

Rules and Regulations

Federal Register

Vol. 49, No. 233

Monday, December 3, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

Tomatoes Grown in Florida; Amendment No. 3 To Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final regulation requires that tomatoes shipped from the regulated area be packed at permanent nonportable facilities. This should help to maintain quality standards and result in fewer order violations by eliminating field-packed tomatoes.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT:

Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447-5764.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966) regulate the handling of tomatoes grown in designated counties of Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order,

is responsible for its local administration.

Because requirements under this program have changed infrequently, in September 1982 the committee recommended, and the Secretary approved, a regulation which continues in effect from marketing season to marketing season unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary.

Interim Amendment No. 3 to the handling regulation became effective October 10, 1984, and will terminate December 31, 1984. The provisions of Interim Amendment No. 3 are the same as those hereafter set forth.

Notice was given in the October 4, 1984, *Federal Register* (49 FR 39153) allowing interested persons until November 9, 1984, to file written comments. One comment was received in support of the proposal.

At its annual meeting at Marco Island on September 7, 1984, the committee recommended the regulation be continued but with three changes. These changes specify that tomatoes must be packed with proper equipment and at the registered handler's facilities. Also, a new definition for "adequate facilities" is added.

For a number of years many handlers have packed tomatoes in the field or in primitive sheds without the benefit of the kind of grading and sizing equipment used by the larger packing houses. These smaller, transient handlers glean from the tomato fields whatever the regular harvesting crews miss or pass by. They are sometimes local residents who often salvage those tomatoes too ripe to ship any great distance and offer them in local, nearby markets within the regulated area. More often, however, they are itinerant handlers from adjoining or nearby States who buy from the producer a field of tomatoes previously harvested and pack the salvageable fruit in whatever containers are available.

Handlers who pack and distribute their tomatoes solely within the regulated area are neither required to register with the Florida Tomato Committee nor to have their tomatoes inspected. Handling regulation § 966.323 specifically requires that only tomatoes for shipment outside the regulated area

must meet the grade, size, container and inspection requirements unless exempted.

The order specifies in § 966.60 that handlers register with the Florida Tomato Committee upon applying for inspection. Once this is done the handler is then a registered handler as defined in § 966.113. Since all tomatoes leaving the regulated area must be inspected, and since a handler must register with the committee in order to secure inspection, all handlers of tomatoes leaving the area are required to be registered handlers.

The current handling regulation § 966.323 requires only that a registered handler have the tomatoes inspected and certified prior to being shipped out of the regulated area. This amends § 966.323 to require that in addition to inspection, all regulated tomatoes be packed at the facilities of a registered handler and further that the "adequate facilities" set forth in § 966.113 be defined as those being in a permanent location using nonportable equipment. The effect of this rule will be that henceforth all tomatoes shipped from the regulated area must be packed in a packing house or facility of a permanent nonportable nature. This will eliminate field packing operations for all but those tomatoes marketed locally within the area.

It is the belief of the committee that requiring standardized packing facilities should help reduce marketing order violations in the form of interstate movement of off-size, off-grade or uninspected tomatoes.

Findings. After consideration of all relevant matters including the proposal recommended by the Florida Tomato Committee, it is hereby found and determined that the amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 966

Marketing agreements and orders, Tomatoes, Florida.

PART 966—[AMENDED]

Section 966.323 (47 FR 58213, 48 FR 26757, 48 FR 52027 and 49 FR 39153) is hereby further amended by revising paragraphs (a) (2)(i) and (3)(ii) and adding the definition "adequate facilities" after "Certified Tomato Repacker" to paragraph (e) to read as follows:

§ 966.323 Handling regulation.

(a) *Grade, size, container and inspection requirements.*

(2) *Size.* (i) Tomatoes shall be at least 2½ inches in diameter and be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in Paragraph 51.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

(3) *Containers.*

(ii) Each container or lid shall be marked to indicate the designated net weight and must show the name and address of the registered handler (as defined in § 966.7) in letters at least one-fourth (¼) inch high, and such containers must be packed at the registered handler's facilities.

(e) *Definitions.*

"Adequate facilities" as referred to in the definition of registered handler in §§ 966.7 and 966.113 are defined as those being in a permanent location with nonportable equipment for the proper grading, sizing and packing of tomatoes.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 27, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-31440 Filed 11-30-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 991**Hops of Domestic Production; Expenses of the Hop Administrative Committee, and Rate of Assessment for the 1984-85 Marketing Year**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1984-85 marketing year, to be collected from handlers to support activities of the Committee which locally administers the Federal marketing order covering hops of domestic production.

DATES: Effective August 1, 1984 through July 31, 1985.

FOR FURTHER INFORMATION CONTACT:

Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5053.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The hop marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Committee established under the marketing order, and upon other information. Pursuant to this, it is found that the expenses and rate of assessment as hereinafter provided, will tend to effectuate the declared policy of the act.

The Committee recommended for approval expenses totalling \$338,829. That total included \$68,759 for legal fees and economists' fees associated with a hearing to amend the hop marketing order held in June 1984. Payment of these fees must be approved separately by USDA and the matter of these fees is still under review.

Hence, at this time, only those expenses associated with the Committee's day-to-day administrative operating expenses are being approved. These expenses total \$320,070 and are derived by subtracting the expenses for legal and economists' fees totalling \$68,759 from \$388,829, the total expenses recommended by the Committee for the 1984-85 marketing year.

Assessment income for the 1984-85 marketing year is expected to total \$342,600. This is obtained by applying the recommended assessment rate of 0.6 cent per pound to 57.1 million pounds, the quantity of assessable hops expected during the 1984-85 marketing year. In addition, interest on invested funds is expected to earn approximately \$6,000. This results in estimated total income of \$348,600, or \$28,530 more than the reduced expenses of \$320,070.

Section 991.56(b) requires any funds in excess of a marketing year's expenses to be placed in an operating reserve not to exceed approximately one year's operational expenses or such lower limits as the Committee, with the approval of the Secretary, may establish. Funds in the operating reserve

can be used by the Committee only to pay expenses which are authorized by the Secretary pursuant to § 991.55.

The Committee has approximately \$100,004 in its operating reserve. All of the excess funds expected to be generated during the 1984-85 marketing year will have to be placed in the Committee's operating reserve and only used to pay expenses authorized pursuant to § 991.55.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and good cause exists for not postponing the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553). The order requires that the rate of assessment for a particular marketing year shall apply to all assessable hops handled from the beginning of such year. The 1984-85 marketing year began August 1, 1984. To enable the Committee to meet its marketing year obligations, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 991

Marketing agreements and orders, Hops.

PART 991—[AMENDED]

The following section prescribes annual expenses and assessments and will not be published in the Code of Federal Regulations.

Therefore, § 991.318 is removed and § 991.319 is added as follows:

§ 991.319 Expenses and assessment rate.

Expenses of \$320,070 by the Hop Administrative Committee are authorized, and an assessment rate payable by each handler in accordance with § 991.56 is fixed at 0.6 cent per pound of salable hops for the marketing year ending July 31, 1985. Pursuant to § 991.56(b), at the end of a marketing year, funds in excess of the year's expenses shall be placed in an operating reserve not to exceed approximately one marketing year's operational expenses or such lower limits as the Committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the Committee for expenses authorized pursuant to § 991.55.

(Secs. 1-19, 48 Stat. 31 as amended; 7 U.S.C. 601-674)

Dated: November 28, 1984.

Thomas R. Clark,
Deputy Director, Fruit and Vegetable
Division.

[FR Doc. 84-31547 Filed 11-30-84; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

Export and Import of Nuclear Equipment and Material

AGENCY: Nuclear Regulatory
Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the export and import of nuclear equipment and material. The amended regulations expand the authority to export nonsensitive nuclear equipment and minor quantities of nuclear material without applying for and obtaining a specific NRC license authorizing the action. These amendments are intended to reduce the total number of required licensing actions without affecting the Commission's existing rigorous controls over the export of proliferation-sensitive nuclear commodities.

EFFECTIVE DATE: January 2, 1985.

FOR FURTHER INFORMATION CONTACT: Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-4599 or Joanna M. Becker, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-7630.

SUPPLEMENTARY INFORMATION: On March 1, 1984, the Nuclear Regulatory Commission (NRC) published a proposed amendment in the *Federal Register* to 10 CFR Part 110, its regulation governing the export and import of nuclear equipment and material (49 FR 7572). These proposed amendments contained provisions that would expand the authority to export nonsensitive nuclear equipment and minor quantities of nuclear material under a general license.

These amendments would reduce the number of actions that would require an exporter to apply for and obtain a specific NRC license that would authorize the export of certain types of nuclear equipment and certain quantities of nuclear material, thereby reducing the regulatory burden on the public and the administrative burden on the NRC staff. The proposed

amendments also contained several miscellaneous changes to simplify and clarify the provisions of 10 CFR Part 110.

The final rule which follows, with only minor exceptions, adopts the amendments as proposed. The amendments can be divided into four broad categories: (1) New or revised general licenses; (2) elimination of unnecessary paperwork and other regulatory burdens on licensees; (3) simplification and clarification of certain sections of Part 110; and (4) corrections and other nonsubstantive technical amendments.

The new and revised general licenses incorporate for the first time in NRC's regulations the U.S. Government policy of facilitating nuclear cooperation with countries sharing U.S. nonproliferation goals. The Departments of Commerce and Energy have adopted similar general licensing provisions for nuclear-related commodities and technology under their respective export licensing and approval authorities. Under this concept, the general licenses are divided into essentially two categories. Those in the first category permit exports to all countries except certain embargoed countries: Cuba, Kampuchea, North Korea, and Vietnam. The Commission and the Executive Branch have reviewed these general licenses and concluded that the material involved is insignificant from the standpoint of possible proliferation concerns, regardless of the country of destination. The general licenses in the second category apply to a narrower category of countries, i.e., those states, except for Libya, Iraq, Syria, and Iran, which are adherents to the Nuclear Nonproliferation Treaty (NPT), plus France, Spain, and the Peoples Republic of China. While additional commodities could be exported under the general licenses in this category, they are only moderately more significant from a proliferation standpoint than those in the first category. As a further caution, a general license may not be used if the exporter knows, or has reason to believe, that the material will be used in any activities related to isotope separation, chemical reprocessing, heavy water production or the fabrication of nuclear fuel containing plutonium. The new component general license is further limited to only those countries which, in addition to sharing good nonproliferation credentials, have provided the U.S. with generic assurances that they meet the criteria set out in section 109 of the Atomic Energy Act. For easy reference, a detailed comparison of the new or revised general licenses with the former

general licenses is included at the end of this statement of considerations.

