vs may not seek a second determination of fitness if a determination of fitness as required by Part 26, has already been performed by a qualified professional employed by or under contract to the licensee or C/V. After the initial determination of fitness has been made, the professional may modify his or her evaluation and recommendations based on new or additional information from other sources including, but not limited to, the subject individual, another licensee or entity, or staff of an education or treatment program. Unless the professional who made the initial determination of fitness is no longer employed by or under contract to the licensee or C/V, only that professional is authorized to modify the evaluation and recommendations. When reasonably practicable, licensees

and approved C/Vs shall assist in arranging for consultation between the new professional and the professional who is no longer employed by or under contract to the licensee or C/V, to ensure continuity and consistency in the recommendations and their implementation.

#### **6.1.8 Minimum Sanctions**

- a. Except where explicitly excluded by Commission regulation, violations recorded in accordance with 10 CFR Part 26, dated June 7, 1989 requirements and licensee programs implementing the 10 CFR Part 26 performance requirements, must be considered when determining sanctions under subsequent versions of 10 CFR Part 26.
- b. The following minimal sanctions shall be imposed when an individual has violated the drug and alcohol provisions of an FFD policy:
  1. Any act or attempted act to subvert the testing process, including, but not limited to, refusing to provide a specimen and providing or attempting to provide a substituted or adulterated specimen, for any test must result in the immediate unfavorable termination of the individual's UAA/UA and permanent denial of UAA/UA thereafter.
  2. Any individual who is determined to have been involved in the sale, use, or possession of illegal drugs or the consumption of alcohol within a protected area of any nuclear power plant, or while performing the duties that require the individual to be subject to Part 26 shall immediately have his or her UAA/UA unfavorably terminated and denied for a minimum of 5 years from the date of the unfavorable termination of UAA/UA.
  3. Any individual who resigns or withdraws his or her application for authorization before UAA/UA is terminated or denied for a first violation of the FFD policy involving a confirmed positive drug or alcohol test result shall immediately have his or her UAA/UA denied for a minimum of 5 years from the date of termination or denial. If an individual resigns or withdraws his or her application for UAA/UA before his or her UAA/UA is terminated or denied for any violation of the FFD policy, the licensee shall record the resignation or withdrawal, the nature of the violation, and the minimum sanction that would have been required under this section had the individual not resigned or withdrawn his or her application for UAA/UA.
  4. Lacking any other evidence to indicate the use, sale, or possession of illegal drugs or consumption of alcohol on-site, a confirmed positive drug or alcohol test result must be presumed to be an indication of off-site drug or alcohol use in violation of the FFD policy.
    - (a.) The first violation of the FFD policy involving a confirmed positive drug or alcohol test result must, at a minimum, result in the immediate unfavorable termination of the individual's UAA/UA for at least 14 days.
    - (b.) Any subsequent confirmed positive drug or alcohol test result, including during an assessment or treatment period, must result in the denial of UAA/UA for a minimum of 5 years from the date of denial.

5. Paragraph 4 of this section does not apply to the misuse of prescription and over-the-counter drugs, except if the MRO determines that misuse of the prescription or over-the-counter drug represents substance abuse. Sanctions for misuse of prescription and over-the-counter drugs must be sufficient to deter misuse of those substances.
6. For individuals whose authorization was denied for 5 years, any subsequent violation of the drug and alcohol provisions of an FFD policy must immediately result in permanent denial of UAA/UA.
7. Certain limitations on the use of sanctions as prescribed by 10 CFR Part 26.75 (h) and (i) are contained within the licensee or C/V's FFD program procedures.
8. See additional reviewing official criteria in the Safeguards Supplement to this document that is provided to licensees by separate means.

## 6.2 INITIAL UAA AND UA

- a. Initial UAA elements must be completed prior to authorizing UAA or granting UA to an individual:
  1. who has never held UAA or has not held UAA within the last 3 years, but whose last period of UAA/UA was terminated favorably;
  2. whose last UAA/UA was terminated unfavorably; or
  3. whose last UAA/UA or request for UAA/UA was denied,
- b. Each individual applying for initial UAA will undergo a BI for the past 3 years (or since the eighteenth birthday if the individual is younger than twenty-one years of age) and as specified in Section 7 for specific elements specified below.
- c. The following elements, as appropriate, must be completed and approved by the reviewing official for the authorization of UAA and/or the granting of UA:

NOTE: FFDA elements required under 10 CFR Part 26, are identified with an asterisk (*).
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1. The following documents are completed and signed by the individual and provided to the licensee, an approved C/V or their authorized agent:
  - (a.) Consent,
  - (b.) Personal History Questionnaire (PHQ) and
  - (c.) \* Self-disclosure.
2. Verify the true identity of the individual, to include demographic information.
3. Verify the previous 3-year employment/unemployment history (including education or military service in lieu of employment) as follows:
  - (a.) For the most recent year preceding the application:
    - i. Verify every claimed employment (regardless of the length) including:



- A. the employer by whom the individual claims to have been employed on the day before he or she completes the employment history and
    - B. education or military service in lieu of employment as described in Sections 7.4.3 and 7.4.4.
  - ii. \* Conduct a SI on a best effort basis.
  - iii. Verify each unemployment period of 30 days or more.
  - iv. No SI is required during the checks of unemployment periods.
- (b.) For the remaining 2 years of the required 3-year period:
- i. Verify the longest claimed period of employment (including self-employment) in any calendar month and
  - ii. \* Conduct a SI on a best effort basis.
  - iii. Verify each period of unemployment of 30 days or more.
  - iv. No SI is required during the checks of unemployment periods.
  - v. If an individual claims two employments of the same length in the same month, only one needs to be selected for verification.
  - vi. If equal periods of employment and unemployment are claimed, verify the employment.
- (c.) \* If FFD PDI is identified within the last 5 years prior to authorizing UAA and it has not been reviewed and favorably resolved by a previous licensee or C/V, the scope of the suitable inquiry must be expanded to include an additional 2-year period, for a total of 5 years, and cover every period of claimed employment.
- i. The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI.
  - ii. For incidents documented in the industry data-sharing mechanism, the two-year expansion of the SI scope is not required.
- 4. Complete and evaluation of the individual's credit history evaluation, for the extent of the credit history disclosed by a national credit reporting agency.
  - 5. Verify character and reputation of the individual through contact with at least two developed references.
  - 6. Conduct an FBI criminal history inquiry, and perform an evaluation of all information returned.
  - 7. Conduct a psychological assessment.
  - 8. \* For an individual applying for UAA after the first violation of an FFD policy involving a confirmed positive drug or alcohol test result, or for an individual whose UAA was denied for 5 years, the licensee shall follow the processes described in Section 6.1.2 and/or 6.1.3 and, as appropriate, Sections 6.1.6 and 6.1.7 in order to grant and subsequently maintain the individual's UAA.

9. \* Verify that the individual:
  - (a.) successfully completed BOP training,
  - (b.) successfully completed training on the K&A's required by 10 CFR Part 26, and
  - (c.) is aware of legal action reporting responsibilities.
10. \* If an individual is applying for UAA and FFD PDI is detected, the licensee shall follow the process described in Section 6.1.4 and Sections 6.1.6 and 6.1.7 as appropriate in order to grant and subsequently maintain the individual's authorization.
11. \* Conduct a pre-access drug and alcohol test (The test must be conducted within the 30-day period preceding the authorizing of UAA or the granting of UA. However, no drug or alcohol test is required if the individual previously held UAA/UA, was subject to a drug and alcohol testing program that includes random testing and a BOP that includes legal action reporting beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization);
12. \* Ensure the individual is placed in the licensee drug and alcohol testing program including random, post-event, for-cause and follow-up testing.
13. Prior to granting UA:
  - (a.) Verify receipt of a request for UA; and
  - (b.) Verify that the individual successfully completes Plant Access Training (PAT) as defined in NEI 03-04, *Guidelines for Plant Access Training*.
14. \* In every case, the reviewing official shall conduct an evaluation based on an accumulation of information which supports a favorable determination that the individual is trustworthy and reliable, prior to authorizing UAA or granting UA.

### 6.3 UPDATED UAA AND UA

- a. An updated UAA investigation is required prior to authorizing UAA and/or granting UA for an individual who last held UAA/UA that was terminated under favorable conditions more than 365 days, but less than 3 years, from the date of application for UAA/UA.
- b. The following elements, as appropriate, must be completed and approved by the reviewing official for the authorization of UAA and/or the granting of UA:

NOTE: FFDA elements required under 10 CFR Part 26, are identified with an asterisk (*).
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1. The following documents are completed and signed by the individual and provided to the licensee, an approved C/V or their authorized agent:
  - (a.) Consent,
  - (b.) Personal History Questionnaire (PHQ) and

- (c.) \* Self-disclosure.
- 2. Verify the true identity of the individual, to include demographic information;
- 3. Verify the employment/unemployment history (including education or military service in lieu of employment) since last UAA/UA as follows:
  - (a.) For the most recent year preceding the application:
    - i. Verify every claimed employment (regardless of the length) including:
      - A. the employer by whom the individual claims to have been employed on the day before he or she completes the employment history and
      - B. education or military service in lieu of employment as described in Sections 7.4.3 and 7.4;
    - ii. \* Conduct a SI on a best effort basis and
    - iii. Verify each unemployment period of 30 days or more (no SI is required during checks of unemployment periods).
  - (b.) For the remaining period of time:
    - i. Verify the longest claimed employment (including self-employment) in any calendar month and
    - ii. \* Conduct a SI on a best effort basis;
    - iii. Verify each period of unemployment of 30 days or more (no suitable inquiry is required during checks of unemployment periods);
    - iv. If an individual claims two employments of the same length in the same month, only one needs to be selected for verification; and
    - v. If equal periods of employment and unemployment are claimed, verify the employment.
  - (c.) \* If FFD PDI is identified since the last period of UAA/UA, and it has not been reviewed and favorably resolved by a previous licensee or C/V, the scope of the suitable inquiry must be expanded to include the period since the last period of UAA was terminated, and cover every period of claimed employment.
    - i. The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI.
    - ii. For incidents documented in the industry data-sharing system, the two-year expansion of the SI scope is not required.
- 4. Complete an evaluation of the individual's credit history for the extent of the credit history disclosed by a national credit reporting agency.

5. Verify character and reputation of the individual through contact at least two developed references.
6. Conduct an FBI criminal history inquiry, and perform an evaluation of all information returned.
7. Conduct a psychological assessment.
8. \* For an individual applying for UAA after the first violation of an FFD policy involving a confirmed positive drug or alcohol test result, or for an individual whose UAA was denied for 5 years, the licensee shall follow the processes described in Section 6.1.2 and/or 6.1.3 and Section 6.1.6 and 6.1.7, as appropriate, in order to grant and subsequently maintain the individual's UAA.
9. \* Verify that the individual successfully completed BOP training, and training on the K&A's required by 10 CFR Part 26, and is aware of legal action reporting responsibilities.
10. \* If an individual is applying for UAA and FFD PDI is detected, the licensee shall follow the process described in Section 6.1.4 and Sections 6.1.6 and 6.1.7 as appropriate in order to grant and subsequently maintain the individual's authorization.
11. \* Conduct a pre-access drug and alcohol testing (The test must be conducted within the 30-day period preceding the authorizing of UAA or the granting of UA. However, no drug or alcohol test is required if the individual previously held UAA/UA, was subject to a drug and alcohol testing program that includes random testing and a BOP that includes legal action reporting beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization.);
12. \* Ensure the individual is placed in the licensee drug and alcohol testing program including random, post-event, for-cause and follow-up testing.
13. Prior to granting UA:
  - (a.) Verify receipt of a request for UA; and
  - (b.) Verify that the individual successfully completes PAT;
14. \* In every case, the reviewing official shall conduct an evaluation based on an accumulation of information which supports a determination that the individual is trustworthy and reliable, prior to authorizing UAA or granting UA.

#### **6.4 REINSTATEMENT UAA (31 TO 365 DAYS) AND UA**

- a. A reinstatement UAA is required for individuals who last held UAA which was terminated under favorable conditions within the past 31 to 365 days.
- b. Elements 1, 2, and 4-8 must be completed prior to reinstatement. Elements 3, 6(a) and 6(b) may be accomplished following reinstatement, within the time limits established.

NOTE: FFDA elements required under 10 CFR Part 26, are identified with an asterisk (*).
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1. The following documents are completed and signed by the individual and provided to the licensee, an approved C/V or their authorized agent:

- (a.) Consent,
  - (b.) Personal History Questionnaire (PHQ) and
  - (c.) \* Self-disclosure.
- 2. Verify the true identity of the individual, including demographic information.
- 3. \* The self-disclosed activities shall be evaluated prior to reinstatement and determined not to have the potential to negatively affect the individual's trustworthiness or reliability.
- 4. \* Verify the employment/unemployment history and SI information (including the employer by whom the individual claims to have been employed on the day before he or she completes the employment history and including education or military service in lieu of employment as described in Sections 7.4.3 and 7.4.) since last UAA/UA as follows:
  - (a.) \* Within 5 business days of granting UA, complete a SI,
  - (b.) Verify the longest claimed period of employment in each calendar month on a best effort basis, if the individual claims employment during the given calendar month.
  - (c.) Verify unemployment periods of 30 days or more (no SI is required during checks of unemployment periods);
  - (d.) The objective is to have completed the SI's and employment verifications within 5 business days of granting UA. However, the individual's UA may be maintained an additional 5 business days under the following conditions:
    - i. Non-completion is beyond the control of the licensee, and
    - ii. The licensee is not aware of any FFD PDI occurring the previous 5 years not previously reviewed by a licensee.
  - (e.) The licensee shall administratively withdraw UAA/UA if the SI and employment verifications have not been fulfilled at the conclusion of the extension period.
- 5. \* If FFD PDI is identified that has not been reviewed and favorably resolved by a previous licensee or C/V, a SI must be conducted to include all claimed employments since UAA was terminated.
  - (a.) The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI.
  - (b.) For incidents documented within the industry data-sharing mechanism, the two-year expansion of the SI scope is not required.
- 6. \* Collect a specimen for drug testing and verify that the results of the preaccess alcohol test are negative within the 30-day period before authorizing UAA or granting UA, and ensure that the individual is made subject to random drug and

alcohol testing with the following qualifications (No drug or alcohol test is required if the individual previously held UAA/UA, was subject to a drug and alcohol testing program that includes random testing and a BOP that includes legal action reporting beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization):

- (a.) Verify that preaccess drug test results are negative within 5 business days of specimen collection.
- (b.) In the event the drug test results have not been returned within 5 business days of specimen collection, the licensee shall administratively withdraw UA until the drug test results are confirmed.

