

August 26, 2002

The Honorable Edward J. Markey
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Markey:

I am responding on behalf of the U. S. Nuclear Regulatory Commission (NRC) to your letter of June 20, 2002, concerning inspection and security of firearms used by guard forces at NRC-licensed facilities. Your letter referred to an anonymous letter which asserted that security personnel weapons were not properly accounted for at Nuclear Fuel Services (NFS) located in Erwin, Tennessee. The NRC staff first received these anonymous allegations in January 2002. In accordance with NRC allegation procedures, the NRC staff performed follow-up inspections completed on May 8, 2002, and closed the allegations.

Enclosed are responses to your questions and additional information about firearm reporting requirements.

If you have any further questions, please contact me.

Sincerely,

/RA/

Richard A. Meserve

Enclosure:
Question Summary

NRC RESPONSE TO QUESTIONS FROM CONGRESSMAN MARKEY

Q1. Was a firearm discovered to be missing from NFS in January 2002? If so, please describe the circumstances and time frame in which the weapon was misplaced or stolen, and how it was discovered to be missing? Has the firearm been recovered? If so, when, and under what circumstances?

A. In January 2002, during a normal inventory of weapons, Nuclear Fuel Services (NFS) discovered several discrepancies regarding the inventory of weapons. The discrepancies were resolved (weapons located) with the exception of one. In this instance, the weapon was not in the locker where it was supposed to be stored. The licensee has investigated this situation, including a search of the site, and has concluded that the weapon was removed from the site (potentially by theft). The firearm has not been recovered and this matter has been referred to the local law enforcement agency.

Q2. When was NRC formally informed by NFS that a firearm was missing? Was NRC informed within the time frame required by NRC regulations? If not, has NRC imposed penalties on the licensee? If so, what were they, and if not, why not?

A. No formal notification was made to the NRC by NFS. The licensee made a determination that its security plan did not require reporting the lost weapon to the NRC. However, the allegation follow-up inspections by NRC staff determined that loss of this weapon should have been reported to the NRC. The NRC staff is reviewing NFS's failure to report the lost weapon and considering possible enforcement action.

Q3. Is it true that employees who ceased employment at NFS continued to possess their firearms for more than a year? In the past 5 years, how many such employees were there?

A. It has been asserted that three former NFS employees continued to possess their weapons after no longer being employed by NFS. NRC has determined that this statement is inaccurate. The following are the details pertaining to those three employees: 1) The weapon assigned to an employee who was terminated more than two years ago was maintained in an NFS security controlled/locked container on site and did not remain in the employee's possession following termination of employment; 2) The weapon of another employee who left NFS was returned to the licensee immediately following his release from NFS; and 3) An NFS employee not on active duty due to disability maintained possession of his weapon in hope of returning to active duty. That employee returned his weapon in January 2002, when it was determined that he would not return to active duty in the near future.

Q4. Do NRC regulations allow former employees to keep their firearms for more than a year? If not, has NRC imposed penalties on the licensee? If so, what were they, and if not, why not?

A. NRC regulations require that NFS develop and implement a security plan which, among other things, addresses firearm accountability. As discussed above, the NFS employees did not retain possession of their NFS issued firearms after ceasing employment at NFS. Therefore, no penalty was imposed. Firearms owned by NFS are considered private company property subject to NRC regulation on site and local laws off site.

ENCLOSURE

Q5. Do NRC regulations require firearms to be tracked to ensure that they can all be accounted for? Is there an individual at NFS whose job it is to keep track of the issuance and return of firearms? If not, how can NFS know whether all its firearms can be accounted for?

A. The NFS security plan, which has been reviewed and approved by the NRC, addresses inventory and tracking of licensee-controlled weapons. NFS is required by NRC regulations to comply with its security plan. The NFS security plan is a classified document.

Q6. For the past 5 years, please provide a list of all firearms that have been reported missing or stolen from NRC-licensed facilities. In the list, please include the date the firearm was reported missing or stolen to the NRC, the date the licensee believed the firearm actually was lost or stolen, the name of the licensee, the type of weapon, whether and when the firearm was recovered, and the penalties, if any, imposed on the licensee.

A. In addition to the missing firearm at NFS, the staff reviewed all safeguards reports for the past five calendar years and identified five reports from power reactors involving missing weapons. The following is a list of licensees and event dates: 1) Cooper, August 8, 1997; 2) Palo Verde, September 14, 1997; 3) Arkansas Nuclear One, November 24, 1998; 4) Ginna, December 24, 2001; and 5) Diablo Canyon, March 18, 2001. All of these weapons were accounted for within a short period of time. No penalties were imposed in any of the above cases because the loss of the weapons were reported in accordance with NRC regulations and the licensees implemented appropriate corrective actions.

Q7. Is it true that inspections of firearms are required to take place every year? When was the last such inspection at NFS? Are there other licensees who have failed to perform the required inspections within the required time frame? If so, please provide a list of these licensees.

A. The NFS security plan requires periodic inventory and functionality inspections of weapons. The NFS security plan is a classified document and therefore specific implementation of these requirements cannot be disclosed in this letter. NFS maintains and implements a schedule for routine inspection of firearms.

The NRC's inspection program related to maintenance of security personnel firearms is described in Inspection Procedure 81042, "Testing and Maintenance," Section 02.03, "Testing and Maintenance of Security Equipment." This NRC inspection procedure focuses on the licensees' response capabilities and are performed annually. The last NRC inspection at the NFS facility was performed in June 2002. The inspector found that NFS records were being appropriately maintained by the licensee. No violations were identified in this area at NFS in June 2002.