The Commission believes that this new approach to general licenses can benefit U.S. nonproliferation objectives by demonstrating to countries abroad the advantages of supporting effective nonproliferation policies. It also conforms to section 2 of the Nuclear Non-Proliferation Act of 1978 (NNPA) with respect to confirming the reliability of the United States as a supplier of nuclear equipment and material to those countries which adhere to effective nonproliferation policies. At the same time, the Commission remains concerned about the further spread of sensitive nuclear activities (i.e., isotope separation, chemical reprocessing, heavy water production and plutonium fuel fabrication) beyond those advanced nations that are already engaging in those activities. The Commission intends to monitor developments in these areas closely and, should additional countries make any significant moves that are inconsistent with U.S. law and policy, such as the design or acquisition of sensitive nuclear facilities or the commencement of research and development programs to acquire such facilities, the Commission will promptly initiate steps, after consulting with the Executive Branch, to revoke the eligibility of these countries for favorable general license treatment.

The new or revised general licenses are as follows:

1. Paragraph 110.21(a)(1): New general license for the export of low-enriched uranium in contaminated items or substances.
2. Paragraph 110.21(b)(1): New general license for the export of up to 0.001 effective kilogram per shipment of any special nuclear material.
3. Paragraph 110.21(b)(2): New general license for the export of replacements for damaged or defective fuel elements.
4. Paragraph 110.22(a)(2): Revision to the general license for export of thorium to conform with revisions in the international export control (COCOM) embargo list.
5. Section 110.23: Revisions to general licenses to export byproduct material to provide for expanded authority to export tritium and other byproduct material with an atomic number greater than 83 (e.g., californium-252, neptunium-237 and berkelium-249).
6. Paragraph 110.23(b): Revision to the general license to export americium-241 to restrict generally-licensed exports to certain destinations (i.e., the general license is limited to americium-241

incorporated in petroleum exploration equipment).

7. Section 110.24: Increase in the amount of deuterium authorized for export under a general license.

8. Section 110.25: Revision to the general license to export nuclear grade graphite to cover exports of fabricated nonnuclear-related commercial products (e.g., electrodes, golf clubs, fishing rods, etc.).

9. Paragraph 110.22(b): Increase from 1 to 10 kilograms of source material authorized for export under general license. This revision conforms with revisions of the COCOM embargo list and is consistent with the export control guidelines in IAEA INFCIRC/254, "Guidelines for Nuclear Transfers" (Supplier Guidelines).

10. Section 110.26: New general license for the export of nuclear reactor components to light water- or heavy water-moderated research or power reactors in designated countries which have acceptable nonproliferation credentials and which have also provided the U.S. with generic assurances that they meet the Section 109 criteria of the Atomic Energy Act. Except for France, NPT adherence or acceptance of full-scope IAEA safeguards is a necessary condition for placing a country on the authorized list. Persons making exports under this new general license are also required to submit an annual report of all components shipped during the previous calendar year.

11. Section 110.27: New general license for the import of special nuclear material, except for spent fuel in quantities exceeding 100 kilograms.

In addition to the new and revised general licenses, the following amendments have been made to Part 110:

1. Sections 110.1 and 110.3 through 110.5 are revised and simplified.

2. In § 110.2, editorial changes are made and definitions added for "NPT" and "IAEA." The "Nuclear grade graphite" definition is also revised to conform with international export control guidelines and the definition of a "person" is revised to clarify that, with respect to imports, the Department of Energy is not considered a person.

3. Section 110.6 is revised to (1) cover produced SNM and (2) eliminate the requirement for approvals in cases where the retransfer has been approved in the context of a previously issued NRC export license.

4. Former §§ 110.11 and 110.12 are deleted because they are replaced or encompassed by the proposed new general licenses in § 110.27 and

§ 110.21(b)(1), respectively. Former § 110.13 is redesignated § 110.11.

5. Paragraph 110.30(d), concerning consolidated license applications, has been revised to eliminate the two year time period limitation and the restriction to "reasonably similar circumstances." These provisions, which stem from subsection 126a.(2) of the Atomic Energy Act, apply only to single Commission findings involving multiple export license applications.

6. Section 110.30 is revised and expanded in scope to encompass the provisions of existing §§ 110.30, 110.35, and 110.36 [except that the requirement in former § 110.36(b) is deleted as unnecessary].

7. Section 110.31 is revised to incorporate, in simplified form, the provisions of former §§ 110.31 through 110.34.

8. Former § 110.35(b) is deleted as unnecessary.

9. Sections 110.40 and 110.41 are revised for clarification and to expand the categories of cases not requiring Executive Branch review.

10. In § 110.42, editorial changes are made and certain provisions from former § 110.44 are added so that § 110.42 contains a comprehensive listing of all the applicable export licensing criteria for NRC-licensed equipment and material. The changes also specify that health and safety findings (pertaining to health and safety in the U.S.) are required only for issuance of licenses to export production and utilization facilities.

11. In § 110.43, the provision for "countrywide" physical security findings has been expanded to cover exports of all categories of nuclear material.

12. In § 110.44, editorial changes are made to accommodate the transfer of certain provisions to § 110.42. Changes are also made to reflect the fact that byproduct material export license applications, for which the Commission cannot make the requisite statutory findings after receipt of favorable Executive Branch judgments, will not be referred to the President for action since applicable statutes do not contemplate referral. These applications will be denied by the Commission.

13. Section 110.45 is revised to specify that its provisions do not apply to byproduct material exports.

14. In § 110.50, paragraph (b)(3) is deleted as unnecessary.

15. Section 110.51 is revised to specify that license amendments are not required for certain changes in intermediate consignees.

16. In § 110.70, the categories of license applications noticed in the

Federal Register are revised to eliminate noticing requirements for imports and for low-enriched uranium export license applications and applications for export of less than five effective kilograms of plutonium, high-enriched uranium or uranium-233.

17. Editorial changes are made in §§ 110.83 and 110.84.

18. Section 110.89 is revised to clarify certain filing and service requirements.

19. Paragraphs (b) and (c) of § 110.91 are deleted since their provisions for public dissemination of Commission staff and Executive Branch views are adequately covered in § 110.72. The Commission intends to adhere to its practice of making unclassified staff and Executive Branch views promptly available to the public.

20. Paragraph 110.103(a) is revised to eliminate the requirement for binding hearing documents on the left side.

21. The contents of former Appendix A are incorporated into new §§ 110.8 and 110.9.

22. A new Appendix A is added which lists gas centrifuge enrichment plant components which are under NRC's export licensing authority. This appendix was published in the *Federal Register* originally as part of an interpretative rule on January 24, 1984 (49 FR 2881).

23. Appendix C is redesignated Appendix B and footnote c to the appendix is revised to conform to IAEA INFCIRC/225-Rev. 1.

Analysis of Public Comment

The public comment period on the proposed rule expired April 17, 1984. The NRC received comments from six sources including individuals, businesses, and the Executive Branch. The following discussion summarizes the comments received and describes the actions taken in response to these suggestions.

Nuclear Control Institute. The Nuclear Control Institute (NCI) comments, in general, objected to any amendments which would relax the Commission's existing export licensing regulations. The Commission shares NCI's concern regarding the continued necessity of strong export licensing regulations which are rigorously implemented and enforced. The Commission has exercised proper caution in this regard by assuring that the amendments, insofar as they alter current requirements, involve only nonsensitive matters which do not affect existing rigorous controls over proliferation-sensitive nuclear commodities.

NCI also suggested that the Commission delay action which affects

component exports until completion of action on several pending legislative proposals directed at nuclear component exports. Although these proposals failed to pass during the 98th Congress, the Commission recognizes that eventual passage of some of the bills if resubmitted would require changes in Part 110. The Commission will take action to amend Part 110 promptly upon the passage of any legislation requiring amendments to the regulations. However, in view of the delay in final consideration of the contemplated legislative changes, the Commission believes that the pending Part 110 amendments should be implemented as planned. This is particularly so since only one portion of the amendments would be affected by the legislation as originally proposed.

NCI also had several comments directed at specific proposed amendments to which the Commission responds as follows:

1. Section 110.6: NCI objects to the proposed amendment to § 110.6 which would clarify that retransfers of material and equipment approved in the context of an export license do not require separate Department of Energy (DOE) approval as a "subsequent arrangement" under the requirements of the Nuclear Non-Proliferation Act of 1978 (NNPA).

The Commission does not agree that this amendment would conflict with the requirements for separate DOE review under section 131 of the Atomic Energy Act. The amendment simply clarifies what has, in fact, been Commission and Executive Branch practice since enactment of the NNPA in 1978. Separate reviews are required only when the ultimate end use is not known at the time of the original export license application. A typical case involves the export of low-enriched uranium fuel for fabrication in one country and then reexport to a second country for installation in a power reactor. In these cases, the Commission views the application as an export to the second country with an intermediate consignee in the first country. The Executive Branch and the Commission have agreed that it is unnecessary to require a separate (and duplicate) DOE review of the reexport to the ultimate consignee in the second country. The Commission notes that such retransfer approvals do not extend to retransfers for such sensitive end uses as reprocessing. These types of retransfers will continue to be subject to separate DOE review as a "subsequent arrangement" under section 131 of the Atomic Energy Act.