**CAUTION:** If a licensee administratively withdraws an individual's UAA/UA because properly conducted drug test results are not known or the results of a properly conducted suitable inquiry cannot be obtained within the prescribed time limits:

- The licensee may not record the administrative action to withdraw UAA/UA as an unfavorable termination;
- The licensee may not disclose the administrative action in response to a suitable inquiry, a background investigation conducted under the provisions Sections 6.2-6.5, or any other inquiry or investigation
- The individual shall not be required to disclose the administrative action in response to requests for self-disclosure of PDI, except if the individual's UAA/UA was subsequently denied or terminated unfavorably by a licensee; and
- Immediately on receipt of negative test results or obtaining the SI, the licensee shall ensure that any matter that could link the individual to the temporary administrative action is eliminated from the donor's personnel record and other records.

7. \* Ensure the individual is placed in the licensee drug and alcohol testing program including random, post-event, for-cause and follow-up testing.
8. \* Verify that the individual successfully completed BOP training, and training on the K&A's required by 10 CFR Part 26, and is aware of legal action reporting responsibilities.
9. \* If an individual is applying for UAA and FFD PDI is detected, the licensee shall follow the process described in Section 6.1.4 and Sections 6.1.6 and 6.1.7, as appropriate, in order to grant and subsequently maintain the individual's authorization.
10. Prior to granting UA:
  - (a.) Verify receipt of a request for UA; and
  - (b.) Verify that the individual successfully completes PAT.
11. \* In every case, the reviewing official shall conduct an evaluation based on an accumulation of information which supports a determination that the individual is trustworthy and reliable, prior to authorizing UAA or granting UA.

## **6.5 REINSTATEMENT UAA (30 DAYS OR LESS) AND UA**

- a. A reinstatement authorization is completed, for individuals who last held UAA/UA that was terminated under favorable conditions within the past 30 days.
- b. The following elements, as appropriate, must be completed and approved by the reviewing official for the authorization of UAA and/or the granting of UA:

NOTE: FFDA elements required under 10 CFR Part 26, are identified with an asterisk (*).
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1. The following documents are completed and signed by the individual and provided to the licensee, an approved C/V or their authorized agent:
  - (a.) Consent,
  - (b.) \* Self-disclosure, if required. (No self-disclosure is required if the individual was subject to a licensee-approved BOP (including training, legal action reporting and annual supervisory review), throughout the period of interruption.)
2. Verify the true identity of the individual, to include demographic information.
3. \* If FFD PDI is identified that has not been reviewed and favorably resolved by a previous licensee or C/V, a suitable inquiry must be conducted to include all claimed employments since UAA was terminated.
  - (a.) The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI.
  - (b.) For incidents documented within the industry data-sharing mechanism, the two-year expansion of SI scope is not required.
4. \* The licensee or C/V need not conduct pre-access testing if the individual has been subject to a drug and alcohol testing program that includes random testing and a BOP that includes legal action reporting from the date the individual's last authorization was terminated through the date the individual is granted authorization. However, if the individual has not been covered by a licensee-approved BOP and a drug and alcohol testing program that includes random testing from 6 to 30 days following the individual's last period of UAA, the licensee shall:
  - (a.) \* subject the individual to random selection for pre-access drug and alcohol testing at a one-time probability that is equal to or greater than the normal testing rate specified in 10 CFR § 26.31 (d)(2) calculated for a 30-day period.
    - i. If the individual is selected for testing, collect a specimen for drug testing;
    - ii. verify that the results of the alcohol test are negative before authorizing UAA or granting UA;
    - iii. Ensure that the individual is made subject to random drug and alcohol testing including random, post-event, for-cause and follow-up testing with the following qualifications;
      - C. Verify that preaccess drug test results are negative within 5 business days of specimen collection.
      - D. In the event the preaccess drug test results have not been returned within 5 business days of specimen collection, the licensee shall



administratively withdraw UA until the drug test results are confirmed;  
and

- (b.) \* If not selected for a preaccess drug and alcohol test, the licensee or C/V need not perform a preaccess drug and alcohol test but must ensure that the individual is made subject to drug and alcohol testing including random, post-event, for-cause and follow-up testing.
- 5. Verify that the individual successfully completed BOP training, and training on the K&A's required by 10 CFR Part 26, and is aware of legal action reporting responsibilities.
- 6. \* If an individual is applying for UAA and FFD PDI is detected, the licensee shall follow the process described in Section 6.1.4 and Sections 6.1.6 and 6.1.7, as appropriate, in order to grant and subsequently maintain the individual's authorization.
- 7. \* Prior to granting UA:
  - (a.) \* If a preaccess drug and alcohol test is required, verify that the test results are negative (No drug or alcohol test is required if the individual previously held UAA/UA, was subject to a drug and alcohol testing program that includes random testing and a BOP that includes legal action reporting beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization).
  - (b.) \* The individual is made subject to random drug and alcohol testing.
  - (c.) Verify that the individual successfully completes PAT.
- 8. In every case, the reviewing official shall conduct an evaluation based on an accumulation of information which supports a determination that the individual is trustworthy and reliable, prior to authorizing UAA or granting UA.
- c. UAA/UA can be authorized simultaneously at multiple licensee facilities.
- d. If an individual has UAA/UA at another licensee or approved C/V program, it is only necessary to verify true identity and obtain appropriate consent before granting UA.

## **6.6 MAINTAINING UAA/UA**

- a. UAA is maintained as long as the individual:
  - 1. the applicable elements in Sections 6.6.1 to 6.6.5 are current and
  - 2. the individual complies with the licensee or C/V's policies and procedures.
- b. If a period of interruption of greater than 30 days occurs, UAA shall be terminated until requirements for UAA are made current as specified in Section 6.4.
- c. Coverage by a BOP includes the requirement that an individual:

1. report legal actions;
2. complete initial and periodic refresher training on their responsibilities for remaining trustworthy and reliable; and
3. undergoes an annual supervisory review, as discussed in Section 10 of this document.

NOTE: FFDA elements required under 10 CFR Part 26, are identified with an asterisk (\*).

#### **6.6.1 Maintaining UAA Elements Current**

- a. To maintain the psychological, criminal history, and background investigation (except suitable inquiry) elements current, the individual must:
  1. be subject to a BOP (including being aware of legal action-reporting requirements)
  2. \* maintained current BOP training and the training for the K&A's, and
  3. have had applicable periodic reinvestigations and psychological assessments conducted as defined and within established time frames.
- b. \* To maintain the alcohol/drug testing elements current, the individual must:
  1. be subject to a BOP (including being aware of legal action-reporting requirements);
  2. maintained current BOP training and the training for the K&A's, and
  3. be subject to a random testing program.
- c. \* Self-disclosure/suitable inquiry:
  1. Prior to the initial granting of UAA, the individual must:
    - (a.) be subject to a BOP (including being aware of legal action-reporting requirements);
    - (b.) maintained current BOP training and the training for the K&A's; and
    - (c.) be subject to a random testing program.
  2. Following the favorable termination of UAA, the individual must:
    - (a.) be under a BOP (including being aware of legal action-reporting requirements); and
    - (b.) be maintained current BOP training and the training for the K&A's.

#### **6.6.2 To Maintain UAA Current**

- a. Verify the true identity of the individual, to include demographic information;
- b. The individual must be under a BOP (must include reporting of legal actions, training, and annual supervisory review when required),

- c. The individual must be subject to the drug and alcohol testing program including random, post-event, for cause and follow-up testing;
- d. complete periodic FFD/BOP training requirements, and
- e. have applicable periodic reinvestigations and psychological assessments conducted as defined and within established time frames.

**6.6.3 To Grant UA to an Individual with Current UAA:**

- a. Verify receipt of a request for UA; and
- b. Verify completion of PAT and FFD training is current.

**6.6.4 To Maintain UA Current an Individual Shall:**

- a. Verify the true identity of the individual, to include demographic information;
- b. be under a granting licensee's BOP (must include reporting of legal actions, training, and annual supervisory review),
- c. complete periodic BOP, K&A's and PAT training requirements,
- d. have periodic reinvestigations and psychological assessments conducted as defined and within established time frames, and
- e. be subject to the drug and alcohol testing program including follow-up, for-cause, post-event and random testing and in compliance with FFD policies and procedures.

**6.6.5 Maintaining UAA/UA with FFD PDI:**

- a. In order to maintain UAA/UA when FFD PDI information is disclosed or discovered, the licensee shall take applicable actions as defined in Section 6.1.5.
- b. Subsequent to authorizing UAA or granting UA, a licensee or C/V may develop information that questions the continued trustworthiness and reliability of the individual.
  - 1. Such PDI developed by or provided to a licensee or C/V shall be promptly (on the day of discovery) reported to each licensee where UAA/UA is active;
  - 2. The licensee shall deny or unfavorably terminate the individual's UAA/UA on the day that the licensee receives the information or implements an applicable process as defined in Section 6.1 to maintain the individual's UAA/UA.; and
  - 3. Make a determination as to whether the person continues to be trustworthy and reliable.

**6.7 GRANTING UAA/UA AFTER A FIRST CONFIRMED DRUG OR ALCOHOL TEST RESULT OR A 5-YEAR DENIAL OF UAA/UA**

- a. To grant UAA/UA to an individual after a first confirmed positive drug or alcohol result or after a 5-year denial of authorization, the licensee shall take actions as defined in Section 6.1.

## **6.8 LICENSEE-APPROVED PROGRAMS**

- a. The licensee may accept, in whole or in part, the results of the UAA program conducted by a C/V, provided that the program elements meet the requirements of the criteria as described in Section 6.2-6.6 of this document and that appropriate records are made available upon request for auditing by the licensee or its designated representatives and representatives of the NRC.
- b. The C/V program features do not abrogate the licensee's ultimate responsibility for assuring that individuals granted UA to the protected area meet regulatory requirements.
- c. In conjunction with the request for UAA/UA at a licensee facility, C/Vs shall report all PDI disclosed or discovered during the conduct of an initial UAA/UA to the first receiving licensee.
- d. If, during the conduct of an updated or reinstatement UAA/UA, PDI, not previously known to a licensee, is disclosed or discovered by the C/V, the PDI shall be reported to the licensee with the request for UAA/UA.
- e. While the individual holds UAA/UA, all PDI, disclosed or discovered, shall be reported, on the day of discovery, to the licensee(s) where the individual holds an active UAA/UA.
- f. PDI disclosed or discovered subsequent to the termination of UAA/UA that would have affected a period of UAA/UA shall be reported to the affected licensee(s) upon on the day of discovery.
- g. If a C/V's FFD program denies or unfavorably terminates an FFD Authorization of an individual who has been granted UAA/UA, the C/V must notify, on the day of discovery, all licensee(s) where UAA/UA, is active.
- h. The licensee shall deny or unfavorably terminate the individual's UAA/UA on the day that the licensee receives the information from the C/V or implements an applicable process as defined in Section 6.1 to maintain the individual's UAA/UA.

## **7 INVESTIGATION ELEMENTS**

- a. Investigation elements shall be conducted as discussed in this section.
- b. The investigation period is through the date on which the individual applies for UA as documented by the date on which the PHQ is signed by the individual.
- c. If the investigation is not completed within 30 days of the application date and the individual is not covered by a licensee-approved BOP that includes legal action reporting and training:
  - 1. the individual must provide supplemental PHQ information, to include the time period in excess of 30 days.
  - 2. additional employment/unemployment periods meeting the criteria set forth within Section 6 shall be investigated and
  - 3. the reviewing official must consider any new self-disclosure information.
- d. A licensee or C/V is not authorized to withhold from law enforcement officials evidence of criminal conduct detected during collection and verification of elements specified in this section.

## 7.1 CONSENT AND ADVISEMENTS

- a. No element of the UAA/UA program may be initiated without the knowledge and written consent of the individual applying for UAA/UA. The individual applying for UAA/UA shall be informed in writing:
  1. the types of records that may be produced and retained;
  2. where such records are normally maintained;
  3. the duration such records are to be retained;
  4. of his or her right to review the results of the developed information, and to assure its accuracy and completeness;
  5. that the following actions related to providing and sharing the personal information under this section are sufficient cause for denial or unfavorable termination of UAA/UA status:
    - (a.) refusal to provide signed consent for the BI which includes the SI;
    - (b.) refusal to provide, or the falsification of, any personal history information required under this section, including the failure to report any previous denial or unfavorable termination of UAA/UA;
    - (c.) refusal to provide signed consent for the sharing of personal information with other licensees or C/Vs; and
    - (d.) failure to report any legal actions specified in Section 8.2.
- b. The individual has the right to challenge any PDI but does not have the right to know who provided and confirmed the PDI.
  1. PDI obtained from confidential/unnamed sources must be adjudicated by the reviewing official as defined in Section 6.1 and the result documented.
  2. PDI from confidential/unnamed sources must be corroborated before the PDI can be used to deny access.
  3. The individual shall be informed that the results of the investigation will be accessible for use in all power reactor licensee UAA/UA programs.
- c. In addition, the individual shall be informed that he/she may withdraw consent at anytime and advised of the following:
  1. Withdrawal of his or her consent will withdraw the individual's current application for access authorization under the licensee or C/V's access authorization program; and
  2. Other licensees shall have access to information documenting the withdrawal through the information-sharing mechanism for their access determination of that individual. Additionally, the C/Vs and other entities may have the same access to the information, if such information is necessary for assisting in complying with requirements set forth in this document.

3. The withdrawal must be in writing and signed by the individual. When withdrawal of consent is made, no new processing may be initiated; however, steps in progress must be completed and documented.
- d. The elements of the PADS consent form, taken directly from the PADS participation agreement, shall be included as part of the licensee or C/V's consent process. Sample consent forms are contained in NEI 08-06 and the minimum form criteria are defined in Appendix B.
- e. When any licensee or C/V's (including the licensee and C/V's authorized agents) UAA/UA program is legitimately seeking the information required for a UAA/UA decision, and has obtained a signed release from the subject individual authorizing the disclosure of such information, a licensee or C/V shall make available the UAA/UA information requested including information upon which a denial or unfavorable termination of UAA/UA was based.

