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UNITED STATES GOVERNMENT

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W. B. McCool, Secretary

ector/of Regulation (THRU) H. L. Price, Acting

FROM:

R. Lowenstein, Acting Director

Division of Licensing and Regulation

SUBJECT:

PROPOSED REVISION TO PARTS 10 CFR 30 AND 10 CFR 40

AS RELATED TO CUBA

Attached hereto for Commission consideration is a staff paper which proposes revisions to Parts 10 CFR 30 and 10 CFR 40 to control more stringently the export of byproduct and source material to Cuba.

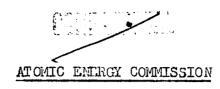
Attachment: Staff Paper

THIS DOCUMENT HAS BEEN DECLASSIFIED UNDER

THE PROVISIONS OF EO 12958, DATED 4/1 By Authority of \_

(Declassification Authority/Number)

KPR : 1 1961



### EXPORT LICENSING POLICY TOWARD CUBA

### Report to the Acting Director of Regulation by the Acting Director of Licensing and Regulation

### PURPOSE

1. To consider modification of the Commission's decision on AEC-R 30/23 to take account of Department of State suggestions for revisions in the notice of rule-making and in the public announcement.

### SUMMARY

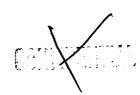
2. At Regulatory Meeting 102 on May 9, 1961, the Commission, among other things,

Approved, subject to coordination with the Department of State, the amendments to 10 CFR 30 and 40 contained in Appendix "C" to AEC-R 30/23, as revised, to become effective upon publication in the Federal Register.

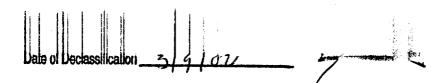
- 3. By memorandum dated May 18, 1961, (Appendix "A") the Department of State was asked to concur in the text of regulations and the public announcement, and State's guidance was requested on the timing and method for releasing the announcement to the public.
- 4. The State Department's response is attached as Appendix "B".

  In summary, the State Department:
  - a. Continues to believe it would be desirable for the Commission to take the proposed action;
  - b. Suggests that references to the U.S. Cuban Agreement for Cooperation be limited to one statement in the Notice of Rule Making and not be made at all in the public announcement;





This material contains information affecting the material defense of the United States within the meaning of the eminage laws. Title 18, U.S.C., Sees. 783 and 70% the information or revelation of which in any manner to an unauthorized person is prohibited by law.







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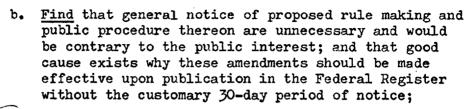
- c. Suggests Cuba not be carried in a list of Soviet Bloc countries, as proposed, instead, that Cuba be listed in the same context with, but not as a country included in, 10 CFR 40.90, Schedule A.
- d. Suggests that "the announcement of this change be handled routinely. Should any inquiries be made as to the significance of this action at this time, we suggest that your press officers reply that the timing of this action has no significance. They might amplify this statement along the line that this is a routine action which has been in process for some time and has just recently been reached on the Commission's schedule of business".
- 5. The staff has no objection to the Department of State's recommendations. The proposed letter to the Chairman, JCAE, which was attached as Appendix "E" to AEC-R 30/23, has been modified to take into account the comments contained in the State Department memorandum. The modified letter is attached as Appendix "B".
- 6. Pursuant to a request from Commissioner Graham the Division of International Affairs obtained from the Department of State an unclassified memorandum (see Appendix attesting to their continued belief that it would be desirable for the AEC to bring its procedures into conformity with national export policy respecting Cuba.

### STAFF JUDGMENTS

7. The Division of International Affairs and the Office of the General Counsel concur in the recommendation of this paper. The Office of Public Information concurs in recommendation 8c.

### RECOMMENDATION

- 8. The Acting Director of Regulation recommends that the Atomic Energy Commission:
  - a. Approve the amendments to 10 CFR 30 and 40 contained in Annex 2 to Appendix "3", to become effective upon publication in the Federal Register;



Note that the public announcement attached as Annex law Appendix will be issued; and

Note that the Joint Committee will be informed by letter such as Appendix

APPENDIX "A"

MEMORANDUM FOR: Mr. Philip J. Farley

Department of State

EXPORT LICENSING POLICY TOWARD CUBA

This is to inform you that the Commission has approved the staff's recommendation that the AEC's regulations governing the export of by-product and source material to Cuba be amended to reflect consistency with the export restrictions announced by the Department of Commerce with respect to commodities under the agency's licensing jurisdiction. There are attached hereto copies of the proposed "Notice of Rule Making" in connection with amending 10 CFR 30 and 40, as well as copies of the proposed public announcement on this matter.

This action was taken by the Commission subject to confirmation that it still meets with the Department's approval in view of recent developments.

We would also appreciate your concurrence in the text of the regulations and the public announcement, and your guidance on the timing and method for releasing the announcement to the public.

We are prepared to move ahead and place the amendments into effect upon receiving your affirmative response to this memorandum. These documents will of course be declassified upon release.

> A. A. Wells, Director Division of International Affairs

may 18, 1961

Enclosures:

SUBJECT:

1. Notice of Rule making

2. Proposed Public Announcement

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cc: M. B. McCool, Secretary

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June 14, 1961

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MEMORANDUM FOR:

Mr. A. A. Wells, Director,

> Division of International Affairs, Atomic Energy Commission.