2. Section 110.7: NCI objects to the Commission's practice (since 1978) of

conforming its export licensing jurisdiction with the international export control "Trigger List" and suggests the Commission's jurisdiction should be expanded to cover additional proliferation-sensitive items.

The Commission agrees with NCI that there are many commodities outside NRC's jurisdiction which may be significant from a nuclear proliferation standpoint. Nevertheless, the Commission does not believe there is any need to change the scope of NRC's export licensing jurisdiction because section 309(c) of the NNPA provides for adequate nonproliferation export controls over nuclear commodities licensed by the Department of Commerce. The Commission staff has worked closely with the Executive Branch in establishing the Commerce Department's export control "Nuclear Referral List" and consults with the Executive Branch on frequent occasions with regard to individual export license applications for items on this list. It is also relevant to note that the great majority of items licensed by the Commerce Department are so-called "dual-use" items, such as high speed computers, which have predominantly nonnuclear end uses. The Commission believes that, as a general matter, it is good administrative practice to limit the Commission's export licensing authority exclusively to nuclear items, where NRC's expertise is greatest, and to rely on the Commerce Department to consult with the Commission on those Commerce-licensed dual-use exports with potential proliferation significance.

3. Paragraph 110.21(b)(2): NCI objects to the scope of the Commission's proposed new general license for the export of replacement fuel elements. To reduce the risk of misreporting as a means of accumulating low-burn-up spent fuel containing weapons-grade plutonium, NCI recommends that the general license be valid only until fuel elements are used in a reactor or for a period of one year after the initial export authorization.

The Commission does not agree with NCI's contention that the proposed general license would pose a realistic proliferation threat. Licensing experience since 1975 indicates that its provisions would need to be used only on rare occasions and where expeditious export is critical. In addition, there are only a limited number of exporters of enriched uranium fuel and significant exports of this material would also probably be subject to DOE enrichment contracts. These factors significantly minimize the risk of proliferation concerns with respect to the proposed general license.

Accordingly, the Commission does not believe it necessary to make any change to the proposed general license.

4. Section 110.26: NCI recommends that the proposed component general license be revised to require notifications to the Commission of shipments under the license within 60 days of each export rather than a single annual report. NCI believes that this more rigorous reporting requirement would reduce the risk of the piecemeal accumulation of sensitive component exports.

While the suggested change would moderately increase the Commission's ability to monitor shipments, the significant increase in administrative reporting requirements on licensees that this change would entail (i.e., several hundred individually reportable shipments can be expected to be made under the general license at various times throughout a typical year) would far outweigh the modest decrease in proliferation concern, particularly since the general license would not apply to countries with significant potential proliferation concerns. In view of the limited number of countries involved and the lengthy period of time which would be required to construct an unauthorized reactor via the diversion route, the Commission concludes that an annual reporting requirement would be sufficient. However, the Commission will, as NCI proposed, review annually the proliferation implications of the components exported under the general license, and place the annual reports in the Public Document Room.

NCI also questioned the inclusion of Taiwan and South Korea on the list of countries which would be eligible to receive U.S. components under the proposed component general license.

In view of Taiwan's and South Korea's status as parties to the Nuclear Nonproliferation Treaty (NPT) and their nonproliferation credentials, the Commission has decided not to revise the list of countries as proposed. The Commission shares, however, NCI's general concern that exports under the proposed general license warrant careful monitoring. Accordingly, the Executive Branch has been notified formally by the Commission that NRC intends to monitor closely the activities of countries on the eligible lists and will not hesitate to take steps, after consulting with the Executive Branch, to revise a country's status if changed circumstances warrant.

5. Paragraph 110.30(d): NCI objects to the proposal to relax the existing limitations on consolidated license applications.

The Commission has decided not to accept the comment and change the amendment as requested. In view of the extremely wide range in proliferation significance of the various commodities licensed by NRC, it is not possible to devise any practical general guidelines for the scope and duration of individual export licenses. Conversely, a detailed set of export licensing guidelines for each commodity (and form of commodity) would be excessively complicated for incorporation into Part 110. Accordingly, the Commission will continue to exercise its careful case-by-case judgment regarding the appropriateness of any requested consolidated license application. For example, exports of high-enriched uranium will continue to be licensed individually. On the other hand, because of the limited proliferation concerns involved, unnecessary burdens would be imposed on exporters and the NRC staff if separate export licenses for each shipment of low-enriched uranium (LEU) fuel to power reactors in countries with good nonproliferation credentials are required. Furthermore, even for these countries, all long-term licenses are reviewed on an ongoing basis by the Commission. Should a material change in circumstances arise in the importing country, the Commission has sufficient authority to take appropriate action, including suspension or revocation of active export licenses.

6. Paragraph 110.35(b): NCI objects to the proposed deletion of the requirement for license applicants to amend their applications whenever substantive changes occur before the license is issued.

The Commission continues to believe that this provision should be deleted. If there should be a significant change in the export request, such as a change in the type of quantity of material or its destination, an applicant would be required, in its own self-interest, to notify the Commission. Otherwise the license as eventually issued by the Commission would not reflect the change in facts and could not be used.

7. Sections 110.40 and 110.41: NCI objects to the proposed revised guidelines for referring export license applications to the Commission and the Executive Branch for review.

The Commission does not agree that these proposed internal procedures for processing the less significant export license applications are inappropriate. The lack of Commissioner or Executive Branch review of certain categories of exports does not lessen in any way the substantive review of each application by the NRC staff with respect to compliance with statutory requirements.

In addition, if there are significant changes in circumstances involving particular exports or recipient countries, the NRC staff will continue its practice of referring these cases to the Executive Branch and/or the Commissioners. Such referrals are contemplated by §§ 110.41(a)(8) and 110.40(b)(7).

8. Paragraph 110.41(d)(8): NCI objects to the proposed deletion of the dollar limit (\$10,000) cutoff for those cases requiring Executive Branch review.

The Commission believes that a more meaningful basis for judging the proliferation significance of a particular export is the country of destination. This consideration led to the proposal to amend § 110.41 to delete the dollar cutoff criterion and replace it with a requirement that all export license applications for countries with questionable nonproliferation credentials be referred to the Executive Branch. Accordingly, the Commission has not retained the dollar limit.

9. Sections 110.44, 110.45(c): NCI objects to the proposed editorial amendment to § 110.45(c) which would require the Commission to issue an export license if "applicable statutory provisions are met." NCI prefers leaving license issuance optional and also revising the related provision in § 110.44 to conform with § 110.45(c).

The Commission does not agree with this position since, if all applicable statutory provisions have been determined by the Commission to be met, there is clearly no basis for the Commission to withhold issuance of the requested export license. Further, Section 126 b. of the Atomic Energy Act of 1954, as amended, requires the Commission to issue an export license when all applicable statutory requirements have been met.

10. Section 110.70: NCI objects to the proposal to eliminate **Federal Register** notifying requirements for low-enriched uranium fuel export license applications.

While the Commission agrees with NCI that public participation in the Commission's export license reviews should be permitted, it does not believe that this necessitates that all low enriched fuel export license applications be noticed in the **Federal Register**. Copies of all applications will continue to be placed in the Commission's Public Document Room. In addition, the great majority of persons interested in the Commission's export license proceedings are on a mailing list which provides a monthly list of all new NRC export license applications received. (Others desiring this listing can be added to the mailing list by contacting NRC's Office of International Programs). The list of applications received will

normally be received in time for recipients to submit comments to the Commission on the pending applications prior to license issuance. The Commission believes that these latter means are more effective than **Federal Register** noticing in making interested parties aware of pending NRC export license applications. As an extra precaution, however, the Commission will continue to notice in the **Federal Register** receipt of license applications with potential proliferation significance, such as all proposed exports of significant quantities of high-enriched uranium.

Mr. E. Nemethy. Mr. Nemethy had 4 comments, none of which, in the Commission's view, warranted any revisions to the amendments as proposed. Mr. Nemethy's comments, and the Commission's responses to them, are as follows:

1. Paragraph 110.41(a)(7) requires Executive Branch review for export license applications to embargoed countries (i.e., those listed in § 110.28). Mr. Nemethy asked how it is possible to consider approving exports to "embargoed" countries.

The Commission would not normally consider licensing exports to countries listed in § 110.28 in view of the U.S. Government's general embargo on U.S. trade with those countries. However, although there have been no export licenses to an embargoed country issued to date, the Commission recognizes that it may be appropriate to consider exceptions to the general embargo in certain situations, such as the export of medical radioisotopes for humanitarian purposes.

2. Mr. Nemethy asked why the USSR isn't included on the lists of embargoed or restricted destinations. If the USSR is permitted to receive imports under the proposed general licenses, what would prevent it from reexporting the material to an embargoed destination?

With regard to Mr. Nemethy's first point, the Executive Branch and the Commission do not believe that the USSR poses any foreign policy concern or any proliferation risk with respect to any of the non-sensitive commodities under NRC's existing or proposed general licenses. With regard to Mr. Nemethy's second point, if the USSR should begin to retransfer NRC general-licensed commodities to embargoed countries in violation of Part 110, the Commission would clearly have grounds to consider placing the USSR on the restricted or embargoed country lists.

3. Mr. Nemethy asked what would prevent the USSR, or any other country, from retransferring any NRC-licensed

export to a third country without obtaining DOE approval as required by § 110.6.

The Commission acknowledges that foreign countries could subvert U.S. export controls by diverting NRC-licensed exports from their original intended end use. There are actions that the U.S. Government can take, and has taken, however, to counter these concerns. For exports of proliferation significance, such as exports of reactors and significant quantities of special nuclear material, exports must be made under formal agreements for cooperation which contain explicit requirements for obtaining the prior consent of the U.S. Government before retransfers of U.S.-origin material can take place. As a result, any unauthorized retransfer would be a violation of the terms of the agreement and grounds for taking appropriate diplomatic action including cessation of further nuclear cooperation. For less significant commodities, the primary means for controlling reexports is through the export licensee. The Commission has the authority to impose appropriate sanctions on such licensees in cases of violations of any export license terms. In addition, the Commission could refuse to issue any new licenses for export to countries which permit the unauthorized retransfer of NRC-licensed commodities to third countries. To date, the Commission is not aware of any examples of the unauthorized retransfer by any country of any NRC-licensed commodity.