## **7.2 PERSONAL HISTORY QUESTIONNAIRE (PHQ)**

- a. Each individual applying for UAA/UA shall be required to:
  1. complete a PHQ designed to gather the personal information for the period needed to complete the BI and SI elements. Sample PHQs are contained in NEI 08-06 and the minimum form criteria are defined in Appendix B;
  2. provide a self-disclosure of criminal history since the eighteenth birthday or since the last UAA period if terminated favorably within the past 3 years. For the period specified in Section 6.2 or 6.3, the individual must include a detailed description of each legal action; and
  3. provide a self-disclosure in accordance with Section 8.2.
- b. In making a trustworthiness or reliability determination the willful omission, deception or falsification of information submitted by the individual shall be considered as defined in Section 6.1.
- c. Individuals applying for UAA/UA shall be clearly informed of the potential consequences of not providing complete and accurate information in their PHQ.

## **7.3 VERIFICATION OF TRUE IDENTITY**

- a. The verification of true identity is to assure that the individual being processed for UAA/UA, in accordance with Sections 6.2-6.6, is, in fact, the person he or she purports to be. The licensee or C/V shall verify identity by:
  1. comparing a valid (not expired) official photo identification (e.g., driver's license; passport; government identification; State, Province, or country issued certificate of birth; etc.) with physical characteristics of the individual; and
  2. validating, through cross-referencing of BI-developed information or other means that the SSN that the individual has provided is his or hers.

- b. The licensee or approved C/V may utilize its own company-issued ID to verify true identity during the conduct of 3 or 5 year reinvestigations.
- c. During the verification of true identity, the licensee may be required to take additional actions as described in the Safeguard Supplement to this document.

## **7.4 EMPLOYMENT/UNEMPLOYMENT HISTORY**

### **7.4.1 Employment/Unemployment Verification**

- a. Verify employment/unemployment history for the past 3-year period, since age 18, or since the date UAA/UA was last favorably terminated, whichever is shorter. The licensee or C/V may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or e-mail. The licensee or C/V shall make a record of the contents of telephone calls and shall retain that record, and any documents or electronic files obtained electronically, in accordance with Section 15.
- b. The checks shall be conducted as follows:
  - 1. For initial UAA, the licensee or C/V shall:
    - (a.) verify every employment period (regardless of length) or unemployment period of 30 days or more for the most recent year preceding the application,
    - (b.) verify the longest period of employment for each month during years 2-3, as appropriate; and
    - (c.) conduct a SI as specified in Section 7.4.1.d, 7.4.3.a or 7.4.4.a as appropriate for the time period specified in Section 6.2.
  - 2. For updated UAA (> than 365 days but < 3 years) the licensee or C/V shall:
    - (a.) verify every employment period (regardless of length) or unemployment period of 30 days or more for the most recent year;
    - (b.) verify the longest period of employment for each month during years 2-3, as appropriate, preceding the application; and
    - (c.) conduct a suitable inquiry as specified in Section 7.4.1.d, 7.4.3.a or 7.4.4.a as appropriate for the time period specified in Section 6.3.
  - 3. For Reinstatement UAA (31-365 days), the licensee or C/V shall:
    - (a.) verify the longest claimed period of employment in each calendar month and/or verify unemployment periods of 30 days or more;
      - i. If an individual claims two employments of the same length in the same month, only one needs to be selected for verification.
      - ii. If equal periods of employment and unemployment are claimed, verify the employment.; and

- (b.) conduct a suitable inquiry as specified in Section 7.4.1.e, 7.4.3.a or 7.4.4.a as appropriate, for the time period specified in Section 6.4.
- 4. For periods when the individual claimed he/she was on active military duty or enrolled as a student in lieu of employment, the licensee or C/V shall verify military service as employment, or education in lieu of employment utilizing the questions contained in Sections 7.4.3 and 7.4.4, as appropriate.
- c. Verify the length and nature of employment through contacts with previous employers on a best effort basis to achieve an accumulation of information which supports a determination that the individual is trustworthy and reliable by having the following aspects of the employment relationship investigated:
  - 1. inclusive dates of employment period(s);
  - 2. for employments other than self-employment
    - (a.) under what conditions the individual left the employment,
    - (b.) reason for termination, and
    - (c.) eligibility for rehire, ( this criterion is not applicable if the worker is still employed by the employer listed on the application for UAA when that application was completed); and
  - 3. any disciplinary history or other information that could impact the trustworthiness/reliability decision for UAA.
  - 4. periods of self-employment may be verified by any reasonable method, usually one of the following:
    - (a.) self-employment tax records
    - (b.) bookkeeper, accountant, or attorney
    - (c.) client(s)
    - (d.) employee(s)
    - (e.) reference(s)
    - (f.) co-worker(s)
    - (g.) relatives may be used after the other methods, a through f above, have been unsuccessful in providing the information needed to verify the self-employment claim. The specifics of the effort must have been documented, prior to using relatives.
- d. Conduct a SI of employers by inserting the appropriate timeframe in the underlined area in each question and asking the employer the following questions:
  - For an initial UAA, as defined in Section 6.2, verify any claimed employment during the past 3-year period or since age 18, whichever is shorter.
  - For an updated UAA, as defined in Section 6.3 or



- For reinstatement UAA, as defined in Section 6.4, verify employment history for any claimed employment since age 18 or since the last favorably terminated UAA, whichever is shorter.
  - 1. \_\_\_\_\_ has the individual violated a licensee or employer's fitness-for-duty policy?
  - 2. \_\_\_\_\_ has the individual been denied or terminated unfavorably at any nuclear power plant for any reason, including fitness for duty?
  - 3. \_\_\_\_\_ has the individual used sold or possessed illegal drugs?
  - 4. \_\_\_\_\_ has the individual abused legal drugs or alcohol?
  - 5. \_\_\_\_\_ has the individual refused to take a drug or alcohol test?
  - 6. \_\_\_\_\_ has the individual subverted or attempted to subvert a drug or alcohol testing program?
  - 7. \_\_\_\_\_ has the individual been subject to a plan (except self-referral) for treating substance abuse?
  - 8. \_\_\_\_\_ has the individual been subject to a law enforcement authority or court of law action for alcohol or drug use related to any of the following:
    - (a.) The use, sale or possession of illegal drugs
    - (b.) The abuse of legal drugs or alcohol; or
    - (c.) The refusal to take a drug or alcohol test.
  - 9. \_\_\_\_\_ has the individual been subject to employment action taken for alcohol or drug abuse involving any of the following
    - (a.) A change in job responsibilities or removal from a job or
    - (b.) Mandated implementation of a plan for substance abuse treatment in order to avoid a change in or removal from a job.
- e. Verify activities during periods of unemployment of 30 days or more through references or relatives. SI questions need not be asked.
- f. When an employment check is conducted with an employer and the employer reports that the company's policy is to release only a limited amount of information pertaining to the individual's employment, the limited information provided by the employer is considered sufficient for the completion of the employment check. The employer's response must be documented in the BI report. No further inquiries concerning the individual's employment at that employer are required. However, in the event the employer refuses to provide any information then the requirements of best effort, Section 7.4.2 must be satisfied.

#### **7.4.2 Best Effort**

- a. Best effort is satisfied under the following conditions:

1. A company, previous employer or educational institution to which a request for information has been directed refuses to provide information and this refusal is documented in the licensee or C/V's record documenting the individual's BI.
2. A company, previous employer or educational institution to which a request for information has been directed indicates an inability or unwillingness to provide all of the requested information or fails to respond within 3 business days and this is reflected in the licensee or C/V's record documenting the individual's BI.
3. In the event of 1 or 2 above, the licensee or C/V shall obtain a confirmation of employment or educational enrollment and attendance from at least one alternate source, with related employment and suitable inquiry questions answered to the best of the ability of the alternate source. This alternate source shall not have been previously used as a developed reference on the current application.
4. If a company, employer or educational institution is unable to or refuses to provide requested information and a request for information has been initiated and documented, one of the following secondary sources provided by the individual or agent of the individual may be used to develop the length and/or nature of claimed employment or enrollment:
  - (a.) pay stubs, W2 form, wage & benefit statement, educational institution transcripts or business records confirming periods of employment or enrollment,
  - (b.) union contribution records used in determination of employee retirement benefits, or
  - (c.) references.
5. When a company, previous employer or education institution repeatedly refuses to provide or has a policy of not providing requested information, licensees or C/Vs are not required to continuously contact that company, previous employer or educational institution provided that the refusal is documented and maintained. In such instances the licensee or C/V may develop or authorize a BI screening company to develop a log of companies, employers and educational institutions refusing to provide information must be maintained and documented as follows:
  - (a.) Company, Employer and Educational Institution Policy for Verification Refusals
    - i. In order to develop the length and nature of claimed employments and/or education, best effort contact must be made with each company, employer and/or educational institution.
    - ii. Initial contact with a company, employer or educational institution to verify its policy, is required to be documented.
  - (b.) If a company, employer or educational institution refuses to provide information, has a policy of not providing information then the licensee, C/V or BI screening company must document in a log the following information:

- i. entity name and address,
  - ii. entity contact name and title,
  - iii. entity policy on verification request,
  - iv. refusal to verify reason,
  - v. date of contact,
  - vi. quarterly re-verification date and verification status, and
  - vii. entity removal date.
- (c.) If the initial contact with a company, employer or education institution to verify information results in a refusal and is documented, an alternate source for verification is required to complete the best effort. Subsequent requests for information to the same company, employer or education institution are not required. Alternate-source verification may be immediately conducted in lieu of contacting that company, employer or education institution to complete the best effort process indefinitely, as long as the refusal is re-verified on a quarterly basis.
- (d.) However, if a company, employer or education institution provides partial verification, which includes dates of employment, it is not considered a refusal and the best effort is considered complete. An alternate source of verification is not required.
- (e.) Maintenance of Company, Employer and Educational Institution Policy for Verification Refusals
- i. On a quarterly basis the licensee, C/V or if authorized, BI screening company must re-verify the previously documented company, employer or education institution's refusal or policy of not providing information and document in the log the company, employer or education institution's current policy. For the purpose of determining the quarterly re-verification date requirement, quarterly is defined as once in each calendar quarter and within 60 to 120 days from the previous verification date. If the company, employer or educational Institution is no longer to be used, then document the removal date on the log by lining-out the name of the company and annotate time/date and initials of the individual making the line-out.
  - ii. A licensee or approved C/V may maintain or authorize a BI screening company to maintain a log of companies, employers or educational institutions that refuse or have a policy of providing no information, to enable the licensee to use an alternate source as defined in 1 and 2 of this section to develop the length and/or nature of claimed employment(s) and/or education. The licensee or C/V must explicitly define the process for maintaining and using the log and shall approve the logs developed by their BI Screening companies. As a minimum the process shall:
    - A. define how companies, employers or educational institutions will be added to, maintained on and removed from the list,

- B. require, prior to being added to the list, verification and documentation of each entity's refusal or policy of providing no information, and
  - C. require, prior to use, verification that the entity's refusal or policy of not providing information has been updated quarterly.
- b. If an alternate source is used because a company, employer or educational institution information is not forthcoming within 3 business days, no additional time is required to wait for any employer response.
  - c. If a company, employer or educational institution responds after the 3 business day period, the information received must be evaluated by the licensee as defined in Section 6.1.

### 7.4.3 Military Service as Employment

**NOTE:** For individuals applying for UAA/UA, it is not necessary to check military service if the individual served in the Reserves or National Guard, unless the individual served on active-duty beyond the annual reserve active-duty requirements as his/her employment.

- a. Conduct a SI of the active military service period by inserting the appropriate timeframe in the underlined area in each question and asking the military unit the following questions:
  - For an initial UAA, as defined in Section 6.2, verify any claimed active duty military service during the past 3-year period or since age 18, whichever is shorter;
  - For an updated UAA, as defined in Section 6.3 verify active duty military service since age 18 or since the last favorably terminated UAA, which ever is shorter; or
  - For reinstatement UAA, as defined in Section 6.4, verify active duty military service since age 18 or since the last favorably terminated UAA, which ever is shorter.
- 1. Contact the most recent duty station to verify the period and character of service, and ask the following questions:
  - (a.) What are the inclusive dates of military service?
  - (b.) Under what conditions did the individual leave the military? Would the individual be eligible to serve again?
  - (c.) While on military duty, did the individual ever receive a court-martial or non-judicial punishment? If so, for what reason?
  - (d.) \_\_\_\_\_ has the individual violated a licensee, employer, or the military's fitness-for-duty policy?
  - (e.) \_\_\_\_\_ has the individual been denied or terminated unfavorably from any nuclear power plant for any reason, including fitness for duty policy

violations, or been discharged from any military assignment for any fitness—for-duty reason?

- (f.) \_\_\_\_\_ has the individual used, sold or possessed illegal drugs?
- (g.) \_\_\_\_\_ has the individual abused legal drugs or alcohol?
- (h.) \_\_\_\_\_ has the individual refused to take a drug or alcohol test?
- (i.) \_\_\_\_\_ has the individual subverted or attempted to subvert a drug or alcohol testing program?
- (j.) \_\_\_\_\_ has the individual been subject to a plan (except self-referral) for treating substance abuse?
- (k.) \_\_\_\_\_ has the individual been subject to a law enforcement authority or court of law action for alcohol or drug use related to any of the following:

- i. The use, sale or possession of illegal drugs
- ii. The abuse of legal drugs or alcohol; or
- iii. The refusal to take a drug or alcohol test.

- (l.) \_\_\_\_\_ has the individual been subject to employment action taken for alcohol or drug abuse involving any of the following

- i. A change in job responsibilities or removal from a job or
- ii. Mandated implementation of a plan for substance abuse treatment in order to avoid a change in or removal from a job.

- 2. If the veteran's last duty station cannot provide the information as stated above, the licensee or C/V may accept a hand carried copy of the DD 214 (or equivalent for foreign military service) presented by the veteran, which on its face appears legitimate.
  - 3. If the reviewing official determines the hand carried copy of the DD 214 (or equivalent) appears to have been altered in any way, the licensee or C/V shall withhold UAA until a certified copy of the veteran's DD 214 (or equivalent), can be obtained from a custodian of military records.
  - 4. Where (1) and (2) above cannot be satisfied, a copy of the veteran's DD 214 (or equivalent), must be obtained from a custodian of military records, to satisfy the requirement for verification of military service.
- b. Criteria for obtaining a DD 214, using Standard Form 180, Request Pertaining to Military Records, are on-line and are also included in NEI 08-06. If the individual's discharge, based on the DD 214, was an involuntary separation or other than honorable discharge, further investigation is required. In addition, all employments, including part-time employments, must be verified for the most recent year for all initial and updated authorizations.

