

September 15, 2015

Dr. Steven Biegalski, Director
Nuclear Engineering Teaching Laboratory
University of Texas
Pickle Research Campus Bldg. 159
10100 Burnet Road
Austin, TX 78758

SUBJECT: UNIVERSITY OF TEXAS AT AUSTIN – CAMPUS CARRY WEAPONS LAW
AND REQUIREMENTS OF TITLE 10, PART 73, OF THE *CODE OF FEDERAL
REGULATIONS*

Dear Dr. Biegalski:

The U.S. Nuclear Regulatory Commission (NRC) staff received a phone call from you on June 18, 2015, regarding the recently enacted Campus Carry Weapons Law¹ in the State of Texas. Specifically, you requested information on the NRC requirements related to carrying firearms in the Nuclear Engineering Teaching Laboratory (NETL), an NRC-licensed facility.

Section 229a.(1) of the Atomic Energy Act² authorizes the Commission to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material into any facility subject to the jurisdiction, administration, or licensing authority of the Commission. Pursuant to this authority, the Commission has issued such regulations in Title 10 of the *Code of Federal Regulations* (10 CFR). Specifically, paragraph (c)(1) of Section 73.81, “Criminal penalties,” states, in part, that no person without authorization can carry, transport, or otherwise introduce any dangerous weapon upon a protected facility or installation. The terms “protected facility or installation,” “without authorization,” and “dangerous weapon” are defined in 10 CFR 73.81.

The relevant Texas state law is in direct conflict with the Federal requirement. When state law and federal law conflict, federal law displaces, or preempts, state law, due to the Supremacy Clause of the United States Constitution³. As such, the Federal requirement would take precedence over the state law at the NRC-licensed facility.

Therefore, as provided in 10 CFR 73.81, you cannot allow the carrying of weapons into the NETL by unauthorized individuals. Authorized individuals whose official duties require them to carry weapons (e.g., police officers) are permitted to carry such weapons at the NETL facility.

¹ Tex. Govt. Code § 411.2031 (Signed Jun 13, 2015, Eff. Aug 1, 2016).

² Atomic Energy Act, as amended, 42 U.S.C. § 2011 et seq., (1954).

³ U.S. Const. art. VI., § 2.

Additionally, you must meet the requirements set forth in 10 CFR 73.75, "Posting," as applicable. Specifically, 10 CFR 73.75(b)(1) and (b)(4) state, in part, that: 1) posted notices must be conspicuously displayed at every vehicle and pedestrian entrance; and, 2) posted notices must be easily readable day and night by both pedestrian and vehicle traffic. Additionally, 10 CFR 73.75(b)(3) provides the following required language for the posted notices:

The willful unauthorized introduction of any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property into or upon these premises is a Federal crime. (42 U.S.C. 2278a.)

Considering the recently enacted Campus Carry Weapons Law, the following language should be added to the beginning of the notice: "Notwithstanding Tex. Govt. Code § 411.2031."

If you have any questions regarding this letter, please contact Mr. William Schuster at (301) 415-1590 or electronic mail at William.Schuster@nrc.gov.

Sincerely,

/RA/

Lawrence E. Kokajko, Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Docket No. 50-602

cc: See next page

University of Texas at Austin

Docket No. 50-602

cc:

Governor's Budget and
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P.O. Box 13561
Austin, TX 78711

Bureau of Radiation Control
State of Texas
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202 Nuclear Sciences Center
Gainesville, FL 32611

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