4. Mr. Nemethy asked, with reference to the proposed general license in § 110.21, what would prevent an exporter from exporting material for use in the specified proscribed sensitive activities and then later denying that he had any advance knowledge of the activities.

The Commission recognizes that in certain instances it may be difficult to establish that a violation is willful. This is particularly the case with respect to the proposed end use restrictions in § 110.21. Because of this situation, the Commission has limited severely the quantities and forms of materials that may be exported under a general license so that, even in the case of a deliberate violation, the proliferation risk would be minimal.

The Atomic Industrial Forum (AIF). AIF was generally in favor of the proposed amendments. It commented that reactor pressure tubes should be eligible for export under the proposed general license in § 110.26.

The Commission agrees with AIF's

comment that reactor pressure tubes are eligible for export under the proposed general license in § 110.26 and the final rule has been correspondingly modified. The Commission also notes AIF's suggestion that NRC replace DOE as the agency responsible for obtaining official assurance letters from foreign governments with respect to proposed nuclear exports. The Commission plans to consult further with the Executive Branch on this matter.

The Department of Energy (DOE). DOE raised questions concerning the proposed general license for the export of Neptunium-237.

After consultation with DOE and the other Executive Branch agencies, it was concluded that it would be appropriate to adopt a limited Neptunium-237 general license which will permit the export of up to 1 gram per shipment and 10 grams per year to any one country. The previously proposed general license would have permitted the export of up to 1 kilogram of Neptunium-237 per year to any one country.

The Petroleum Equipment Suppliers Association (PESA). PESA claimed that the proposed general license for the export of Americium-241 could place undesirable constraints on the development of oil and gas resources around the world and recommended that the general license be modified.

The Commission has consulted with the Executive Branch on this matter and agreement has been reached to modify the proposed general license to permit exports of Americium-241 when contained in petroleum exploration equipment in quantities of up to 20 curies per device and 200 curies per year to countries listed in § 110.28. This modification will permit the unrestricted export of Americium-241 for the oil and gas exploration purposes cited by PESA.

3M Company. 3M objected to the revised general license in § 110.23(a)(4) because it would revoke the provisions of the former general license in § 110.24(c)(4) which permitted the essentially unrestricted export of polonium-210 in static eliminators.

The restriction on static eliminator exports was unintentional. The Commission has consulted with the Executive Branch and agreement has been reached to reinstate the former general license which will permit the continued export under general license of polonium-210 when contained in static eliminators. In addition, the Executive Branch has requested additional time to review the proposed general license for the export of polonium-210 when not incorporated in static eliminators. Accordingly, that

proposed general license will not be adopted at this time.

Miscellaneous. The proposed language covering end use restrictions on general licenses in §§ 110.21(b) and 110.22(b) has been moved to § 110.20(d) so that the restrictions now apply to all exports under general license. The proposed general license for the export of nuclear grade graphite has been modified to make it simpler and clearer. The list of restricted destinations in § 110.29 has been updated. Finally, the definition of a "person" in § 110.2 has been revised to specify that, with respect to imports, DOE is not defined as a person.

Note.—DOE has separate statutory authority to import nuclear equipment and material. As a result of this latter change, the proposed DOE contractor import exemption in § 110.11 is no longer necessary and it has been deleted. The Commission has concluded that the amendments are not inimical to the common defense and security, do not constitute an unreasonable risk to the public health and safety, and will not result in any activity which adversely affects the environment. Furthermore, the amendments are consistent with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978, and do not conflict with the safeguards criteria of the International Atomic Energy Agency.

The amendments are not inconsistent with the obligations of the United States under any treaty or international arrangement, including the Treaty on the Non-Proliferation of Nuclear Weapons.

COMPARISON OF FORMER REGULATIONS WITH NEW CHANGES

New	Former
I. General License Revisions	
A. Special nuclear material:	
1. Low-enriched uranium as residual contamination (§ 110.21(a)(1)).	None.
2. One effective gram or less of SNM to countries not listed in § 110.28 or § 110.29 § (110.21(b)(1)).	None.
3. Replacement fuel elements to countries not listed in § 110.28 or § 110.29 § (110.21(b)(2)).	None.
B. Source material:	
1. Thorium in alloys in concentrations of 5% or less to countries not listed in § 110.28 § (110.22(a)(2)).	Thorium in aircraft parts only (§ 110.23(b)(2)).
2. Source material in individual shipments of 10 kilograms or less to countries not listed in § 110.28 or § 110.29 § (110.22(b)).	Individual shipments of 1 kilogram or less (§ 110.23(a)(1)).
C. Byproduct material:	
1. Byproduct material with an atomic number greater than 83, except polonium-210, americium-241 and neptunium-237 § (110.23(a)(1)).	Americium-241 only (§ 110.24(d)).

COMPARISON OF FORMER REGULATIONS WITH
NEW CHANGES—Continued

New	Former
2. Tritium in light sources up to 10,000 curies per shipment (§ 110.23(a)(2)).	100 curies per shipment limitation (except in aircraft safety devices) § 110.24 (b) and (c)).
3. Tritium in any dispersed form in shipments of 100 curies or less (§ 110.23(a)(3)).	Same, but limited to certain dispersed forms only (§ 110.24(c)).
4. Neptunium-237 in shipments of 1 gram or less (§ 110.23(a)(5)).	None.
5. Tritium in any form in shipments of 100 curies or less to countries not listed in § 110.28 or § 110.29 (§ 110.23(b)).	None.
D. Deuterium:	
1. Deuterium in shipments of 1 kilogram or less (§ 110.24(a)).	90 grams of heavy water (18 grams of deuterium) or less per shipment (§ 110.25).
2. Deuterium in shipments of 10 kilograms or less to countries not listed in § 110.28 or § 110.29 (§ 110.24(b)).	None.
E. Nuclear grade graphite in shipments of up to 100 kilograms or in fabricated non-nuclear related commercial products (§ 110.25).	Shipments of up to 100 kilograms only (§ 110.26).
F. Nuclear reactor components to certain countries (§ 110.26).	None.
G. Imports (§ 110.27).	Formerly authorized under exemption except no authority for SNM imports (§ 110.11).

II. Significant Other Changes to Part 110

(Other than general license)

A. Section 110.6	Elimination of requirements for prior approval of retransfers when such retransfers have been approved in the context of issuing the original export license.
B. Section 110.30(d)	Elimination of provision limiting consolidated license applications to two year duration.
C. Section 110.41	Expansion of authority for NRC to process minor applications without referral to the Executive Branch (i.e., emphasis would be placed on reviewing exports for sensitive end uses or initial exports to new facilities).
D. Section 110.42	Clarification that health and safety findings are not required with respect to the impact abroad of reactor exports.
E. Section 110.50	Elimination of requirement to return expired licenses to NRC.
F. Section 110.51	Elimination of requirement to obtain license amendments for: (1) Changes in value (but not quantity) of nuclear equipment; (2) changes in addresses of consignees; and (3) addition of new intermediate consignees for component licensees.
G. Section 110.70	Elimination of requirement to notice receipt in the FEDERAL REGISTER of applications for imports and for export of LEU and less than 5 kgs. of HEU, U-233 or plutonium.

Environmental Impact: Categorical Exclusion

The NRC has determined that these amendments are a categorical exclusion under 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for these amendments.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150-0027.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. This analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW, Washington, DC. Single copies of the analysis may be obtained from Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-4599.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities, except to reduce the regulatory burden on licensees by reducing significantly the number of specific license applications required. It is estimated that, among the approximately 125 exporters/importers affected, the number of specific license applications per year will be reduced from about 450 to 200. Assuming an average of one hour to prepare an application, this will reduce the cost to the public from about \$27,000 to \$12,000 per year.

List of Subjects in 10 CFR Part 110

Administrative practice and procedures, Classified information, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Scientific equipment.

Under the authority of the Atomic Energy Act of 1954, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Part 110 are

published as a document subject to codification.

PART 110—EXPORT AND IMPORT OF
NUCLEAR FACILITIES AND MATERIAL

1. The authority citation for Part 110 is revised to read as follows:

Authority: Sec. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092-2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154-2158, 2201, 2231-2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sec. 110.1(b)(2) also issued under Pub. L. 96-533, 94 Stat. 3138 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c. and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074, 2077). Sec. 110.21 also issued under sec. 54c., 88 Stat. 473 (42 U.S.C. 2074). Sec. 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Sec. 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sec. 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Secs. 110.80-110.113 also issued under 5 U.S.C. 552, 554. Secs. 110.130-110.135 also issued under 5 U.S.C. 553.

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 110.20-110.29, 110.50, and 110.120-110.129 also issued under secs. 161b. and i., 68 Stat. 948, 949, as amended (42 U.S.C. 2201 (b) and (i)); and § 110.53 also issued under sec. 1610., 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. The table of contents of Subparts A through E of Part 110 is revised to read as follows:

Subpart A—General Provisions

- Sec.
- 110.1 Purpose and scope.
 - 110.2 Definitions.
 - 110.3 Interpretations.
 - 110.4 Inquiries.
 - 110.5 License requirements.
 - 110.6 Retransfers.
 - 110.7 Information collection requirements: OMB approval.
 - 110.8 List of nuclear equipment and material under NRC export licensing authority.
 - 110.9 List of nuclear equipment and material under NRC import licensing authority.

Subpart B—Exemptions

- 110.10 General.
- 110.11 Export of IAEA safeguard samples.

Subpart C—General Licenses

- 110.20 General.
- 110.21 Export of special nuclear material.
- 110.22 Export of source material.
- 110.23 Export of byproduct material.
- 110.24 Export of deuterium.
- 110.25 Export of nuclear grade graphite.
- 110.26 Export of nuclear reactor components.
- 110.27 Imports.
- 110.28 Embargoed destinations.
- 110.29 Restricted destinations.