#### 7.4.4 Education in lieu of Employment

- a. Conduct a SI of an educational institution by inserting the appropriate timeframe in the underlined area in each question and asking the educational institution the following questions:
  - For an initial UAA, as defined in Section 6.2, verify education history for any claimed enrollment in lieu of employment during the past 5-year period, since age 18, whichever is shorter;
  - For an updated UAA, as defined in Section 6.3 verify education history for any claimed enrollment in lieu of employment since age 18 or since the last favorably terminated UAA, which ever is shorter; or
  - For reinstatement UAA, as defined in Section 6.4, verify education history for any claimed enrollment in lieu of employment since age 18 or since the last favorably terminated UAA, which ever is shorter.
- a. For an initial UAA, as defined in Section 6.2, verify education history for any claimed enrollment in lieu of employment during the past 5-year period, since age 18, whichever is shorter. For an updated UAA, as defined in Section 6.3 or reinstatement UAA, as defined in Section 6.4, verify education history for any claimed enrollment in lieu of employment since age 18 or since the last favorably terminated UAA, which ever is shorter. Ask the educational institution the following questions:
  1. What are the inclusive dates of attendance at the education institution?
  2. Under what conditions did the individual leave the educational institution? Would the individual be eligible to enroll again?
  3. Did the individual ever receive any non-academic discipline? If so, for what reason?
  4. \_\_\_\_\_ has the individual violated a licensee, employer, or the educational institution's fitness-for-duty policy?
  5. \_\_\_\_\_ has the individual been denied or terminated unfavorably from any nuclear power plant for any reason, including fitness for duty policy violations, or been removed from any education institution assignment for any fitness-for-duty reason?
  6. \_\_\_\_\_ has the individual used, sold or possessed illegal drugs?
  7. \_\_\_\_\_ has the individual abused legal drugs or alcohol?
  8. \_\_\_\_\_ has the individual refused to take a drug or alcohol test?
  9. \_\_\_\_\_ has the individual subverted or attempted to subvert a drug or alcohol testing program?
  10. \_\_\_\_\_ has the individual been subject to a plan (except self-referral) for treating substance abuse?
  11. \_\_\_\_\_ has the individual been subject to a law enforcement authority or court of law action for alcohol or drug use related to any of the following:
    - (a.) The use, sale or possession of illegal drugs
    - (b.) The abuse of legal drugs or alcohol; or

(c.) The refusal to take a drug or alcohol test.

12. \_\_\_\_\_ has the individual been subject to employment action taken for alcohol or drug abuse involving any of the following

- (a.) A change in job responsibilities or removal from a job or
- (b.) Mandated implementation of a plan for substance abuse treatment in order to avoid a change in or removal from a job.

b. If the educational institution will not release the requested information, this refusal shall be documented and an alternate source may be used to confirm education institution enrollment and attendance. In addition, all employments, including part-time employments, must be verified for the most recent year for all initial and updated authorizations as defined in Section 6.2 and 6.3.

## **7.5 CREDIT CHECK**

- a. A credit history check provides information to be used with other BI information in the reviewing official's evaluation of an individual's reliability and trustworthiness. Credit checks are typically conducted through a United States (US) national credit-reporting agency and reviewed for the duration of history provided. For US credit agencies, the report must contain an inquiry to detect potential fraud or misuse of social security numbers, or other financial identifiers.
- b. The information provided on a credit history may cover a different period than that specified for the BI. This means that for whatever period is reflected in the national credit reporting agency's report, the interval is sufficient, but the entire period reported on the credit history must be evaluated.
- c. Data produced in the credit report shall be compared to information offered in the individual's PHQ to further corroborate employment and residence periods reported by the individual.

- 1. Licensees or C/Vs shall ensure the information provided by the credit reporting agency or source is consistent with the data provided by the individual.
- 2. In cases where a discrepancy exists, further evaluation is required. Poor repayment data alone would typically not be disqualifying. However, when considered in context, or with the other information, if there are indications of a potential lack of integrity such that trustworthiness and reliability cannot be assured, then the individual's UAA/UA application shall be reviewed by the reviewing official against the safeguards supplement and the criteria specified in Section 6.1.

d. For workers with a residence of record in a foreign country during the period of employment history being reviewed, but who have established credit in the United States as reported on a credit check through a national credit reporting agency:

- 1. a US national credit check shall suffice.

2. If the worker has no established credit in the US or if no routinely accepted credit reporting mechanism is available in the individual's country of record, a statement of responsibility concerning the individual's financial record from an entity within the country of record is acceptable.
- e. Additional criteria for reviewing officials are provided in the Safeguards Supplement to this document.

## **7.6 CHARACTER AND REPUTATION**

- a. The character and reputation of an individual is ascertained by conducting reference checks with co-workers, neighbors, and friends.
  1. To ensure that a broad overview of the period under investigation is covered, persons used to verify employment/unemployment information cannot be used as a character reference for purposes of this check.
  2. Individuals listed in the reference section of the PHQ shall not be used as developed references.
- b. The reference checks focus on emotional stability, trustworthiness and reliability and are conducted as follows:
  1. The individual's reputation for emotional stability, reliability and trustworthiness is examined through interview with at least two developed references.
    - (a.) These references are typically developed through contact with one or more of the references listed by the individual.
    - (b.) Developed references can be established using information provided on the PHQ, past or present employers, schools, neighborhoods, co-workers, clubs, churches, etc.
  2. An individual used as a developed reference cannot:
    - (a.) be listed in the reference of the PHQ;
    - (b.) be a known close relative (i.e., spouse, parent, sibling or child) of the individual applying for UAA/UA; and
    - (c.) live in the same permanent household as the individual applying for UAA/UA, a listed reference or another developed reference at the time the application for UAA/UA is made.
  3. Knowledge of the individual over the entire 3-year retrospective period is not necessary either individually or collectively.
    - (a.) The reference's (individual or collective) association with the individual should be substantive enough to be able to provide meaningful information.



- (b.) At a minimum, the reference will have known the individual for not less than 6 months, and had at least one contact with the individual in the last 6 months.
4. Records of developed reference checks need to include:
- (a.) the name of the reference;
  - (b.) sufficient information to determine that the developed reference does not reside with individual;
  - (c.) the length of time known,
  - (d.) the frequency and type of association;
  - (e.) any adverse or discrepant information;
  - (f.) last date of the contact;
  - (g.) a statement as to whether or not the reference(s) reside in the same household as the individual applying for UAA/UA or sufficient information so as to differentiate the address of the developed and listed references from that of the applicant at the time of the application;
  - (h.) the name of the investigator conducting the interview; and
  - (i.) the name and phone number of the source used to obtain the developed reference's name. The development of a personal reference through the use of non-person (sources such as Internet Directories, etc), must be fully explained in the BI record.
5. References are to be questioned regarding whether they are aware of issues relating to or indications by the individual of the following:
- (a.) behavioral/psychological problems;
  - (b.) unlawful/criminal activities;
  - (c.) illegal use, sale, or possession of a controlled substance;
  - (d.) abuse of alcohol, prescription or over-the-counter drugs;
  - (e.) susceptibility to coercion or bribery; and
  - (f.) any other conduct relating to an assessment of potential untrustworthiness and/or unreliability.

## 7.7 CRIMINAL HISTORY INQUIRY

<p><b>NOTE:</b> Only licensee employees assigned to process UAA/UA applications may access or review FBI CHRI. The licensee process must preclude other individuals from accessing, reviewing and disseminating the FBI CHRI.</p>
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- a. The licensee is required to evaluate criminal history record information (CHRI) pertaining to an individual applying for UAA/UA as defined in Section 6.2, 6.3 and 9, and as required by 10 CFR § 73.57. The CHRI check is used as an evaluative measure to assist in the determination of whether the individual has a record of criminal activity that may adversely impact on his or her trustworthiness and reliability.

- b. CHRI evaluations shall be documented to include the decision-making basis.
- c. If information discovered by a C/V is different than originally claimed by an individual applying for UAA/UA, the investigation results shall be provided to the licensee prior to or at the time UAA/UA is requested.
- d. Licensees need not fingerprint official US government personnel who can be verified to have “Q” or “L” clearances or have another active government granted security clearances, (such as Top Secret, Secret or Confidential).
  - 1. Clearance confirmations shall be received from the sponsoring agency i.e., NRC, or facility and not hand carried by the individual applying for UAA/UA.
  - 2. Verification of these active clearances may also be used in lieu of the FBI CHRI for reinvestigation.
- e. In the event FBI CHRI results cannot be obtained due to unclassifiable fingerprints, licensees shall implement the process defined within Appendix C.
- f. An FBI CHRI need not be conducted for initial or updated authorizations, as defined in Sections 6.2 and 6.3 respectively, if completed within the past 365 days, or if the individual meets the requirements of Section 6.6.1.a.
- g. Additional criteria for reviewing officials are provided in the Safeguards Supplement to this document.

## **7.8 PSYCHOLOGICAL ASSESSMENT**

- a. The licensee or C/V shall require an individual applying for initial or updated UAA/UA, as defined in Sections 6.2 and 6.3 respectively, to undergo a professionally-accepted standardized psychological assessment, tailored for use at the licensee or C/V facility, to assist in the determination of trustworthiness and reliability. The assessment shall include an evaluation to determine the presence of any mental or physical condition which may cause a significant defect in the trustworthiness, reliability or judgment of the individual, including that which may result from the use of illegal drugs, the abuse of prescribed or over-the-counter medications, or the use of alcohol habitually to excess.
- b. Psychological assessments must also be conducted prior to an individual being assigned to the critical group and periodically thereafter.

### **7.8.1 Elements of Initial or Updated UAA Psychological Assessment**

- a. There are 3 elements that may be part of the psychological assessment:
  - 1. The administration and interpretation of a standardized, objective, professionally-accepted written psychological test that provides information to identify indications of disturbances in personality or psychopathology that may have adverse implications for an individual’s trustworthiness and reliability;
    - (a.) The standardized, objective, professionally-accepted written psychological test must be used for the critical group and may be used for initial and updated UAA.

- (b.) Appropriately tailored, predetermined thresholds for each scale must be applied in interpreting the results of the psychological test to determine whether an individual shall be interviewed by a licensed psychiatrist or psychologist.
- (c.) Except in the case of critical group members, when accurate results would be hindered by a language or cultural barrier, a clinical interview may be conducted in lieu of a standardized, objective, professionally-accepted written psychological test.
- (d.) In instances when test scores are outside of the predetermined cut-off scores and require a clinical interview, the licensee or C/V must:
  - i. provide to the psychiatrist or licensed psychologist with any available FFD PDI developed during the conduct of the BI.
  - ii. the assessment shall have the additional focus of careful consideration of the psychopathy of the interviewee.
  - iii. Psychiatrists or licensed psychologists must carefully apply procedures of evaluation assessment and diagnosis derived from scientific research.

2. A clinical interview by a psychiatrist or licensed psychologist:

- (a.) Is required:
  - i. if an individual's scores on the psychological test are outside of the predetermined cut-off scores or identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability;
  - ii. for the critical group; and
  - iii. for individuals applying for UAA/UA who did not receive a written screening test;
- (b.) shall be conducted in a semi-structured manner and include the recognition of medical conditions that could result in impaired judgment;
- (c.) are completed under professionally accepted conditions, not necessarily in a physical face-to-face situation; and
- (d.) the result of the interview is documented and includes the date, results, name and qualification of the individual conducting the interview.

3. a medical evaluation.

- b. For the critical group, if an Annual Supervisory Review has been conducted and changes to behavior have been noted, the review shall be considered by the interviewing psychiatrist or licensed psychologist as one measure of the assessment.
- 1. Any individual identified as a candidate for further medical review shall be referred to a physician, which may be the MRO, for further medical assessment.

2. Prior to a medical assessment, the physician practitioner shall review a current job task analysis or position description for the person being interviewed and the most recently completed Annual Supervisory Review, if applicable.
  3. A review of the individual's prescribed medications shall be conducted to ensure these medications do not impair the person's judgment to the extent that trustworthiness and reliability are jeopardized.
- c. In addition, if the licensee or C/V develops other relevant information the licensee or C/V may require a clinical interview to assess whether the individual would be considered trustworthy and reliable.
  - d. No minimum period is specified for a re-examination after an unfavorable psychological assessment. The judgment of the licensed psychologist or psychiatrist shall be the determining factor.
  - e. If the interview is conducted as part of an MRO or other professional with the appropriate qualifications, as specified in 10 CFR Part 26's determination of fitness, neither the individual, the licensee nor the C/V may seek a second determination of fitness if the determination of fitness has already been performed by a qualified professional employed by or on contract to the licensee or C/V.
  - f. Except for individuals assigned to the critical group, this element is valid indefinitely for UAA/UA if the individual meets the requirements of Section 6.6.1.a.

### **7.8.2 Psychological Reassessments**

- a. For the critical group personnel, licensees shall conduct psychological reassessment at intervals not to exceed 5 years.
- b. The psychological reassessment shall be conducted using the assessment process described in Section 7.8 of this document.
- c. Individuals in the critical group with UAA/UA who do not satisfy the 5-year psychological reassessment requirements must be reassigned to non-critical group work or they shall have UA administratively withdrawn until the psychological reassessment has been completed.
- d. If disqualifying information is discovered during any psychological reassessment, the licensee reviewing official shall evaluate the information in accordance with Section 6.1 and the Safeguards Supplement.

## **8 FITNESS-FOR-DUTY PROGRAM**

- a. The FFD program shall be conducted in accordance with the requirements of 10 CFR Part 26.
- b. FFD training of all individuals is defined in NEI 03-04, *Guidelines for Plant Access Training*, Appendix A, Reference B4, and may be accepted by other licensee's and C/V's.

### **8.1 SI QUESTIONS**

- a. SI questions required to be asked of employers, the military and educational institutions are contained within the respective employment check as described in Sections 7.4.2, 7.4.3 or 7.4.4.

