

RE: Enhanced Weapons, Firearms Background Checks, and Security Event Notifications

Docket ID: NRC-2011-0018 Agency: NRC RIN: 3150-AI49

DOCKETED
USNRC

April 18, 2011 (10:15am)

Submitted by Ryan M Spahr

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

1. With one strong stipulation (see point 5 below) I, as a civilian member of the public, support this proposed rule.
2. Given the realities of modern stateless terrorism, as well as the growing threat of domestic terrorism, nuclear security has never been more important to the United States' national security. This rule provides a dynamic authorization for nuclear and related facilities to protect themselves with the appropriate tools.
3. Allowing affected security personnel access to "covered weapons," allows them to respond to security threats with appropriate veracity. In addition to standard civilian firearms, the rule allows access to machine guns and short barreled rifles. Weapons in these two classes represent those normally reserved to special response-type law enforcement (such as SWAT teams). It is plainly appropriate for personnel protecting nuclear sites to engage security threats with SWAT type firepower, rather than depend on the reactive arrival of such firepower to arrive after a security threat is detected. Any nuclear site worth protecting at all is worth keeping threats out in the first place, rather than calling the police after they are already present.
4. The rule provides dynamic guidance for background checks. Any person in the US who purchases a firearm from a dealer must pass a NICS background check. Extending this requirement to security personnel handling firearms at nuclear facilities passes the "common sense" test while also taking advantage of the existing and tried-and-true NICS system instead of creating a new, parallel background checking rubric. The rule also seems to recognize that the NICS system is not perfect. It is not unusual for checkees to be "delayed" only to be approved days later. Such an occurrence does not reflect negatively on the subject of the check and functionally is the same as an outright approval. The rule recognizes this by stating that those "delayed" and later approved may then be assigned the use of the covered firearms. Further, the rule allows those who receive a "denied" response on their NICS check opportunity to appeal and reverse the response. It is possible to be "denied" for a variety of reasons as harmless as incomplete or erroneous medical or residential records. Therefore it is appropriate for the rule to allow affected persons to "clear their name" and keep their jobs.
5. The proposed rule dangerously limits the affected facilities' ability to keep their firearms in good repair. The rule appropriately allows for the affected firearms to be taken off of the premises for the purposes of training at a gun range and to provide security for the transport (in or out) of sensitive nuclear and related material. However, the rule does not allow for covered weapons to be taken off

premises for repairs without a full-scale transfer in accordance with the National Firearms Act and other restrictions. The process governing the transfers for machineguns and short barreled rifles is extremely cumbersome and is generally accompanied by a series of long waits as various tax stamps are approved, mailed, and transfers and background checks are performed and approved. Such a process discourages preventative gun maintenance and creates the risk that affected facilities will be stuck without sufficient operable, safe weapons while they wait. Consider the following hypothetical:

Pursuant to the proposed rule, facility A legally acquires four M4 style machineguns and assigns them in shifts to security personnel who have passed their NICS and FBI background checks. After a passage of time, it is found that one of the M4s is not functioning properly. It is not reliably ejecting spent cases and causes the gun to jam. A visual inspection reveals a worn extractor in the bolt assembly. The parts needed for the repair are readily available, and the repair itself only takes minutes, but it requires the disassembly of the gun and test firing after the extractor is fitted. Gun ranges typically do not allow users to disassemble and work on guns on the premises, and the nuclear facility itself is no place for gunsmithing and test firing. Plus, the repair, while simple, should be done by a competent gun smith considering the importance of the firearm's function and the dangers of a botched repair.

Under the proposed rule, the facility's only recourse is a full scale transfer of the machinegun (the same process as if they were selling it off permanently). A long process which could take months to complete from the initial transfer, having the gun repaired, and then having it transferred back. Instead, the rule should be changed to allow covered firearms to be taken from the premises by authorized security personnel to a gunsmith for minor repairs and maintenance (things like broken and worn springs on machineguns are very common). This extension should be conditioned by requiring detailed records of such trips to be kept, and that the gunsmith utilized be the holder of a Federal Firearms License Type 1. This license ensures that the gunsmith himself has been subject to background checking and that he is legally able to perform gunsmithing services on machineguns. Further, the facility's security person should remain present while the repair services are rendered, such that the firearm never leaves his legal possession.

This change is important in that it will allow relevant facilities to keep their weapons in good repair, and discourage them from stockpiling unneeded weapons out of the fear that they will be underarmed if one ever needs repaired. Importantly, the conditions listed in the previous paragraph should be sufficient to satisfy the ATF based on their opinion letter regarding transfers regarding moving the covered firearms to and from the facility, though another supplemental opinion letter should be sought to confirm this.

PUBLIC SUBMISSION

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Enhanced Weapons, Firearms Background Checks, and Security Event Notifications

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Comment on FR Doc # 2011-01766

Submitter Information

Name: Ryan Spahr

Address:

225 E North St.

Apt. 502

Indianapolis, IN, 46204

General Comment

Please see attachment for comment to rule.

Attachments

NRC-2011-0018-DRAFT-0014.1: Comment on FR Doc # 2011-01766

Rulemaking Comments

From: Gallagher, Carol
Sent: Monday, April 18, 2011 9:50 AM
To: Rulemaking Comments
Subject: Comment on Proposed Rule - Enhanced Weapons, Firearms Background Checks & Security Event Notifications
Attachments: NRC-2011-0018-DRAFT-0014.pdf

Van,

Attached for docketing is a comment from Ryan Spahr on the above noted proposed rule (3150-AI49; 76 FR 6200) that I received via the regulations.gov website on 4/17/11.

Thanks,
Carol