Subpart D—Applications for Specific Licenses**Sec.**

- 110.30 Filing license applications.
110.31 Information required in license applications.

Subpart E—Review of License Applications

- 110.40 Commission review.
110.41 Executive Branch review.
110.42 Export licensing criteria.
110.43 Physical security standards.
110.44 Issuance or denial of licenses.
110.45 Conduct resulting in termination of nuclear exports.

Subpart A—General Provisions

3. Section 110.1 is revised to read as follows:

§ 110.1 Purpose and scope.

(a) The regulations in this part prescribe licensing, enforcement, and rulemaking procedures and criteria, under the Atomic Energy Act, for the export for nuclear equipment and material, as set out in § 110.8, and the import of nuclear equipment and material, as set out in § 110.9.

(b) The regulations in this part apply to all persons in the United States except: (1) The Departments of Defense and Energy for activities authorized by sections 54, 65, 82, and 91 of the Atomic Energy Act, except when the Department of Energy seeks an export license under section 111 of the Atomic Energy Act; (2) persons who export uranium depleted in the isotope 235 and incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics, as authorized by section 110 of the International Security and Development Cooperation Act of 1980,¹ and (3) persons who import deuterium, nuclear grade graphite or nuclear equipment other than production or utilization facilities.

4. Section 110.2 is amended by: (1) Removing the paragraph designations of the definitions; (2) removing the definitions of "Agreement State," "Depleted uranium," "Energy Reorganization Act," "Government agency," "Nuclear equipment," and "Nuclear material;" (3) revising the definitions of "Classified information," "General license," "Nuclear grade graphite and "Person;" and (4) adding, in appropriate alphabetical order, definitions for "IAEA" and "NPT." The added and revised definitions read as follows:

§ 110.2 Definitions.

"Classified information" means National Security Information classified under Executive Order 12356.

"General license" means an export or import license effective without the filing of a specific application with the Commission or the issuance of licensing documents to a particular person.

"IAEA" means the International Atomic Energy Agency.

"NPT" means the Treaty on the Non-Proliferation of Nuclear Weapons (TIAS 6839).

"Nuclear grade graphite" means graphite with a boron equivalent content of less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, institution, group, Government agency other than the Commission or, with respect to imports, the Department of Energy; and State or political entity within a State; any foreign government or political entity of such government; and any authorized representative of the foregoing.

5. Section 110.4 is revised to read as follows:

§ 110.4 Inquiries.

Inquiries concerning this part should be addressed to the Office of the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (telephone (301) 492-4599 or 492-7984).

6. Section 110.5 is revised to read as follows:

§ 110.5 License requirements.

Except as provided under Subpart B, no person may export any nuclear equipment or material listed in § 110.8, or import any nuclear equipment or material listed in § 110.9, unless authorized by a general or specific license issued under this part.

7. Section 110.6 is revised to read as follows:

§ 110.6 Retransfers.

(a) Retransfer of any nuclear equipment or material listed in § 110.8, including special nuclear material produced through the use of U.S.-origin

source material or special nuclear material, requires authorization by the Department of Energy, unless the export to the new destination is authorized under a specific or general license or an exemption from licensing requirements. Under certain agreements for cooperation, Department of Energy authorization is also required for the retransfer of special nuclear material produced through the use of non-U.S.-supplied nuclear material in U.S.-supplied utilization facilities.

(b) Requests for authority to retransfer are processed by the Department of Energy, Office of International Nuclear and Non-Proliferation Policy, Washington, D.C. 20585.

8. Section 110.8 is redesignated as § 110.7 and revised to read as follows:

§ 110.7 Information collection requirements: OMB approval.

The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.). OMB has approved the information collection requirements in §§ 110.26, 110.30, 110.31, 110.50 and 110.53 under control number 3150-0036, and has approved the use of Form NRC-7, as referenced in § 110.30, under control number 3150-0027. No other information collection requirements are contained in Part 110.

9. A new § 110.8 is added to read as follows:

§ 110.8 List of Nuclear equipment and material under NRC export licensing authority.

(a) Nuclear reactors and parts and components for nuclear reactors as follows:

(1) Reactor pressure vessels, i.e., metal vessels, as complete units or major shop-fabricated parts, specially designed or prepared to contain the core of a nuclear reactor and capable of withstanding the operating pressure of the primary coolant.

(2) On-line (e.g., CANDU) reactor fuel charging and discharging machines, i.e., manipulative equipment specially designed for inserting or removing fuel in an operating nuclear reactor.

(3) Reactor control rods, i.e., rods specially designed or prepared for the control of the reaction rate in a nuclear reactor.

(4) Reactor primary coolant pumps, i.e., pumps specially designed or prepared for circulating the primary coolant in a nuclear reactor.

¹ These exports are subject to the controls of the State Department and the Commerce Department under the general authority of the Arms Export Control Act and the Export Administration Act. The Commerce Department also has export licensing authority over additional nuclear-related commodities, such as advanced computers, bulk zirconium and beryllium.

(5) Reactor pressure tubes, i.e., tubes specially designed or prepared to contain fuel elements and the primary coolant in a nuclear reactor at an operating pressure in excess of 50 atmospheres.

(6) Zirconium tubes, i.e., zirconium metal and alloys in the form of tubes or assemblies of tubes specially designed or prepared for use in a nuclear reactor.

(7) Reactor internals, e.g., core support structures, control and rod guide tubes, thermal shields, baffles, core grid plates and diffuser plates specially designed or prepared for use in a nuclear reactor.

(8) Reactor control rod drive mechanisms, including detection and measuring equipment to determine flux levels.

(9) Any other components specially designed or prepared for use in a nuclear reactor or in any of the components described in this paragraph.

(b) Plants for the separation of the isotopes of source material, special nuclear material or lithium, and components for those plants as follows:²

(1) Uranium hexafluoride (UF₆) corrosion resistant valves.

(2) Units capable of separating isotopes of source material, special nuclear material or lithium, such as: (i) Gas centrifuges, (ii) jet nozzle separation units, (iii) vortex separation units, and (iv) laser isotope separation units.

(3) Uranium hexafluoride (UF₆) corrosion resistant axial or centrifugal compressors and specially designed or prepared seals for those compressors.

(4) Gaseous diffusion barriers specially designed or prepared for use in separating isotopes of source material, special nuclear material or lithium.

(5) Gaseous diffuser housings specially designed or prepared for use in plants for separating isotopes of source material, special nuclear material or lithium.

(6) Heat exchangers specially designed or prepared for use in gaseous diffusion plants.

(7) Any other components specially designed or prepared for use in an isotope separation plant or in any of the components described in this paragraph.

(c) Plants for the reprocessing of irradiated nuclear reactor fuel elements and components for those plants as follows:

(1) Fuel element chopping machines, i.e., remotely operated equipment specially designed or prepared to cut,

chop or shear irradiated nuclear reactor fuel assemblies, bundles, or rods.

(2) Criticality safe tanks, i.e., small diameter, annular or slab tanks specially designed or prepared for the dissolution of irradiated nuclear reactor fuel.

(3) Countercurrent solvent extractors specially designed or prepared for use in a reprocessing plant.

(4) Process control instrumentation specially designed or prepared for monitoring or controlling the processing of material in a reprocessing plant.

(5) Any other components specially designed or prepared for use in a reprocessing plant or in any of the components described in this paragraph.

(d) Plants for the fabrication of nuclear reactor fuel elements and specially designed or prepared parts and components for those plants.

(e) Plants for the production of heavy water, deuterium and deuterium compounds, and specially designed or prepared parts and components for those plants.

(f) Special nuclear material.

(g) Source material.

(h) Byproduct material.

(i) Deuterium.

(j) Nuclear grade graphite.

10. A new § 110.9 is added to read as follows:

§ 110.9 List of nuclear equipment and material under NRC import licensing authority.

(a) Production and utilization facilities.

(b) Special nuclear material.

(c) Source material.

(d) Byproduct material.

11. Subpart B is revised to read as follows:

Subpart B—Exemptions

§ 110.10 General.

(a) In response to a request or on its own initiative, the Commission may grant an exemption from the regulations in this part, if it determines that the exemption—

(1) Is authorized by law;

(2) Is not inimical to the common defense and security; and

(3) Does not constitute an unreasonable risk to the public health and safety.

(b) An exemption from statutory licensing requirements, as authorized by sections 57d, 62, and 81 of the Atomic Energy Act, will be granted only after coordination with the Executive Branch and after completion of rulemaking proceedings under Subpart L.

(c) The granting of an exemption does not relieve any person from complying with the regulations of other

Government agencies applicable to exports or imports under their authority.

§ 110.11 Export of IAEA safeguards samples.

A person is exempt from the requirements for a license to export special nuclear material set forth in sections 53 and 54d. of the Atomic Energy Act and from the regulations in this part to the extent that the person exports special nuclear material in IAEA safeguards samples, if the samples are exported in accordance with § 75.42(e)(1) of this chapter, or a comparable Department of Energy order, and are in quantities not exceeding a combined total of 100 grams of contained plutonium, U-233 and U-235 per facility per year. This exemption does not relieve any person from complying with Parts 71 or 73 of this chapter or any Commission order pursuant to section 201(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(a)).

12. Subpart C is revised to read as follows:

Subpart C—General Licenses

§ 110.20 General.

(a) In response to a petition or on its own initiative, the Commission may issue a general license for export or import if it determines that any exports or imports made under the general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety and otherwise meet applicable statutory requirements.

(b) All general licenses will be coordinated with the Executive Branch and will be subject to rulemaking proceedings under Subpart L.

(c) A general license does not relieve a person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

(d) A general license for export may not be used if the exporter knows, or has reason to believe, that the material will be used in any activity related to isotope separation, chemical reprocessing, heavy water production or the fabrication of nuclear fuel containing plutonium, unless these activities are generically authorized under an appropriate agreement for cooperation.