## 8.2 SELF-DISCLOSURE QUESTIONS

- a. In addition to completing the criminal history self-disclosure defined in Section 7.2, the individual must self-disclose FFD history.
- b. The individual shall answer the following ten questions by inserting the appropriate timeframe in the underlined area in each question.
  - For an initial UAA/UA the timeframe “Since your 18th birthday” or “within the previous three (3) years,” whichever period is shorter, or
  - For updated or reinstated UAA/UA the timeframe “Since your last UAA/UA if favorably terminated within the past 3 years:”
  1. \_\_\_\_\_ have you violated a licensee or employer’s fitness-for-duty policy?
  2. \_\_\_\_\_ have you been denied or had unescorted access authorization terminated unfavorably at any nuclear power plant for any reason including fitness for duty?
  3. \_\_\_\_\_ have you used, sold or possessed illegal drugs?
  4. \_\_\_\_\_ have you abused legal drugs or alcohol?
  5. \_\_\_\_\_ have you ever subverted or attempted to subvert a drug or alcohol testing program?
  6. \_\_\_\_\_ have you refuse to take a drug or alcohol test?
  7. \_\_\_\_\_ have you been subject to a plan (except self-referral) for treating substance abuse?
  8. \_\_\_\_\_ have you been subject to a law enforcement authority or court of law action for alcohol or drug use related to any of the following:
    - (a.) The use, sale or possession of illegal drugs
    - (b.) The abuse of legal drugs or alcohol; or
    - (c.) The refusal to take a drug or alcohol test.
  9. \_\_\_\_\_ have you been subject to employment action taken for alcohol or drug abuse involving any of the following
    - (a.) A change in job responsibilities or removal from a job or
    - (b.) Mandated implementation of a plan for substance abuse treatment in order to avoid a change in or removal from a job.
  10. Are you currently in a fitness-for-duty follow-up testing program?
- c. The individual shall address the specific type, duration, and resolution of any matter disclosed, including, but not limited to, the reason(s) for any unfavorable termination or denial of authorization.

### **8.3 RANDOM DRUG AND ALCOHOL TESTING PROGRAM**

- a. When a pre-access drug and alcohol sample is collected for initial, updated, or reinstated authorization, the individual shall be placed in an approved random testing program.
  1. A random drug and alcohol testing program must be administered in a manner that provides reasonable assurance that individuals are unable to predict the time periods during which specimens will be collected. At a minimum, the FFD program shall
    - (a.) Take reasonable steps to either conceal from the workforce that collections will be performed during a scheduled collection period or create the appearance that specimens are being collected during a portion of each day on at least 4 days in each calendar week at each site; and
    - (b.) Collect specimens on an unpredictable schedule, including weekends, backshifts, and holidays, and at various times during a shift;
  2. At a minimum, be administered by the FFD program on a nominal weekly frequency;
  3. Require individuals who are selected for random testing to report to the collection site as soon as reasonably practicable after notification, within the time period specified in the FFD program policy;
  4. If the individual's UAA/UA is terminated prior to conducting the random test, the individual may be excused.
  5. Ensure that all individuals in the population subject to testing have an equal probability of being selected and tested;
  6. Require that individuals who are off site when selected for testing, or who are on site and are not reasonably available for testing when selected, shall be tested at the earliest reasonable and practical opportunity when both the donor and collectors are available to collect specimens for testing and without prior notification to the individual that he or she has been selected for testing;
  7. Provide that an individual completing a test is immediately eligible for another unannounced test; and
  8. Ensure that the sampling process used to select individuals for random testing provides that the number of random tests performed annually is equal to at least 50 percent of the population that is subject to the FFD program.
- b. Individuals who require pre-access testing, but were covered by a BOP and had negative test results within the last 30 days that meet the testing requirements of 10 CFR Part 26, shall be placed in the random testing program when the licensee takes the first formal action to grant the individual UAA/UA at the licensee's in-processing facility.

### **8.4 FOLLOW-UP TESTING AND TREATMENT PLANS**

- a. Individuals are required to be placed into a follow-up treatment plan:

1. If the individual's UAA/UA was denied or terminated unfavorably for a first confirmed positive drug or alcohol test result. The licensee or C/V must;
  - (a.) ensure that clinically appropriate treatment and follow-up testing plans have been developed by an MRO or other professional with the appropriate qualifications, as specified in 10 CFR Part 26 before authorizing UAA or granting UA and
  - (b.) ensure that the industry information-sharing mechanism is updated as defined in Section 12.
2. If the individual was subject to a 5-year denial of UAA/UA, the licensee must:
  - (a.) ensure that any recommendations for treatment and follow-up testing from an MRO or appropriate professional's determination of fitness are initiated before authorizing UAA or granting UA; and
  - (b.) ensure that the industry information-sharing mechanism is updated as defined in Section 12.

## 9 REINVESTIGATIONS

**NOTE:** Only licensee employees assigned to process UAA/UA applications may access or review FBI CHRI. The licensee process must preclude other individuals from accessing, reviewing and disseminating the FBI CHRI.

**CAUTION:** Submissions of fingerprints for reinvestigations should be handled separately from investigations for outage staffing, to preclude inadvertent outage staffing delays.

- a. The requirements of this section apply to all individuals with UAA/UA. Individuals that have UAA/UA that do not satisfy the reinvestigation requirements shall have UAA/UA administratively withdrawn until the reinvestigation has been completed.
- b. All personnel holding UAA/UA must have a reinvestigation completed at intervals not to exceed 5 years.
- c. Reinvestigation for an individual in the critical group shall be completed at an interval not to exceed 3 years. Individuals in the critical group with UAA/UA that do not satisfy the 3-year reinvestigation requirements must be reassigned to non-critical group work or they shall have UAA/UA administratively withdrawn until the reinvestigation has been completed.
- d. A new Consent form to screen and a new federal Fair Credit Reporting Act Disclosure and Authorization Statement form must be completed prior to accomplishing a reinvestigation.
- e. The reinvestigation conducted includes a review of CHRI obtained as provided in 10 CFR § 73.57 or as the Commission may require. Licensees shall compare CHRI with the

access authorization records of the person named in the record, to ensure the person has complied with self-reporting requirements.

- f. Licensees shall obtain a credit history and review the history for the period provided.
- g. The start of the interval for the next reinvestigation shall be the date the reviewing official completed a concurrent review of both the credit history and criminal history. To provide for reasonable consistency of the time frame under review and for ease of tracking purposes, receipt of both the credit history and the criminal history elements and the reviewing official's review must be conducted within 30 days of each other.
- h. The results of the criminal history update and credit history re-evaluation must be reviewed by the reviewing official. If PDI is discovered during any reinvestigation review the information must be evaluated by the reviewing official as defined in Section 6.1.
- i. If the criminal history update and credit history re-evaluation have not been completed and the information evaluated by the reviewing official within the required five 5-year period, or within the time period specified in the licensee's Physical Security Plan, the licensee shall administratively withdraw the individual's UAA/UA until these requirements have been met.
- j. Additional criteria applicable to reinvestigations are contained in the Safeguards Supplement to this Document.

## **10 BEHAVIORAL OBSERVATION**

- a. The licensee's or C/V's licensee-approved BOP is the primary means for determining continued trustworthiness and reliability of covered individuals.
  - 1. The objective of the BOP is:
    - (a.) to detect report illegal drug use and alcohol/legal drug abuse;
    - (b.) to report and evaluate legal actions taken by a law enforcement authority or court of law to which the individual has been subject that could result in incarceration or a court order or that requires a court appearance, including but not limited to an arrest, an indictment, the filing of charges, or a conviction, but excluding minor civil actions or misdemeanors such as parking violations or speeding tickets; and
    - (c.) to detect and report other behavior that may constitute an unreasonable risk to the health and safety of the public, including a potential threat to commit radiological sabotage. This includes behavior instances addressed in the licensee or C/V disciplinary process leading to unfavorable termination or resignation in lieu of termination.
  - 2. Although the BOP is the primary methodology for determining continued trustworthiness and reliability, clinical interviews may be used to provide added assurance.
  - 3. All reports under the BOP program must be provided to the licensee or C/V's reviewing official.
- b. The following individuals are subject to BOP:



1. Any individual to whom a licensee grants UA to nuclear power plant protected or vital areas or any individual for whom a licensee certifies UAA
  2. Any individual whose duties and responsibilities permit the individual to take actions by electronic means, either on site or remotely, that could adversely impact the licensee's operational safety, security, or emergency response capabilities.
- c. Personnel subject to a BOP are responsible for:
1. observing personnel for behavior traits and patterns that may reflect adversely on their trustworthiness or reliability;
  2. awareness of behaviors that might be adverse to safe operation,
  3. reporting observed behaviors of individuals that may adversely affect the safety or security of a licensee's facility, or that may constitute an unreasonable risk to the public health and safety or the common defense and security; and
  4. reporting those observations to appropriate licensee or C/V management in accordance with the licensee's or C/V's procedures.
- d. To maintain UAA/UA, individuals are covered by a BOP that includes behavioral observation training, a legal action reporting program, and annual supervisory reviews, if required and are required to comply with FFD program policies and procedures. In addition, enrollment in a random drug and alcohol testing program is not required for UAA. Sections 10.1-10.4 describe these required elements.
- e. Integral to the program is training and a comprehensive examination of all employees, management oversight of employee behavior, an Annual Supervisory Review by the assigned supervisor and the individual's reporting of legal actions.
- f. BOP training, including comprehensive examination requirements, conducted by licensee's and C/V's is defined in NEI 03-04, *Guidelines for Plant Access Training*, Appendix A, Reference B4, and may be accepted by other licensee's and C/V's.

#### **10.1 BEHAVIORAL OBSERVATION TRAINING:**

- a. The licensee and if appropriate C/V, must develop a training program that results in reasonable assurance that licensee and C/V personnel have sufficient awareness and sensitivity to detect degradation in performance which may be the result of being under the influence of any substance, legal or illegal, physical or mental impairment which in any way may adversely affect their ability to safely and competently perform their duties.
- b. The training program shall communicate the expectation of promptly reporting noticeable changes in behavior or FFD concerns about other individuals to the licensee or C/V's management-designated personnel for appropriate evaluation and action in accordance with the licensee-approved FFD policy.
- c. The training program must also provide for instruction in techniques related to recognition of behaviors adverse to the safe operation and security of the facility, (e.g., unusual interest in or predisposition towards security or operations activities

- outside the scope of one's normal work assignments, or frequent unexplained absence from work assignments.)
- d. Behavioral observation must be performed by individuals who are trained to detect behaviors that may indicate possible use, sale, or possession of illegal drugs; use or possession of alcohol on site or while on duty; or impairment from fatigue or any cause that, if left unattended, may constitute a risk to public health and safety.
  - e. All individuals will be trained to the same level on their behavioral observation responsibilities.
  - f. All BOP training, initial and requalification, shall be completed on a nominal annual basis and shall be documented as required by licensee or C/V procedures.

## **10.2 LEGAL ACTION REPORTING**

- a. A legal action reporting program must be established that:
  1. requires individuals with UAA/UA to report any legal actions including arrests, criminal charges, convictions or proceedings that may impact upon his or her trustworthiness or reliability and that the failure to report legal actions is sufficient cause for denial or unfavorable termination of UAA/UA;
  2. notifies individual in writing of his or her responsibility to make this report and to whom; and
  3. provides sufficient guidance in the written notification so that an individual's reporting responsibility is clear; including a warning that failure to report as required could result in the denial or unfavorable termination of UAA/UA. Individuals are responsible for complying with the written notification.
- b. The legal action reporting program shall require an individual to report any legal actions between signing the PHQ and the authorizing of UAA or granting of UA.
  1. Legal actions that have been reported by the individual shall be documented and retained with the UAA/UA records on which the initial UAA/UA decision was based and
  2. The legal action information received must be evaluated by the reviewing official as defined in Section 6.1.

## **10.3 ANNUAL SUPERVISOR REVIEW**

- a. An Annual Supervisory Review shall be conducted on a nominal annual basis for each individual authorized UAA or granted UA for a period of at least 365 consecutive days.
  1. Annual Supervisory Reviews are not required for an individual where UAA/UA is terminated or administratively withdrawn prior to the completion of the continuous 365-day period.
  2. The status of Annual Supervisory Reviews is not required to be provided to other licensees through the process discussed in Section 12 of this document.

- b. The Annual Supervisory Review shall be conducted by the individual's immediate supervisor, as defined in the licensee's or approved C/V's BOP procedures. The review shall be based on interactions with the individual over the review period. The review shall include:
  - 1. a description of any condition that may have resulted in the employee acting or behaving in an unconventional manner, including discipline and actions taken,
  - 2. any circumstances which may indicate the need to refer the employee for additional medical or psychological review, and
  - 3. any information developed over the review period regarding the behavioral characteristics of the employee supervised. This information would typically include behavioral norm deviations which have been reported to the supervisor through implementation of the BOP, as well as those behavioral norm deviations personally observed by the supervisor.
- c. The Annual Supervisory Review shall be evaluated by an access authorization program reviewing official to determine if additional action is required concerning the individual's trustworthiness, reliability, and fitness-for-duty.
- d. The completed review shall be included as part of the licensee or C/V's access authorization files and retained in accordance with Section 15.
- e. If a supervisory review is not completed as required, UAA/UA shall be administratively withdrawn until all requirements are satisfied.

#### **10.4 UNFAVORABLE EMPLOYMENT TERMINATIONS**

- a. For any person authorized UAA or granted UA, the licensee or C/V must have a process that requires the licensee reviewing official to review the facts involved in an unfavorable employment termination or resignation in lieu of termination.
- b. The licensee reviewing official shall apply denial criteria in determining whether or not the behavior cited as the reason for unfavorable termination or resignation in lieu of termination is cause to make a determination whether or not the individual continues to be trustworthy and reliable.
- c. If the individual is denied UAA/UA or terminated unfavorably, the licensee must notify any other license at which the individual holds active UAA/UA.

#### **11 OTHER REQUIRED BACKGROUND SCREENING**

- a. BI screening is required of certain personnel other than individuals applying for UAA/UA, including certain:
  - 1. BI screening company personnel;
  - 2. Personnel who are assigned to process UAA/UA applications; and
  - 3. FFD personnel.

## **11.1 BI SCREENERS**

- a. Licensees and C/Vs who use persons not directly under their control to collect and process information that will be used by the reviewing official to make access determinations must be known to be trustworthy and reliable. This includes persons responsible for data management for C/Vs and subcontractors.
- b. The requirements are to be included in the contract for the work and a minimum include:
  1. consent;
  2. verification of the individual's true identity;
  3. a credit history review and evaluation;
  4. an employment/unemployment history review and evaluation covering the past 3 years;
  5. an evaluation of character and reputation through the interview of two developed references; and
  6. a local criminal history review and evaluation based on information obtained from an appropriate State court or agency or the county, borough or parish court agency in which the individual is a permanent resident.
    - (a.) If an FBI CHRI is conducted in accordance with Section 7.7, a local criminal history check is not required.
    - (b.) However, if personnel will not hold UAA/UA or have access to Safeguards Information, an FBI criminal records check may not be conducted and the local criminal records check must include the location of the individual's permanent residence.
- c. If an individual covered by this section is determined to have left the employment of the of the BI screening company for a period of less than 365 days, then returns to these covered job duties, the BI screening company shall ascertain activities and conduct an employment/unemployment check on a best effort basis of the individual during for the period of employment interruption in order to assure continued trustworthiness and reliability.
- d. Individuals returning after a lapsed period greater than 365 days shall be required to undergo screening as defined in elements 1-6 above.