(e) As specified in §§ 110.21 through 110.26, only certain countries are eligible to receive imports of material or equipment under NRC general license. The Commission will closely monitor these countries and may at any time remove a country from its general

² See Appendix A for a detailed listing of the components of a gas centrifuge enrichment plant which have been interpreted to be covered by the general entries in this paragraph.

license eligibility in response to significant adverse developments in the country involved. A key factor in this regard is the nonproliferation credentials of the importing country.

§ 110.21 Export of special nuclear material.

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) Low-enriched uranium as residual contamination (17.5 parts per million or less) in any item or substance.

(2) Plutonium containing 80 percent or more by weight of plutonium-238 in cardiac pacemakers.

(3) Special nuclear material in sensing components in instruments, if no more than 3 grams of enriched uranium or 0.1 gram of plutonium or U-233 are contained in each sensing component.

(b) A general license is issued to any person to export the following to any country not listed in § 110.28 or § 110.29:

(1) Special nuclear material in individual shipments of 0.001 effective kilograms or less (e.g., 1.0 gram of plutonium, U-233 or U-235, or 10 kilograms of 1 percent enriched uranium). No person may export more than 0.1 effective kilogram per year to any one country.

(2) Special nuclear material in fuel elements as replacements for damaged or defective unirradiated fuel elements previously exported under a specific license, subject to the same terms as the original export license and the condition that the replaced fuel elements must be returned to the United States within a reasonable time period.

§ 110.22 Export of source material.

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) Uranium or thorium in any substance in concentrations of less than 0.05 percent by weight.

(2) Thorium in incandescent gas mantles or in alloys in concentrations of 5 percent or less.

(b) A general license is issued to any person to export uranium or thorium in individual shipments of 10 kilograms or less to any country not listed in § 110.28 or § 110.29. No person may export more than 1,000 kilograms per year to any one country.

(c) A general license is issued to any person to export uranium or thorium in individual shipments of 1 kilogram or less to any country listed in § 110.29. No person may export more than 100 kilograms per year to any one country.

§ 110.23 Export of byproduct material.

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) All byproduct material, except tritium, polonium-210, neptunium-237, and americium-241.

(2) Tritium in luminescent light sources in individual shipments of 10,000 curies or less.

(3) Tritium in any dispersed form (i.e., not in bulk gaseous form) in individual shipments of 100 curies or less. A person may not export more than 1,000 curies per year to any one country.

(4) Polonium-210 in individual shipments of 100 curies or less when contained in static eliminators.

(5) Neptunium-237 in individual shipments of 1 gram or less. No person may export more than 10 grams per year to any one country.

(b) A general license is issued to any person to export americium-241 to any country not listed in § 110.28, except that exports of americium-241 exceeding one curie per shipment or 100 curies per year to countries listed in § 110.29—

(1) Must be contained in petroleum exploration equipment in quantities not exceeding 20 curies per device; and

(2) May not exceed 200 curies per year to any one country.

(c) A general license is issued to export tritium in bulk, undispersed form in individual shipments of 100 curies or less to any country not listed in § 110.28 or § 110.29. No person may export more than 10,000 curies per year to any one country.

§ 110.24 Export of deuterium.

(a) A general license is issued to any person to export deuterium in individual shipments of 10 kilograms or less (50 kilograms of heavy water) to any country not listed in § 110.28 or § 110.29. No person may export more than 200 kilograms (1000 kilograms of heavy water) per year to any one country.

(b) A general license is issued to any person to export deuterium in individual shipments of 1 kilogram or less (5 kilograms of heavy water) to any country listed in § 110.29. No person may export more than 5 kilograms (25 kilograms of heavy water) per year to any one country.

§ 110.25 Export of nuclear grade graphite.

(a) A general license is issued to any person to export bulk nonfabricated nuclear grade graphite in individual shipments of 100 kilograms or less to any country not listed in § 110.28. No person may export more than 2,000 kilograms per year to any one country.

(b) A general license is issued to any person to export nuclear grade graphite

in fabricated nonnuclear-related commercial products to any country not listed in § 110.28, except that graphite electrodes weighing more than 1 kilogram per electrode may not be exported to any country listed in § 110.29. Fabricated products are those in final manufactured form except for detailed machining and other final steps necessary for the intended end use of the product.

§ 110.26 Export of nuclear reactor components.

(a) A general license is issued to any person to export any nuclear reactor component, listed in § 110.8 (a)(5) through (a)(9), for use in any light or heavy water-moderated power or research reactor in any of the following countries:

Canada	Philippines
EURATOM*	Spain
Indonesia	Sweden
Japan	Switzerland
South Korea	Taiwan

* Belgium, Denmark, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, the United Kingdom and West Germany.

(b) This general license does not authorize the export of essentially complete reactors through piecemeal exports of facility components. When individual exports of components would amount in the aggregate to export of an essentially complete nuclear reactor, a facility export license is required.

(c) Persons making exports under the general license established by paragraph (a) of this section shall submit by February 1 of each year one copy of a report of all components shipped during the previous calendar year. This report must include:

(1) A description of the components keyed to the categories listed in § 110.8(a).

(2) Approximate shipment dates.

(3) A list of recipient countries and endusers keyed to the items shipped.

§ 110.27 Imports.

A general license is issued to any person to import byproduct, source or special nuclear material, other than 100 kilograms or more of irradiated fuel, if the consignee is authorized to possess the material under: (a) A contract with the Department of Energy or (b) an exemption from licensing requirements issued by the Commission or a general or specific license issued by the Commission or a State with which the Commission has entered into an agreement under section 274b. of the Atomic Energy Act. Importers of special

nuclear material under this general license shall provide advance notification of imports to the Commission as specified in § 73.27 of this chapter.

§ 110.28 Embargoed destinations.

Cuba, Kampuchea, North Korea, Vietnam.

§ 110.29 Restricted destinations.

Afghanistan	Libya
Albania	Malawi
Algeria	Mauritania
Andorra	Mozambique
Angola	Niger
Argentina	Oman
Bahrain	Pakistan
Belize	Qatar
Bhutan	Saudi Arabia
Brazil	Seychelles
Burma	South Africa
Chile	St. Kitts
Comoros	St. Vincent and the
Djibouti	Grenadines
Equatorial Guinea	Syria
Guyana	Tanzania
India	United Arab Emirates
Iran	Vanuatu
Iraq	Yemen Arab Republic
Israel	Zambia
Kiribati	Zimbabwe
Kuwait	

13. Subpart D is revised to read as follows:

Subpart D—Applications for Specific Licenses

§ 110.30 Filing license applications.

(a) A person shall file a license application with the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or deliver the application in person to the Commission's offices at 1717 H Street, NW., Washington, DC.

(b) An export license application should be filed on Form NRC 7 unless it is for a license to export a production or utilization facility. An import license application and a production or utilization facility export license application should be filed by letter. Upon request, applications may be filed by telegram.

(c) Each person shall provide in the license application, as appropriate, the information specified in § 110.31. The Commission may also require the submission of additional information if necessary to complete its review.

(d) A consolidated license application may be filed covering multiple shipments.

(e) Information in a previous license application may be incorporated by reference.

(f) An applicant shall withdraw an application whenever it is no longer needed. The Commission's official files

retain all documents related to a withdrawn application.

§ 110.31 Information required in license applications.

(a) Name and address of applicant.

(b) Name and address of supplier of equipment or material.

(c) Country of origin of equipment or material, if known.

(d) Names and addresses of all intermediate and ultimate consignees, other than intermediate consignees performing shipping services only.

(e) Dates of proposed first and last shipments.

(f) Description of the equipment or material including, as appropriate, the following:

(1) Maximum quantity of material in grams or kilograms (curies for byproduct material) and its chemical and physical form.

(2) For enriched uranium, the maximum weight percentage of enrichment and maximum weight of contained U-235.

(3) For nuclear equipment, total dollar value.

(4) For nuclear reactors, the name of the facility and its design power level.

(5) Description of end use by all consignees in sufficient detail to permit accurate evaluation of the justification for the proposed export or import, including the need for shipment by the dates specified.

14. Section 110.40 is amended by revising paragraph (b) to read as follows:

§ 110.40. Commission review.

(b) The Commissioners shall review a license application for export of the following:

(1) A production or utilization facility.

(2) More than one effective kilogram of high-enriched uranium, plutonium or U-233.

(3) 1,000 kilograms or more of heavy water or nuclear grade graphite.

(4) An export involving assistance to end uses related to isotope separation, chemical reprocessing, heavy water production, advanced reactors or the fabrication of nuclear fuel containing plutonium, except for categories of exports approved in advance by the Commission as constituting permitted incidental assistance.

(5) The initial export to a country since March 10, 1978 of source or special nuclear material for nuclear end use.

(6) An export involving over: (i) 10 grams of plutonium, U-233 or high-enriched uranium; (ii) 1 effective kilogram of low-enriched uranium; (iii) 250 kilograms of source material, heavy

water or nuclear grade graphite; or (iv) 1,000 curies of tritium, to any country listed in § 110.28 or § 110.29.

(7) Any export subject to special limitations as determined by the staff or a majority of the Commissioners.

* * * * *

15. Section 110.41 is amended by removing paragraph (d) and revising paragraph (a) to read as follows:

§ 110.41 Executive Branch review.

(a) A license application for export of the following will be promptly forwarded to the Executive Branch for review:

(1) A production or utilization facility.

(2) More than one effective kilogram of high-enriched uranium or 10 grams of plutonium or U-233.

(3) Deuterium, nuclear grade graphite, or over 100 curies of tritium.

(4) Source or special nuclear material to be exported under the US-IAEA Agreement for Cooperation.

(5) An export involving assistance to end uses related to isotope separation, chemical reprocessing, heavy water production, advanced reactors or the fabrication of nuclear fuel containing plutonium, except for categories of exports approved in advance by the Executive Branch as constituting permitted incidental assistance.

(6) The initial export of nuclear material or equipment to a foreign reactor.

(7) An export to any country listed in § 110.28 or § 110.29.