## **11.2 PERSONNEL PROCESSING APPLICATIONS**

- a. An individual not already covered by the access authorization program shall meet the licensee or C/V standards for trustworthiness and reliability acceptable for the access authorization program. This includes those individuals who:
  1. evaluate personal information for the purpose of processing individuals for UAA/UA;
  2. have unfettered access to the files and records of persons applying for or holding UAA/UA; or

3. are responsible for data management upon which UAA/UA decisions may be based.
- b. For individuals not covered by a licensee or approved C/V UAA/UA program, sufficient background information shall be collected and adjudicated by the employer to provide reasonable assurance that the individual is trustworthy and reliable to perform duties related to proper handling of information, records and databases entrusted to him or her. The program must include the following elements:
  1. Consent for the investigations as specified in Section 7.1;
  2. Evaluation of a completed Personal History Questionnaire (Initial) as specified in Section 7.2;
  3. Verification of true identity as specified in Section 7.3;
  4. Employment/unemployment history verification as specified in Section 7.4;
  5. Credit checks and evaluation as specified in Section 7.5;
  6. Character and reputation evaluation as specified in Section 7.6;
  7. Conduct and evaluate a local criminal history check that includes the individual's permanent residence. If an FBI CHRI is conducted in accordance with Section 7.7, a local criminal history check is not required. However, if personnel will not hold UAA/UA or have access to Safeguards Information, an FBI criminal records check may not be conducted and the local criminal records check must include the location of the individual's permanent residence; and
  8. Psychological assessment as specified in Section 7.8.
- c. If an individual covered by this section is determined to have left the employment of the licensee or approved C/V company for a period of less than 365 days, then returns to these covered job duties, the licensee or approved C/V company shall ascertain activities and complete the requirements of Section 7.4, Employment/Unemployment history verification for the individual during the period of interruption of employment in order to assure continued trustworthiness and reliability.
- d. Individuals returning after a lapsed period greater than 365 days shall be required to undergo screening as defined in elements 1-8 above, back to the date the individual left the company.

### **11.3 FITNESS-FOR-DUTY PROGRAM PERSONNEL**

- a. Licensees and approved C/Vs shall complete appropriate BI, credit and criminal history checks, and psychological assessments of FFD program personnel before assignment to tasks directly associated with administration of the FFD program.
- b. The BI, credit and criminal history checks, and psychological assessments that are conducted to authorize UAA or grant UA to individuals under a nuclear power plant licensee's UAA/UA program are acceptable to meet the requirements of this paragraph.
- c. The credit and criminal history checks and psychological assessments must be updated nominally every 5 years.

- d. If FFD personnel are not processed through the Access Authorization Program and will not hold UAA/UA or have access to Safeguards Information, an FBI criminal records check may not be conducted and the local criminal records check must be conducted that includes the location of the individual's permanent residence.

## 12 LICENSEE SHARED INFORMATION

- a. The NRC requires that key access authorization and fitness-for-duty program information be accessible by other power reactor licensees. However, this requirement extends to other entities committed to 10 CFR § 73.56, 10 CFR Part 26, and NEI 03-01 who agree to participate in the industry information-sharing program. This section defines the minimum elements that must be made available by licensees or other entities to meet requirements of the AA CM and associated guidance. The industry database may require additional information to facilitate data management and audit requirements.

**NOTE:** Data pertaining to NRC employees is not required to be entered into the industry's information-sharing mechanism. Data pertaining to NRC contractors is not required to be entered into the industry's information-sharing mechanism unless the licensee performed the data element as requested by the NRC. In such instances, a PARTIAL ELEMENTS basis for action record is established and the specific data element is appropriately appended to the database i.e. psychological test, chemical test, etc.

- b. When an individual applies for UAA /UA there are four possible outcomes:
  1. The individual is found to be trustworthy, reliable and fit-for-duty and authorized UAA or granted UA.
  2. The individual withdraws his or her request for UAA/UA. Since applications are frequently submitted well in advance of an anticipated work period, cases develop where the individual no longer has a work-related need for UAA/UA. Although the individual has not withdrawn consent, there is no need to continue the BI.
  3. The individual withdraws consent to complete the BI. This is also considered a withdrawal of the request for UAA/UA.
  4. The individual's UAA/UA is denied in accordance with licensee program requirements.
- c. For any entry the following minimum identification information shall be provided:
  1. name—last name, first name, middle name,
  2. identification number—US SSN if assigned, and
  3. date of birth
  4. citizenship

## **12.1 INDIVIDUALS GRANTED UNESCORTED ACCESS**

- a. Licensees shall ensure that those who formally apply for UAA/UA are included in the established method.
- b. At a minimum, licensees shall ensure all transaction and decision date values required to support an UA decision for all persons who hold UAA, are included in the method and identifiable by any licensee.
- c. The most recent data that provides the basis for the current authorization needs to be provided. The information to be shared includes:
  - 1. date current UAA/UA granted,
  - 2. employer
  - 3. date psychological evaluation completed,
  - 4. date CHRI received,
  - 5. date of FFD chemical sample collected and reason for test,
  - 6. date BI and suitable inquiry completed,
  - 7. licensee providing the information,
  - 8. company holding the supporting records, if not the licensee, and
  - 9. whether additional information is held by the licensee, and
  - 10. follow-up information; to include the follow-up period begin date, estimated end date. Frequency of testing, number of test required, and whether the individual is participating in a treatment plan.
- d. For individuals granted UAA/UA after July 7, 2003, the information to be shared includes:
  - 1. date UA granted,
  - 2. employer
  - 3. citizenship,
  - 4. date psychological evaluation completed,
  - 5. date CHRI received,
  - 6. date of FFD chemical sample collected and reason for test,
  - 7. date of completion of Plant Access Training and BOP training and other training as defined in NEI 03-04,
  - 8. date UAA completed,
  - 9. licensee providing the information,
  - 10. company holding the supporting records, if not the licensee, and
  - 11. whether additional information is held by the licensee, and
  - 12. Follow-up information; begin date, estimated end date. Frequency of testing, number of test required, whether the individual is participating in a treatment plan.
- e. For individuals whose UAA/UA is terminated, the information to be shared includes:
  - 1. date UAA/UA terminated,
  - 2. whether UAA/UA terminated favorably or unfavorably, and

3. whether additional information is held by the licensee.
- f. Licensees shall ensure the demographic information of any person formally applying for UAA/UA to a licensee facility, is added to or updated in the method.
- g. Demographic data for individuals granted UA after July 7, 2003 includes:
  1. current address,
  2. height,
  3. weight,
  4. eye color,
  5. hair color,
  6. gender, and
  7. place of birth (city, US state or province, and country if not US).

## **12.2 REQUEST FOR ACCESS IS WITHDRAWN**

- a. In some cases, a request for access is withdrawn before the BI is completed because the individual no longer needs UAA/UA. This may result from a variety of reasons, such as changes in work assignment or the expected job being completed. This should not be confused with a withdrawal of consent discussed in Section 12.3.
  1. If the individual no longer needs access, the BI does not need to be continued.
  2. No information is required to be shared if the request for access is withdrawn before any BI element was completed and no PDI is discovered.
- b. However, if the request for access is withdrawn after screening elements are completed but prior to reviewing official determination, the information collected on those elements initiated prior to the withdrawal must be specified in the data-sharing mechanism, along with the demographic data.
  1. If a specimen has been provided for drug testing, it will be processed and the results recorded.
  2. If potentially disqualifying information was developed, the information must be adjudicated and the results shared.
- c. The evaluation of specific PDI pertaining to persons that have not formally applied for UAA/UA is not permitted.
- d. In the event that the individual leaves the licensee's control prior to adjudication of PDI, an "Admin Data" entry and the company holding the "Admin Data" must be listed.

## **12.3 INDIVIDUAL WITHDRAWS CONSENT**

<b>Note:</b> Licensees must document and maintain, within the licensee's records, the reason for withdrawal of consent.
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- a. For an individual withdrawing consent, the only information to be shared is:



1. date consent withdrawn and
  2. company holding the withdrawal request
- b. If an individual withdraws his or her consent, the licensee or C/V may not initiate any elements of the UAA process specified in this document that were not in progress at the time the individual withdrew his or her consent, but shall complete and document any elements that were in progress at the time consent is withdrawn.
- c. The licensee or C/V shall record
1. the individual's application for UAA;
  2. his or her withdrawal of consent; the reason given by the individual for the withdrawal, if any; and
  3. any pertinent information gathered from the elements that were completed (e.g., the results of pre-access drug tests, information obtained from the suitable inquiry).
- d. The licensee to whom the individual has applied for UAA/UA shall inform the individual that:
1. Withdrawal of his or her consent will withdraw the individual's current application for UAA/UA under the licensee's FFD program; and
  2. Other licensees and entities will have access to information documenting the withdrawal as a result of the information sharing that is required under 10 CFR Part 26.
- e. The licensees and approved C/Vs shall inform, in writing, any individual who is applying for UAA/UA that the following actions related to providing and sharing the personal information are sufficient cause for denial or unfavorable termination of UAA/UA:
1. refusal to provide written consent for the suitable inquiry;
  2. refusal to provide or the falsification of any personal information required under Part 26, including, but not limited to, the failure to report any previous denial or unfavorable termination of UAA/UA;
  3. refusal to provide written consent for the sharing of personal information with other licensees or C/Vs required under 10 CFR Part 26; and
  4. failure to report any legal actions.

#### **12.4 INDIVIDUAL IN A DENIED STATUS**

- a. Licensees shall ensure those persons denied UA since January 1, 1997, are identifiable by other licensees through the established methods.
- b. Licensees shall ensure that any pertinent information regarding a denial of UAA/UA to any person since January 1, 1997, has been identified and is recorded.

- c. Access-denial may occur as a result of the pre-access BI or when an individual's UAA/UA is terminated unfavorably. Access-denial may also occur for an individual who is found to not be trustworthy and reliable, or has violated a FFD policy while in a BOP or in a random drug and alcohol testing program used to maintain UAA/UA or FFD elements current.

#### **12.4.1 Prior to July 7, 2003**

- a. For an individual denied UAA/UA prior to July 7, 2003, a consent form is not required for a licensee to share denial information.
- b. In addition, the failure of a licensee to obtain consent prior to the denial of UAA/UA shall not reduce the requirement to share the denial data with other licensees or C/V companies. This includes an individual who has had UAA/UA restored after completing rehabilitation or other appropriate corrective action after an access-denial.
- c. Information to be shared includes:
  - 1. date UA denied and
  - 2. company holding the "additional information"
- d. If an individual's access was restored at some later date, licensees shall ensure that the most current UA information is also listed. This information is needed to clearly establish those individuals in a currently access-denied status.

#### **12.4.2 After July 7, 2003**

- a. For individuals denied access after July 7, 2003, information to be shared is:
  - 1. date access denied,
  - 2. UA terminated unfavorably if individual held UA,
  - 3. company holding "additional information," and
  - 4. notification of all other licensees at which UA is actively held.
- b. An individual currently denied access is not allowed in the protected area except under conditions specified in Section 12.7 in this document.

#### **12.4.3 Individuals with a 5-Year Denial Due To FFD Violation**

**Note:** Further applications for UAA/UA cannot be recorded in the information-sharing mechanism until after the 5-Year denial date has elapsed.

- a. For individuals with a 5-Year Denial due to a FFD violation, enter the following:
  - 1. the Basis For Action as "5-Year Denial" and
  - 2. the date of the 5-year denial

#### **12.4.4 Individuals with a Permanent Denial Due To FFD Violation**

**Note:** Future applications for UAA/UA cannot be recorded in the information-sharing mechanism.

- a. For individuals denied permanently due a FFD violation, enter the following:
  - 1. the Basis For Action as “Permanent Denial” and
  - 2. the date of the permanent denial
- b. If a C/V’s FFD program denies or unfavorably terminates an individual who has been granted UAA/UA the C/V must notify any licensee(s) where UAA/UA is active. The licensee must deny the individual’s UAA/UA on the day of notification.

#### **12.5 INDIVIDUAL IN A FITNESS-FOR-DUTY FOLLOW-UP PROGRAM**

- a. Licensees shall include the follow-up information regarding all persons in a UAA/UA status, including the date the follow-up commenced and the date the follow-up is expected to end.
- b. Information required includes:
  - 1. date action taken,
  - 2. follow-up information: to include the follow-up period begin date, estimated end date, frequency of testing, number of tests required, and whether the individual is participating in a treatment plan,
  - 3. that “additional information” recorded on SEC5 is held by the licensee, and
  - 4. company holding the “additional information.”

#### **12.6 UAA/UA-DENIAL REVIEW PROCESS**

- a. The licensee shall include a description of the UAA/UA denial process to be used in the procedure that implements the UAA/UA denial review process requirement and the procedure must reflect that the determination from this access-denial review is final. Licensee programs are not intended to modify, subjugate, or abrogate any review rights that currently exist for C/V employees with their respective employers.
- b. The licensee shall have a review process that provides an individual whose UAA/UA is denied the capability to:
  - 1. be provided the basis for denial or revocation of UAA/UA,
  - 2. have the opportunity to provide any additional information, and
  - 3. be provided the opportunity to have the decision, together with any additional information, reviewed by another designated management level employee of the licensee who is equivalent or senior to and independent of the individual who made the initial decision to deny or terminate unfavorably UAA/UA. In addition, the individual that conducts the review may not be a member of the AA or FFD program staff. The determination from this review is final.

4. An alternative review process that is independent and impartial is acceptable.
- c. If the review finds in favor of the individual, the licensee shall update the relevant records to reflect the outcome of the review and delete or correct all information the review found to be inaccurate.

## **12.7 INDIVIDUALS CURRENTLY DENIED ACCESS**

- a. Except for emergency conditions e.g., ambulance, fire, law enforcement response, etc., and NRC personnel, all visitors will be checked against the industry's database to ensure that they are not currently denied access. The check for each visitor will be performed at least once daily (00:01-24:00 hours) prior to the worker's first daily entry into the protected area.
- b. Persons currently denied UAA/UA at a licensee facility will not be allowed in the protected area of any licensee facility, except under the following conditions:
  1. The denying licensee reviews its UAA/UA denial and determines after further review, that an UAA/UA would now be appropriate.
  2. Another licensee reviews the conditions under which the denying licensee made the denial decision, and determines the individual is now trustworthy and reliable and fit for duty, and that UAA/UA would be appropriate at the current licensee site.
  3. If an individual is identified as having an access-denied status in the information-sharing mechanism defined in Section 12, or an access authorization status or the than favorably terminated as the most current industry status, licensee must limit the individual's access. Licensees shall not permit the individual to enter any nuclear power plant protected area or vital area, under escort or otherwise or take actions by electronic means that could impact the licensee's operational safety, security or emergency response capabilities, under supervision or otherwise. However, access may be granted if the reviewing official evaluates the circumstances and determined that such access is warranted, or
  4. If a licensee is aware of information about an individual that characterizes the individual as untrustworthy or unreliable for UA under their program, the licensee reviewing official shall evaluate the information and determine whether to allow escorted access to that individual.

## **12.8 PROGRAM RELIABILITY**

- a. Licensees shall ensure that any violation of a 10 CFR Part 26 program element at one licensee or C/V is identifiable to all licensees, to the extent that, at the time of the discovery, persons holding UA who were the subject of, or included in, any program element violation at any licensee or C/V, are identified by that licensee. This information must also be provided to any licensee where that person holds UA.
- b. Licensees and C/V's shall ensure that only correct and complete information about individuals is retained and shared with other licensees and entities. If, for any reason, the shared information used for determining an individual's eligibility for UAA/UA under this part changes or new information is developed about the individual,

- licensees and other entities shall correct or augment the shared information contained in the records. If the changed or developed information has implications for adversely affecting an individual's eligibility for authorization, a licensee and C/V who has discovered the incorrect information, or develops new information, shall inform the reviewing official of any licensee under which the individual is maintaining authorization of the updated information on the day of discovery. The licensee reviewing official shall evaluate the information and take appropriate actions, which may include denial or unfavorable termination of the individual's authorization.
- c. This requirement applies to both the access authorization and fitness-for-duty elements of the program. If issues arise that affect the BI of an individual, or group of individuals, the licensee would take appropriate action to correct the deficiency. This may require withdrawing UAA/UA or correcting some investigation element. The intent of this section is to ensure that when this is necessary, other licensees relying on the shared information are also informed so they can take appropriate action. Correcting the shared information ensures that future UAA/UA decisions are based on valid information.

## **12.9 BACKUP OR MANUAL PROCESS FOR SHARING INFORMATION**

- a. In case of a failure of the industry electronic database, a backup process of manual information exchange is available for the short-term use. A sample Transfer Form is provided within NEI 08-06. When the manual process is used, information shall be entered in the database within the required timeframes after the database is restored.
- b. This manual process can also be used to share or get information with facilities outside the scope of this document such as decommissioned plants. Licensees using this process shall ensure that any screening information received from these facilities meets regulatory requirements before entering the information into the industry database.

## **13 AUDITS**

- a. Audits are required to be conducted of licensee's and C/V's UAA/UA and FFD programs and specified subcontractors. Audits performed by other licensees may be relied upon for acceptance of results and associated evaluation, provided the scope of the audit meets regulatory requirements. Licensees relying on audit results must obtain and review a copy of the audit report, to include findings and corrective actions, and shall retain said records of evaluation for a minimum of 3 years. In addition, a licensee-approved C/V may rely on licensee conducted audits of a background screener or subcontractor provided the licensee, in advance, agrees to cover the scope of the C/V program.
- b. Licensees may accept audits of the C/Vs that were conducted by other licensees, if the audit addresses the scope of services obtained from the C/V. In addition, the C/V may jointly conduct audits, or may accept audits of its subcontractors that were conducted by licensees or other C/Vs who are subject to this section, if the audit addresses the scope of services obtained from the subcontractor.

- c. The results of the audits, along with any recommendations, must be documented and reported to senior management having responsibility in the area audited and to management responsible for the access authorization program. Each audit report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions taken. The licensee or C/V shall review the audit findings and take any additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. The resolution of the audit findings and corrective actions must be documented.
- d. Licensees and C/Vs shall review audit records and reports to identify any areas that were not covered by the shared or accepted audit. If the program elements and services upon which the licensee or C/V relies were not addressed in the shared audit, additional measures shall be taken to ensure the elements or services are audited.
- e. If a shared audit addresses the required scope, sharing licensees and/or C/Vs need not re-audit the same contractor, vendor, or subcontractor for the same period of time.
- f. Each sharing licensee and C/V shall maintain a copy of the shared audit, including findings, recommendations, and corrective actions.

### **13.1 LICENSEE PROGRAM AUDITS**

#### **a. Audits of UAA/UA Program**

- 1. The initial audit of the licensee's UAA/UA program and its conformance to this document must be made within 12 months of the effective date of implementation of this document or the access authorization program.
- 2. Follow-up audits are nominally conducted at an interval of every 2 years (with an allowable biennial extension of up to 25% but not to exceed six months over a six-year period).
- 3. Personnel not responsible for UAA/UA program decision-making are required to conduct an audit that covers the full scope of the access authorization program.
- 4. The audit team must also include a person who has experience in the access authorization program administration.
- 5. A member of the audit team shall be a person knowledgeable and practiced (K&P) in access authorization program administration and shall be responsible for validating that overall program performance is meeting the objective of screening individuals to provide high assurance that individuals are trustworthy and reliable to have or maintain UAA/UA.
- 6. The audit report must be provided to licensee management and include any findings and corrective actions.

#### **b. Audits of the FFD Program**

- 1. An audit of the licensee's FFD program shall be conducted on a nominal 24 month frequency and must focus on the effectiveness of the FFD program or program element(s), as appropriate.

2. The audit must be conducted by an individual who is qualified as an audit team leader in accordance with the licensee's quality assurance plan and is familiar with the subject(s) being audited.
3. The audit team must include an individual that is knowledgeable of FFD program implementation.
4. The individuals performing the audit of the FFD program or program element(s) shall be independent from both the subject FFD program's management and from personnel who are directly responsible for implementing the FFD program.

### **13.2 LICENSEE-APPROVED C/V SCREENING, BACKGROUND SCREENING COMPANY AND FFD PROGRAMS**

- a. The licensee or its designated representative shall conduct audits on a nominal annual interval (with an allowable annual extension of up to 25% but not to exceed 3 months over a 3-year period) of its approved C/V's UAA or FFD programs, and background screening companies to ensure compliance with these criteria.
- b. A member of the audit team shall be a K&P in access authorization and shall be responsible for validating that overall program performance is meeting the objective of screening individuals to provide high assurance that individuals are trustworthy and reliable to have or maintain UAA/UA.
- c. If the audit includes a C/V FFD program, a member of the team must be knowledgeable in FFD program implementation.

### **13.3 C/V INTERNAL AUDIT AND C/V AUDIT OF SUBCONTRACTORS**

- a. Each licensee-approved C/V will conduct a nominal annual audit of its own UAA and FFD programs on a nominal annual interval (with an allowable annual extension of up to 25% but not to exceed 3 months over a 3-year period) including its subcontractor(s) that conduct BI's, drug and alcohol testing or psychological assessments.
- b. For C/V internal audits and audits of its subcontractors no K&P person is required.

## **14 RECORDS AND PROTECTION OF INFORMATION**

- a. Licensees and C/V's shall ensure that only correct and complete information about individuals is retained and shared with other licensees and entities. If, for any reason, the shared information used for determining an individual's eligibility UAA/UA is developed about the individual, licensees and C/V's shall correct or augment the shared information contained in the records. If the changed or developed information has implications for adversely affecting an individual's eligibility for UAA/UA, a licensee or C/V specified who has discovered the incorrect information, or develops new information, shall inform the reviewing official of any FFD program under which the individual is maintaining authorization of the updated information on the day of discovery. The reviewing official shall evaluate the information and take appropriate actions, which may include denial or unfavorable termination of the individual's authorization.

- b. The records upon which UAA/UA is based or denied are not quality records (such as defined in ANSI N45.2.9) and therefore do not require the protection afforded quality records.
- c. Licensees and C/Vs shall establish, use, and maintain a system of files and procedures for the protection of the personal information including personal information stored in electronic format. This information must not be disclosed to unauthorized persons. The following are considered authorized:
  - 1. other licensees or C/Vs seeking the information as required for UAA/UA determinations;
  - 2. NRC representatives performing assigned duties;
  - 3. appropriate law enforcement officials under court order;
  - 4. the individual applying for UAA/UA or his or her representative who has been designated in writing;
  - 5. licensee or C/V representatives who have a need to have access to the information in performing assigned duties, including audits of licensee, contractor or vendor programs, except where specifically excluded by regulation;
  - 6. MRO and MRO staff;
  - 7. presiding officer in a judicial or administrative proceeding that is initiated by the subject individual;
  - 8. persons who have the authority to change personal data in electronic records; or
  - 9. other persons pursuant to court order.
- d. Records may be stored and archived electronically, provided that the method used to create the electronic records meets the following criteria:
  - 1. Provides an accurate representation of the original records;
  - 2. Prevents the alteration of any archived information and/or data once it has been committed to storage; and
  - 3. Permits easy retrieval and recreation of the original records.
- e. For information stored or transmitted in electronic format, access to personal information will be controlled by:
  - 1. password protection to control access to personal data,
  - 2. data entry limited to each authorized individual's area of competency, and
  - 3. procedural controls.
- f. When a record or electronic media meets the retention criteria of Section 15 and is determined to no longer be required, its disposal shall be in a fashion that prevents an unauthorized disclosure of the information. Methods include but are not limited to shredding, burning or pulverizing.

## **15 RECORDS RETENTION**

- a. Records must be retained for a designated period of time, as follows:



1. The following documents or their equivalents must be retained by a licensee or C/V for a period of 5 years after favorable termination of UA by the licensee making the UA determination:
  - (a.) NEI STD FORM 03-01-01, *Consent*
  - (b.) NEI STD FORM 03-01-03, *Fair Credit Act Disclosure and Authorization Statement*
  - (c.) NEI 03-01-04A-E, Personal History Questionnaires for Initial, Updated, Reinstated Authorizations and Reinvestigation including self-disclosure information
  - (d.) Background Investigation Records that record the conduct of:

NOTE: FFDA elements required under 10 CFR Part 26, are identified with an asterisk (*).
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- i. True identify verification
    - ii. \* Employment/Unemployment History (including Military Service and/or education in lieu of employment), conduct of suitable inquiry, or conduct of best effort including verification of self-disclosure information
    - iii. Credit history evaluation
    - iv. Verification of character and reputation
    - v. Conduct of FBI criminal History Check
    - vi. Completion of psychological assessment
    - vii. \* Verification of a negative drug and alcohol test
    - viii. \* Reviewing Official review
    - ix. \* Verification of successful completion of BOP training and successful completion of the K&A's specified in 10 CFR Part 26.
  - (e.) \* Records pertaining to the determination of a violation of the FFD policy and related management actions;
  - (f.) Documentation of the granting, reinvestigation and termination of UAA/UA; and
  - (g.) \* Records of any determinations of fitness conducted in accordance with 10 CFR 26.189, including any recommendations for treatment and followup testing plans.
  - (h.) Records of Annual Supervisory Reviews
2. All documents identified in Section 15.a.1.A-G or their equivalents after a denial or unfavorable termination of UAA/UA must be retained by a licensee making the denial or unfavorable termination of UAA/UA for 5 years or until all related legal proceedings have been concluded.
  3. All documents identified in Section 15.a.1.A-G or their equivalents after a 5 year or permanent denial of UAA/FFDA/UA must be retained by a licensee making the

- denial or unfavorable termination of UAA/FFDA/UA for 40 years or the NRC determines that the records are no longer needed.
4. The following records must be maintained for 3 years:
    - (a.) Records of FFD training and examinations conducted under 10 CFR 26.29; and
    - (b.) Records of audits, audit findings, and corrective actions taken under 10 CFR 26.41.
  5. Written agreements for the provider of services—Life of agreement or until all legal proceedings involving the service provider are concluded which ever is later.

## APPENDIX A

### 16 REFERENCES

a. NRC Documents:

1. NRC-issued Order for Compensatory Measures Related to Access Authorization, (AA CM), EA-02-261, dated January 7, 2003. (Attachment 2 is Safeguards Information)
2. NRC issued Implementing Guidance for Access Authorization; Enclosure 4 to EA-02-261 dated January 7, 2003. (This document is Safeguards Information)
3. Fitness-for-Duty Program, 10 CFR Part 26.
4. Deliberate Misconduct, 10 CFR § 50.5.
5. Access Authorization Program for Nuclear Power Plants, 10 CFR § 73.56.

(a.) The program discussed in 73.56(c)(2) is superseded by the AA CM guidance.

6. Requirements for Criminal History Checks of Individuals Granted Unescorted Access to a Nuclear Power Facility or Access to Safeguards Information by Power Reactor Licensees, 10 CFR § 73.57.

(a.) The program specified by AA CM Section B.1.2 supersedes the requirement of § 73.57(b).

7. NRC Generic Letter 91-03, Reporting of Safeguards Events, dated March 6, 1991.
8. NRC NUREG 1385, Fitness-for-duty in the Nuclear Power Industry: Responses to Implementation Questions, dated October 1989.

(a.) Most of the answers in Sections 3, 6, and 7 are no longer valid and all responses need to be considered in light of **AA CM** requirements.