(8) An export subject to special limitations as determined by the Commission or the Executive Branch.

* * * * *

16. Section 110.42 is revised to read as follows:

§ 110.42 Export licensing criteria.

(a) The review of license applications for the export for peaceful nuclear uses of production or utilization facilities,⁴

⁴ Exports of complete nuclear reactors, complete reactor pressure vessels, primary coolant pumps, control rods and reactor fuel charging and discharging machines are subject to the comprehensive export criteria in § 110.42(a). A complete nuclear reactor includes those parts and components, as specified in § 110.8(a), which are within or attached directly to the reactor vessel, which control the level of power in the reactor core, or which normally contain or come in direct contact with or control the primary coolant of the reactor. Nuclear reactor parts and components (other than complete pressure vessels, primary coolant pumps, control rods or fuel charging and discharging machines) when exported separately are subject to the export criteria in § 110.42(b).

special nuclear material and source material is governed by the following criteria:

(1) IAEA safeguards as required by Article III (2) of the NPT will be applied with respect to any such facilities or material proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

(2) No such material or facilities proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such material or facilities, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Physical security measures will be deemed adequate if such measures provide a level of protection equivalent to that set forth in § 110.43.

(4) No such material or facilities proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other country or group of countries unless the prior approval of the United States is obtained for such retransfer.

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

(6) With respect to exports of such material or facilities to nonnuclear weapon states, IAEA safeguards will be maintained with respect to all peaceful activities in, under the jurisdiction of, or carried out under the control of such state at the time of export. This criterion will not be applied if the Commission has been notified by the President in writing that failure to approve an export because this criterion has not been met would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security, in which case the provisions of Section 128 of the Atomic Energy Act regarding Congressional review will apply.

(7) The proposed export of a facility or of more than 0.003 effective kilograms of special nuclear material, other than plutonium containing 80 percent or more by weight of plutonium-238, would be under the terms of an agreement for cooperation.

(8) The proposed export is not inimical to the common defense and security and, in the case of facility exports, does not constitute an unreasonable risk to the public health and safety in the United States.

(b) The review of license applications for the export of nuclear equipment, other than a production or utilization facility, and for deuterium and nuclear grade graphite, is governed by the following criteria:

(1) IAEA safeguards as required by Article III (2) of the NPT will be applied with respect to such equipment or material.

(2) No such equipment or material will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) No such equipment or material will be retransferred to the jurisdiction of any other country or group of countries without the prior consent of the United States.

(4) The proposed export is not inimical to the common defense and security.

(c) The review of license applications for the export of byproduct material and for source material for nonnuclear end uses is governed by the criterion that the proposed export is not inimical to the common defense and security.

17. Section 110.43 is revised to read as follows:

§ 110.43 Physical security standards.

(a) Commission determinations on the adequacy of physical security programs in recipient countries for Category I quantities of nuclear material (see Appendix B) are based upon the following:

(1) Review of the physical security program established by the recipient country and of the implementation of the national requirements, as considered through country visits and other information exchanges, to ensure that the physical security measures provide, as a minimum, protection comparable to that set forth in International Atomic Energy publication INFCIRC/225/Rev. 1, entitled "The Physical Protection of Nuclear Material" (INFCIRC/225), which is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register on May 3, 1978. Notice of any changes to the publication will be

published in the Federal Register. Copies of INFCIRC/225 may be obtained from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and are available for inspection in the Commission Public Document Room. A copy is on file in the library of the Office of the Federal Register.

(2) Written assurances from the recipient country or group of countries that physical security measures providing, as a minimum, protection comparable to that set forth in INFCIRC/225 will be maintained.

(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material (see Appendix B) are based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing, as a minimum, protection comparable to that set forth in INFCIRC/225 will be maintained.

(c) Commission determinations on the adequacy of physical security programs in recipient countries for exported facilities are made in accordance with the categories of material (see Appendix B) in use or in storage at the exported facilities and are based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing, as a minimum, protection comparable to that set forth in INFCIRC/225 will be maintained.

(d) Commission determinations may be based on a country-wide finding rather than on case-by-case analysis. The Commission will reexamine a determination whenever there are changed circumstances within a country that might reduce the effectiveness of its physical security program.

18. Section 110.44 is revised to read as follows:

§ 110.44 Issuance or denial of licenses.

(a) The Commission will issue an export license if it has been notified by the State Department that it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security; and—

(1) Finds, based upon a reasonable judgment of the assurances provided and other information available to the Federal government, that the applicable criteria in § 110.42, or their equivalent, are met. (If an Executive Order provides an exemption pursuant to section 126a of the Atomic Energy Act, proposed exports to EURATOM countries are not

required to meet the criteria in § 110.42(a) (4) and (5)); or

(2) Finds that there are no material changed circumstances associated with an export license application (except for byproduct material applications) from those existing at the time of issuance of a prior license to export to the same country, if the prior license was issued under the provisions of paragraph (a)(1) of this section.

(b) The Commission will issue an import license if it finds that the proposed import would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety and that any applicable requirements of Subpart A of Part 51 of this chapter have been satisfied.

(c) If, after receiving the Executive Branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under the Atomic Energy Act, the Commission will publicly issue a decision to that effect, and will submit the license application to the President. The Commission's decision will include an explanation of the basis for the decision and any dissenting or separate views. The provisions in this paragraph do not apply to byproduct material export license applications.

(d) The Commission will deny: (1) Any export license application for which the Executive Branch judgment does not recommend approval; (2) any byproduct material export license application for which the Commission is unable to make the finding in paragraph (a)(1) of this section; or (3) any import license application for which the Commission is unable to make the finding in paragraph (b) of this section. The applicant will be notified in writing of the reason for denial.

19. Section 110.45 is amended by revising the introductory text of paragraphs (a) and (b) and revising paragraph (c) to read as follows:

§ 110.45 Conduct resulting in termination of nuclear exports.

(a) Except as provided in paragraph (c) of this section, no license will be issued to export nuclear equipment or material, other than byproduct material, to any nonnuclear weapon state that is found by the President to have, after March 10, 1978:

(b) Except as provided in paragraph (c) of this section, no license will be

issued to export nuclear equipment or material, other than byproduct material, to any country or group of countries that is found by the President to have, after March 10, 1978:

(c) Under section 129 of the Atomic Energy Act, the President may waive the requirement for the termination of exports to a country described in paragraph (a) or (b) of this section after determining in writing that the cessation of exports would seriously prejudice the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. If the President makes this determination, the Commission will issue licenses to export to that country, if other applicable statutory provisions are met.

20. Section 110.50 is amended by revising paragraph (b) to read as follows:

§ 110.50 Terms.

(b) Specific licenses.

(1) Each specific license will have an expiration date.

(2) A licensee may export or import only for the purpose stated in the license application.

(3) Unless a license specifically authorizes the export of foreign-origin nuclear material or equipment, a licensee shall notify in writing the Assistant Director for Export/Import and International Safeguards at least 40 days prior to export of Australian-origin nuclear material or equipment. A license may not ship this material or equipment until authorized by the Assistant Director for Export/Import and International Safeguards. The Assistant Director will not authorize shipment until after obtaining the consent of the Australian Government.

(4) A licensee authorized to export or import special nuclear material is responsible for compliance with the physical protection requirements of Part 73 of this chapter, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified.

(5) A license may be transferred, disposed of or assigned to another person only with the approval of the Commission by license amendment.

21. Section 110.51 is revised to read as follows:

§ 110.51 Amendment and renewal of licenses.

(a) A licensee may submit an application to renew a license or to amend a license.

(b) If an application to renew a license is submitted 30 days or more before the license expires, the license remains valid until the Commission acts on the renewal application. An expired license is not renewable.

(c) An amendment is not required for—

(1) Changes in value (but not amount or quantity);

(2) Changes in the mailing addresses within the same countries of intermediate or ultimate consignees; or

(3) The addition of intermediate consignees in any of the importing countries specified in the license (for a nuclear equipment license only).

(d) In acting upon license renewal and amendment applications, the Commission will use, as appropriate, the same procedures and criteria it uses for original license applications.

22. Section 110.53 is amended by revising paragraph (b) to read as follows:

§ 110.53 United States address, records, and inspection.

(b) Each licensee shall maintain a record of each export or import for 5 years (2 years for byproduct material).

23. Section 110.70 is amended by revising paragraph (b) to read as follows:

§ 110.70 Public notice of receipt of an application.

(b) The Commission will also publish in the *Federal Register* a notice of receipt of an application for a license to export the following:

(1) A production or utilization facility.

(2) Five effective kilograms or more of plutonium, high-enriched uranium or uranium-233.

(3) 10,000 kilograms or more of heavy water or nuclear grade graphite.

24. Section 110.82 is amended by revising the introductory text of paragraph (b) and paragraph (b)(3) to read as follows:

§ 110.82 Hearing request or intervention petition.

(b) Hearing requests and intervention petitions must—

(3) Explain why a hearing or an intervention would be in the public interest and how a hearing or intervention would assist the

Commission in making the determinations required by § 110.44.

25. Section 110.83 is amended by revising paragraph (a) to read as follows:

§ 110.83 Answers and replies.

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 30 days after the request or petition has been served.

26. Section 110.84 is amended by revising paragraph (d) to read as follows:

§ 110.84 Commission action on a hearing request or intervention petition.

(d) Before granting or denying a hearing request or intervention petition, the Commission will review the Executive Branch's views on the license application and may request further information from the petitioner, requester, the Commission staff, the Executive Branch or others.

27. Section 110.89 is amended by revising paragraphs (a), (b), and (d)(1); and the introductory text of paragraph (d) is set out for the convenience of the user to read as follows:

§ 110.89 Filing and service.

(a) Hearing requests, intervention petitions, answers, replies and accompanying documents must be filed with the Commission by delivery or by mail or telegram to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Chief, Docketing and Service Branch. Filing by mail or telegram is complete upon deposit in the mail or with a telegraph company.

(b) All filing and Commission notices and orders must be served upon the applicant; the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Executive Secretary, Department of State, Washington, DC 20520; and participants if any. Hearing requests, intervention petitions, and answers and replies must be served by the person filing those pleadings.

(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by—

(1) Written acknowledgment of the person served or an authorized representative; or

28. Section 110.91 is revised to read as follows:

§ 110.91 Commission consultations.

The Commission may consult at any time on a license application with the staff, the Executive Branch or other persons.

29. Section 110.103 is amended by revising paragraph (a) to read as follows:

§ 110.103 Acceptance of hearing documents.

(a) Each document filed or issued must be clearly legible and bear the docket number, license application number and hearing title.

30. Appendix A is revised to read as follows:

Appendix A—List of gas centrifuge enrichment plant components under NRC's export licensing authority.

1. *Assemblies and components especially designed or prepared for use in gas centrifuges.*

Note.—The gas centrifuge normally consists of a thin-walled cylinder(s) of between 75mm (3 ins.) and 400 mm (16 ins.) diameter contained in a vacuum environment and spun at high peripheral speed (of the order of 300 m/per second and more) with the central axis vertical. In order to achieve high speed, the materials of construction for the rotating rotor assembly, and hence its individual components, have to be manufactured to very close tolerances in order to minimize the unbalance. In contrast to other centrifuges, the gas centrifuge for uranium enrichment is characterized by having within the rotor chamber a rotating disc-shaped baffle(s) and a stationary tube arrangement for feeding and extracting UF₆ gas and featuring at least 3 separate channels of which 2 are connected to scoops extending from the rotor axis towards the periphery of the rotor chamber. Also contained within the vacuum environment are a number of critical items which do not rotate and which, although they are especially designed, are not difficult to fabricate nor are they fabricated out of unique materials. A centrifuge facility, however, requires a large number of these components so that quantities can provide an important indication of end use.

1.1 Rotating Components.

(a) Complete Rotor Assemblies: Thin-walled cylinders, or a number of interconnected thin-walled cylinders, manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

If interconnected, the cylinders are joined together by flexible bellows or rings as described in § 1.1(c). The rotor is fitted with an internal baffle(s) and end caps, as described in § 1.1 (d) and (e), if in final form. However, the complete assembly may be delivered only partly assembled.

(b) Rotor Tubes: Especially designed or prepared thin-walled cylinders with

thickness of 12mm (.50 in.) or less, a diameter of between 75mm (3 ins.) and 400mm (16 ins.), and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

(c) Rings or Bellows: Components especially designed or prepared to give localized support to the rotor tube or to join together a number of rotor tubes. The bellows in a short cylinder of wall thickness 3mm (.125 in.) or less, a diameter of between 75mm (3 ins.) and 400mm (16 ins.), having a convolute, and manufactured from one of the high strength-to-density ratio materials described in the footnote to this section.

(d) Baffles: Disc shaped components of between 75mm (3 ins.) and 400mm (16 ins.) diameter especially designed or prepared to be mounted inside the centrifuge rotor tube, in order to isolate the take-off chamber from the main separation chamber and, in some cases, to assist the UF₆ gas circulation within the main separation chamber of the rotor tube, and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

(e) Top Caps/Bottom Caps: Disc shaped components of between 75mm (3 ins.) and 400mm (16 ins.) diameter especially designed or prepared to fit to the ends of the rotor tube, and so contain the UF₆ within the rotor tube, and in some cases to support, retain or contain as an integrated part, an element of the upper bearing (top cap) or to carry the rotating elements of the motor and lower bearing (bottom cap), and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

Footnote

The materials used for centrifuge rotating components are:

(a) Maraging steel capable of an ultimate tensile strength of 2.050×10^9 N/m² (300,000 lb/in.²) or more.

(b) Aluminium alloys capable of an ultimate tensile strength of 0.460×10^9 N/m² (67,000 lb/in.²) or more.

(c) Filamentary materials suitable for use in composite structures and having a specific modulus of 12.3×10^6 or greater and a specific ultimate tensile strength of 0.3×10^6 or greater ("Specific Modulus" is the Young's Modulus in N/m² divided by the density in Kg/m³. "Specific Ultimate Tensile Strength" is the ultimate tensile strength in N/m² divided by the density in Kg/M³).

1.2 Static Components.

(a) Magnetic Suspension Bearings: Especially designed or prepared bearing assemblies consisting of an annular magnet suspended within a housing containing a damping medium. The housing will be manufactured from a UF₆ resistant material (see footnote to section 2). The magnet couples with a pole piece or a second magnet fitted to the top cap described in Section 1.1(e). The magnet may be ring-shaped with a relation between outer and inner diameter smaller or equal to 1.6:1. The magnet may be in a form having an initial permeability of 0.15 Henry/meter (120,000 in CGS units) or more, or an energy product of greater than 80,000 joules/m³ (10×10^6 gauss-oersteds.) In

addition to the usual material properties, it is a prerequisite that the deviation of the magnetic axes from the geometrical axes is limited to very small tolerances (lower than 0.1mm) or that homogeneity of the material of the magnet is specially called for.

(b) Bearings/Dampers: Especially designed or prepared bearings comprising a pivot/cup assembly mounted on a damper. The pivot is normally a hardened steel shaft polished into a hemisphere at one end with a means of attachment to the bottom cap described in Section 1.1(e) at the other. The shaft may, however, have a hydrodynamic bearing attached. The cup is pellet-shaped with hemispherical indentation in one surface. These components are often supplied separately to the damper.

(c) Molecular Pumps: Especially designed or prepared cylinders having internally machined or extruded helical grooves and internally machined bores. Typical dimensions are as follows: 7mm (0.3 ins.) to 400mm (16 ins.) internal diameter, 10mm (0.4 ins.) or more wall thickness, 1 to 1 length to diameter ratio. The grooves are typically rectangular in cross-section and 2mm (0.08 in.) or more in depth.

(d) Motor Stators: Especially designed or prepared ring shaped stators for high speed multi-phase AC hysteresis (or reluctance) motors for synchronous operation within a vacuum in the frequency range of 600-2000 Hz and a power range of 50-100 volts amps. The stators consist of multi-phase windings on a laminated low loss iron core comprised of thin layers typically 2.0mm (0.08 in.) thick or less.

2. Especially designed or prepared auxiliary systems, equipment and components for gas centrifuge enrichment plants.

Note.—The auxiliary systems, equipment and components for a gas centrifuge enrichment plant are the systems of the plant needed to feed UF_6 to the centrifuges to link the individual centrifuges to each other to form cascades (or stages) to allow for progressively higher enrichments and to extract the product and tails of UF_6 from the centrifuges, together with the equipment required to drive the centrifuges or to control the plant.

Normally UF_6 is evaporated from the solid using heated autoclaves and is distributed in gaseous form to the centrifuges by way of cascade header pipework. The "product" and "tails" of UF_6 gaseous streams flowing from the centrifuges are also passed by way of cascade header pipework to cold traps (operating at about $-70^\circ C$ where they are condensed prior to onward transfer into suitable containers for transportation or storage. Because an enrichment plant consists of many thousands of centrifuges arranged in cascades, there are many kilometers of cascade header pipework incorporating thousands of welds with a substantial amount of repetition of layout. The equipment, component and piping systems are fabricated to very high vacuum and cleanliness standards.

The following items either come into direct contact with UF_6 process gas or directly control the centrifuge and the passage of the

gas from centrifuge to centrifuge and cascade to cascade.

(a) Feed Systems/Product and Tails Withdrawal Systems:

Especially designed or prepared process systems including:

1. Feed autoclaves (or stations), used for passing UF_6 to the centrifuge cascades at up to 100 Kg/m² (15 lb/in.²)

2. Desublimers (or cold traps) used to remove UF_6 from the cascades up to 3 Kg/m² (0.5 lb/in.²) pressure. The desublimers are capable of being chilled to $-70^\circ C$ and heated to $70^\circ C$.

3. Product and tails stations used for trapping UF_6 into containers.

This plant equipment and pipework are wholly made of or lined with UF_6 resistant materials (see Footnote to this Section) and are fabricated to very high vacuum and cleanliness standards.

(b) Machine Header Piping Systems:

Especially designed or prepared piping systems and header systems for handling UF_6 within the centrifuge cascades.

This piping network is normally of the "triple" header system with each centrifuge connected to each of the headers. There is thus a substantial amount of repetition in its form. It is wholly made of UF_6 resistant materials (see Note to this Section) and is fabricated to very high vacuum and cleanliness standards.

(c) UF_6 Mass Spectrometers/Ion Sources: Especially designed or prepared magnetic or quadrupole mass spectrometers capable of taking "on-line" sample of feed, product or tails from UF_6 gas streams and having all of the following characteristics:

1. Unit resolution for mass greater than 320.

2. Ion sources constructed of or lined with nichrome, monel or nickel-plate.

3. Electron bombardment ionization sources.

4. Having a collector system suitable for isotope analysis.

(d) Frequency Changers: Frequency changers (also known as converters or inverters) especially designed or prepared to supply motor stators as defined under Section 1.2(d), or parts, components and subassemblies of such frequency changers having all of the following characteristics:

1. A multiphase output of 600 Hz to 2000Hz.

2. High stability (with frequency control better than 0.1%).

3. Low harmonic distortion (less than 2%).

4. An efficiency of greater than 80%.

Footnote

Materials resistant to corrosion by UF_6 include stainless steel, aluminum, aluminum alloys, nickel or alloys containing 60% or more nickel.

31. Appendix C to Part 110 is redesignated as Appendix B and amended by revising footnote C to read as follows:

Appendix B—Categorization of nuclear material

* * * * *

^cNatural uranium, depleted uranium, thorium and quantities of uranium enriched

to less than 10% not falling into Category III should be protected in accordance with prudent management practice.

* * * * *

Dated at Washington, DC this 28th day of November 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-31548 Filed 11-30-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 24319; Amdt. 321]

Air Traffic and General Operating Rules; IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.