9. NRC-issued Order EA-03-086 Design Basis Treat for Radiological Sabotage for Operating Power Reactors, dated April 29, 2003. (This document is Safeguards Information)

b. Industry Documents:

1. NEI 03-01, Nuclear Power Plant Access Authorization Program
2. NEI 03-02, Access Authorization and Fitness-for-Duty Audit Program
3. NEI 03-03, PADS Health Physics Standards and Procedures.
4. NEI 03-04, PADS Guidelines for Plant Access Training.
5. NEI 03-05, PADS Operating Manual.
6. NEI 03-06, PADS Electronic System Technical Documentation.

c. Other Documents:

1. ANSI N45.2.23-1978, Qualifications of Quality Assurance Program Audit Personnel for Nuclear Power Plants or ASME NQA-1-1994, Quality Assurance Requirements for Nuclear Facility Applications.
2. ANSI N45.2.9-1979, Requirements for Collection, Storage, and Maintenance of Quality Assurance Records for Nuclear Power Plants,
3. The Fair Credit Reporting Act (FCRA), complete as of July 30, 2004, as found on the following web site: <http://www.ftc.gov/os/statutes/fcra.htm>.
4. American Nuclear Insurers (ANI), Engineering Inspection Criteria for Nuclear Liability Insurance, Section 2.0, General Employee Training

d. Superseded Documents:

1. The following references are out of date or have been superseded by the implementation of NEI 03-01, Revision 1.
  - (a.) NRC Regulatory Guide 5.66, Access Authorization Program for Nuclear Power Plants, dated June 1991, which endorsed and included as the Appendix, NUMARC 89-01, Industry Guidelines for Nuclear Power Plant Access Authorization Programs.
  - (b.) NUMARC 91-03, Nuclear Power Plant Personnel Access Authorization Data Exchange Guidelines, dated October 1992.
  - (c.) NUMARC 1991, Houston Workshop Access Authorization Questions and Answers, dated May 26, 1992.
  - (d.) NEI Issues and Responses, dated December 1994.

## Appendix B

### 17 NEI FORM COMPONENTS

- a. The NEI forms, specified below, must contain the specified minimum components. The forms are contained within NEI 08-06 and are sample forms. As such, licensee forms must contain the minimum components but the precise format may be determined by the licensee.
1. NEI STD FORM 03-01-01 Consent Form or equivalent, as a minimum, must contain the following components
  - (a.) That the individual provides a consent to obtain, retain and transfer information;
  - (b.) That the individual understands uses the Personal Access Data System (PADS) to share information;
  - (c.) The types of information that may be shared or electronically transferred;
  - (d.) That the individual authorizes the named organization to release information obtained as a result of an investigation and evaluation required for UAA;
  - (e.) That the individual authorizes the named organization to enter data into PADS and to transfer information to other authorized users;
  - (f.) That the information provided or obtained will be treated as confidential and disseminated on a need-to-know basis;
  - (g.) That the information will be maintained for a minimum of five (5) years;
  - (h.) That the individual may obtain a copy of the information being maintained and provide information to correct any incorrect information;
  - (i.) That the individual may withdraw consent at any time and that by doing so withdraws any request for UAA/UA;
  - (j.) That the individual releases the named organization, PADS participants NEI, and the officers, employees, representatives, agents and records custodians of liability of the authorized receipt, disclosure or user of the information obtained pursuant the consent;
  - (k.) That the consent does not affect the individual rights under Section 211 or the Energy Reorganization Act of 1974 or the individual ability to report potential safety concerns to the NRC;
  - (l.) That the individual has not been forced to signed the consent; and
  - (m.) The printed name and the identification number (social security number) individual the individual's signature and date of signature.
2. NEI STD FORM 03-01-02, Agreement to Maintain as Confidential PADS and Other Access-Related Information must contain information:
  - (a.) That the individual understands that PADS and the information contained therein is restricted to personnel with a need-to-know such information in order to perform their duties

- (b.) That by signing the agreement, the individual agrees to maintain the confidentiality of any information collected or evaluated in the UAA/UA process
  - (c.) That the individual acknowledges that PADS procedures require each applicant for UAA/UA to consent to the release, retention and transfer of information necessary to determine whether or not to grant UAA/UA;
  - (d.) That the individual agrees to abide by PADS procedures specifically that the procedures prohibit the collecting data without a consent form
  - (e.) The printed name and the identification number (social security number) individual the individual's signature and date of signature.
3. NEI 03-01-03, Fair Credit Reporting Act Disclosure and Authorization Statement must contain information:
- (a.) That the named organization may obtain or have prepared a consumer report or investigative consumer report concerning past employments, military record, education, credit worthiness, credit standing, character, general reputation, personal characteristics criminal background record and mode of living;
  - (b.) That upon submitting a written request that the individual will be provided the full information as to the nature and scope of investigation;
  - (c.) That by signing the form that the named organization may obtain a investigative consumer report and permit the named organization to evaluate the results for purposes of obtaining UAA/UA;
  - (d.) That the individual was provided a copy of his/her rights under the Fair Credit Reporting Act; and
  - (e.) The printed name and the identification number (social security number) individual the individual's signature and date of signature.
4. A Summary of Your Rights Under the Fair Credit Reporting Act must contain the most current version as maintained by the US Federal Trade Commission
5. DD Form 214 Request Pertaining To Military Records must contain the most current form as maintained by the National Archives and Records Administration (NARA) website
6. NEI STD FORM 03-01-04-A, Initial Authorization Personnel History Questionnaire (PHQ) and Self-Disclosure and NEI STD FORM 03-01-04-B, Updated Authorization Personnel History Questionnaire (PHQ) and Self-Disclosure must contain as a minimum:
- (a.) Name and identification number of worker;
  - (b.) Individual demographics (date of birth, place of birth, alien immigration status, address, driver's license information);
  - (c.) Residence information;
  - (d.) Reference information;
  - (e.) Self Disclosure;
  - (f.) Employment/Unemployment data (including education and military information in lieu of employment);

- (g.) Credit information;
  - (h.) Criminal history information;
  - (i.) Acknowledgement statement that the individual;
    - i. Read, understands and acknowledges the purpose of the PHQ;
    - ii. That the PHQ information is correct and accurate;
    - iii. That the individual, once granted UAA/UA, has responsibility to report legal actions;
    - iv. That the individual has the right to review the information developed to assure its accuracy and completeness; and
    - v. That the information obtained during the conduct of the background investigation will be retained and made available to other nuclear power plants.; and
  - (j.) The printed name and the identification number (social security number) individual the individual's signature and date of signature.
7. NEI STD FORM 03-01-04-C, Reinstatement (31 to 365 Days) Personnel History Questionnaire (PHQ) and Self-Disclosure must contain as a minimum:
- (a.) Name and identification number of worker;
  - (b.) Individual demographics (date of birth, place of birth, alien immigration status, address, driver's license information);
  - (c.) Residence information;
  - (d.) Reference information;
  - (e.) Self Disclosure;
  - (f.) Employment/Unemployment data (including education and military information in lieu of employment);
  - (g.) Criminal history information; and
  - (h.) The printed name and the identification number (social security number) individual the individual's signature and date of signature.
8. NEI STD FORM 03-01-04-D, Reinstatement (31 to 365 Days) Personnel History Questionnaire (PHQ)—Reinstatement Authorization (30 Days or Less) must contain as a minimum:
- (a.) Name and identification number of worker;
  - (b.) Individual demographics (date of birth, place of birth, alien immigration status, address, driver's license information);
  - (c.) Residence information;
  - (d.) Reference information;
  - (e.) Self Disclosure; and
  - (f.) The printed name and the identification number (social security number) individual the individual's signature and date of signature.

9. NEI STD FORM 03-01-04-E, Reinvestigation Personnel History Questionnaire (PHQ) and Self-Disclosure must contain as a minimum:
  - (a.) Name and identification number of worker;
  - (b.) Individual demographics (date of birth, place of birth, alien immigration status, address, driver's license information);
  - (c.) Residence information;
  - (d.) Credit information; and
  - (e.) The printed name and the identification number (social security number) individual the individual's signature and date of signature.
10. NEI STD FORM 03-01-05, Notification of Legal Action
  - (a.) That the individual understands that he/she must report legal actions;
  - (b.) The arrest is considered a legal action that requires a court appearance;
  - (c.) That the failure to report a legal action may result in suspension of UAA/UA and disciplinary action; and
  - (d.) The printed name and the identification number (social security number) individual the individual's signature and date of signature.
11. Behavior Observation Program (BOP)-Annual Supervisor Review form must:
  - (a.) Identify the affected interval;
  - (b.) Identify changes in behavior categories, if any;
  - (c.) Contain the signature of the supervisor; and
  - (d.) Contain the review by the Reviewing official.
12. SAVE Visitor Consent—NEI STD FORM 03-01-07 Authorization for [Licensee Name] To Obtain Personal Information must contain the following information:
  - (a.) That the individual understands that the licensee will obtain and use information provided to verify the individual's alien immigration status through the Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS-USCIS) Systematic Verification for Entitlements (SAVE) program;
  - (b.) That if the information cannot be verified that it may be necessary to obtain additional information including immigration documentation needed to complete a more through review DHS-USCIS;
  - (c.) That the individual may access information regarding him/herself by submitting a written request to DHS-USCIS;
  - (d.) That the licensee will not disclose information to other persons or entities without prior written consent of DHS-USCIS;
  - (e.) Signature, address, alien registration number, if appropriate, or passport number if appropriate; and
  - (f.) A question asking the individual whether or not the individual is authorized to work in the United States.



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## Appendix C

### 18 RESOLVING UNCLASSIFIABLE FINGERPRINTS

#### BACKGROUND INFORMATION

The regulations requiring fingerprints are found in 10 CFR Part 73.57 and other applicable Commission requirements such as an Order. Section 10 CFR 73.57(a)(3)(b) states, “Except those listed in paragraph (b)(2) of this section, each licensee subject to the provisions of this section shall fingerprint each individual who is permitted unescorted access to the nuclear power facility or access to Safeguards Information.” NRC had to address the need for providing an alternate approach for fingerprints that are non-classifiable due to ‘occupational hands.’

Section 652 of the Energy Policy Act of 2005 (EPAct) amended Section 149 of the Atomic Energy Act, to state that the Commission shall require to be fingerprinted any individual who is permitted unescorted access to: a utilization facility; or radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting, or permitted access to safeguards information under section 147.

The NRC staff identified a need for guidance on an alternative approach for processing non-classifiable fingerprints on the basis of experience with reviewing electronically submitted fingerprint requests and answering questions from the nuclear power industry. The new electronic technology, except for one or two very high end imaging systems, require fundamentally sound mechanical skills to process fingerprints by a technician that closely match the mechanical skills required for rolling 'inked cards'. When a technician fails to apply these basic skills, the results are non-classifiable fingerprints. The FBI defined “non-classifiable fingerprints” as when the patterns of the ridges and valleys that make up the fingerprint are worn down, thus creating an image not discernable enough to provide sufficient data to accurately identify and locate the principal feature of the fingerprint (i.e., too low for classification). Under the current regulations, a licensee is burdened with submitting several electronic or hard copies of an individual's fingerprints if the fingerprints are rejected by the FBI due to being non-classifiable

The NRC has endorsed the most current version of the Nuclear Energy Institute (NEI) “Nuclear Power Plant Access Authorization Program,” Supplemental 1, which specifies an alternative approach to which a licensee may submit a name check request only after the licensee has applied the measures discussed in the supplemental and has received a second rejection because of non-classifiable fingerprints. However, if the licensee receives fingerprints that were non-classifiable after following the guidance, the licensee

may follow an alternative approach as specified below to satisfy the requirements of Access Authorization Order No. EA-02-261.

#### The Alternate Approach for Identifying Non-classifiable Fingerprints

Section 10 CFR 73.57(d)(1) states, ...“The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.”

If additional fingerprint submissions are necessary, because of poor quality or rejection, the licensee may follow an alternate approach to allow the individual to complete the criminal history records check.

#### Step 1: Receipt of four sets of non-classifiable fingerprints

After four sets of non-classifiable fingerprints of an individual have been returned to a licensee, the licensee may submit a written request to use the alternative approach to the NRC Nuclear Security and Incident Response (NSIR), Reactor Security Policy and Licensing Branch, Access Authorization Program Manager. The request must include the site and/or licensee's name, the applicant's full name, the classification codes received, and the number of attempts made to verify identity. This request can be made electronically by sending an e-mail to: [accessauthorization.resources@nrc.gov](mailto:accessauthorization.resources@nrc.gov).

#### Step 2: Submission of six hard copy sets of fingerprints

After receiving NRC's approval for using the alternate approach, the requestor shall submit six hard copy sets of inked fingerprint cards to the NRC with a single payment for processing. If the licensee receives identical error codes to those received for the four sets of non-classifiable fingerprints after submitting six hard copy sets of fingerprints, the licensee shall request permission from the NRC to verify identity using a name-based verification check. After NRC review, an e-mail will be sent to the requestor approving or denying the alternate approach.

#### Step 3: Submission of justification for a name-based check

The licensee shall address the following in the written request for a name-based check:

- a. Identify Subject: Request for an Alternate Approach for Fingerprint Submission.
- b. Specify Personnel: Individual's full name and demographic information [last name, first name, middle initial, address, date of birth, city of birth, country of birth, social security number, citizenship, current residential telephone number (if

available), licensed facility, and the applicant's position within the company].

- c. Provide justification for the request, including:
1. Describe the steps taken (for example, discuss results and codes received regarding each of the four submissions and the results).
  2. Verify that the FBI guidance, "Taking Legible Fingerprints" (<http://www.fbi.gov/hq/cjisd/takingfps.html>) was followed.
  3. Show good cause (for example, obtain a statement by an expert source or a law enforcement agency stating that the individual's fingerprints meet the FBI's definition of non-classifiable fingerprints).
  4. Provide information on why the individual is requesting unescorted access (initial, update, reinvestigation, etc.).
  5. Confirm no disqualifying information since the last investigation or reinvestigation, if applicable.
  6. Document other background elements that provide high assurance that the person is trustworthy and reliable (for example, the Reviewing Official's determination on the Personal History Questionnaire).
  7. Provide an oath and affirmation statement regarding the steps taken to complete the criminal history check (can be completed by the AA program manager).
  8. Verify that the individual is a participant under the licensee's Behavior Observation and Fitness-for-Duty programs, if applicable.

NSIR will provide an electronic response to the request for approval of an FBI name-based check. After a review, the staff will determine if an FBI name-based check is warranted.

The licensee shall inform the NRC via e-mail [accessauthorization.resources@nrc.gov](mailto:accessauthorization.resources@nrc.gov) of the date access is granted for the subject applicant. Once approved for a name-based check, the licensee shall send the name-based check form to the Director of the NRC's Facilities and Security Division, Criminal History Section, for processing.

While the NRC may approve a name-based check, it should be recognized that this decision does not remove the licensee's responsibility for achieving high assurance that

personnel granted unescorted access to the protected areas and vital areas of a nuclear power plant, Safeguards Information, or radioactive material or property that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprint and background checks (1) are trustworthy and reliable; (2) do not constitute an unreasonable risk to the health and safety of the public or the common defense and security (as a result of increasing the likelihood of an insider threat); and (3) do not pose a potential threat of interrupting the normal operations of a nuclear power plant as well as committing radiological sabotage.