SUBJECT: Export Licensing Policy Toward Cuba

Your memorandum of May 18, 1961 addressed to Mr. Farley requested the Department's consideration of the Notice of Rule Making and Proposed Public Announcement relating to changes in the Atomic Energy Commission's Export Licensing Policy Toward Cuba.

We have reviewed your memorandum and attachment with the concerned offices in the Department. We continue to believe, as stated in our replies to your previous inquiries, that the proposed changes in the AEC rules governing exports will serve to bring its procedures into conformity with national export policy respecting Cuba.

We further suggest that the references to the U.S.-Cuban Agreement for Cooperation in the Civil Uses of Atomic Energy should be limited to one statement in the Notice of Rule Making and should not be made at all in the Proposed Public Announcement. In our view, this one statement, including the date when this Agreement entered into force and a reference to where the text of the Agreement may be found in the United States Treaties publication, will serve to remind those persons interested in these rule changes from a business standpoint, of the existence of this Agreement.

With respect to the change in the source material regulations, we have not before carried Cuba in a list of the Soviet Bloc countries such as the schedule in Section 40.90. Paragraph 2 of the proposed Notice of Rule Making could be regarded as a change in our position on that point. This could be avoided by following the same approach in Paragraph 2 as used in Paragraph 1, i.e. listing Cuba in the same context with, but not as a country included in, Schedule A. The suggested revision of Paragraph 2 to reflect this point is included in the enclosed documents.



The enclosed copies of the Notice of Rule Making and the Proposed Public Announcement have been modified as suggested above.

We suggest that the announcement of this change be handled routinely. Should any inquiries be made as to the significance of this action at this time, we suggest that your press officers reply that the timing of this action has no significance. They might amplify this statement along the line that this is a routine action which has been in process for some time and has just recently been reached on the Commission's schedule of business.

Howard Furnes Acting

Enclosures:

(2) - As stated



### APPENDIX OF

### DRAFT LETTER TO CHAIRMAN, JCAE

- 1. The purpose of this letter is to inform the Joint Committee of action taken by the Commission with respect to its export licensing regulations and export policy toward Cuba. The Department of State supports this Commission action.
- 2. Heretofore, byproduct material having an atomic number 3 to 83, inclusive, could be exported to Cuba under a general license set out in Section 30.33(b) of the Commission's regulations (10 CFR 30). The Commission has amended its regulations to limit this authorization to byproduct material contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy. Persons proposing to export other byproduct material to Cuba are now required to apply for specific AFC licenses.
- 3. The Commission's source material regulations 10 CFR Part 40, License of Source Material have been amended to require that persons proposing to export any quantity of source material to Cuba must obtain a specific license from the Commission. Under a revision of Part 40 published on January 14, 1961, which became effective February 13, 1961, exports to certain countries of up to three pounds of source material, and unlimited quantities of thorium-containing incandescent gas mantles are authorized under general licenses established in the regulations. An amendment to Part 40 provides that these general licenses will not be applicable to shipments to Cuba.



- 4. It is not expected that this revision will have any significant effect on future exports to Cuba. No applications for the export of source material to Cuba have been received since January 1960 and most of the byproduct material exported to Cuba to date appears to have been for medical purposes. However, this revision will provide the Commission with an opportunity to review applications for non-medical uses on a case-by-case basis.
- 5. Enclosed is a copy of a Notice of Rule Making which is being sent to the Federal Register for publication.

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### PROPOSED PUBLIC ANNOUNCEMENT

### VEC REVISES EXFORT LICENSING POLICY TOWARD CUBA

Effective immediately, the Atomic Energy Commission is modifying its licensing regulations relating to commercial exports to Cubs of radiolsocopes and uranium and thorium source materials.

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Abretofore, any radictsocope subject to AEC control and having an atomic number 3 to 83 inclusive, could be exported from the United States to Cubs under a general authorization in the Commission's regulations.

In an amendment to its regulations 10 CFR Part 30 the Commission has now limited this suthorization to radiolsocopes contained in medicinals, pharmacenteal preparations, or in devices, applicators, or applicances designed for use in medical diagnosis or therapy. Persons proposing to export other diagnosis or therapy. Persons proposing to export other radioleotopes to Cuba now are required to apply for specific

The Commission's source material regulations -- 10 CFR 40, Licensing of Source Material -- have been amended to require that persons proposing to export any quantity of source material to Cuba must obtain a specific License from the source material, under a revision of Part 40 effective February 13, source material, and unlimited quantities of thorium-containing incenses established in the regulations. An amendment to licenses established in the regulations. An amendment to Part 40 published to the tregulations. An amendment to sent the total source manual source manual personal seconds of source material interpretations and that specific licenses must be obtained. Applications for the use of source material for medical diagnosis or for the use of source material for medical diagnosis or for the use of source material for medical diagnosis or for the use of source material for medical diagnosis or the use of source material for medical diagnosis or



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sents in blood analyses and other medical applications. compounds of urantum and thertum are used as analytical res-10 CFR Part 40, "Control of Source Material", Certain 0

SPECIAL ASSISTANT TO THE SECRETARY OF STATE

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WASHINGTON

June 27, 1961

### MEMORANDUM FOR:

Mr. Algie A. Wells, Director.

> Division of International Affairs, Atomic Energy Commission.

SUBJECT: Export Licensing Policy Toward Cuba

I understand from your staff that you desire confirmation of the views expressed in our memorandum of November 16, 1960, regarding export licensing policy toward Cuba. That memorandum, written in response to oral inquiries of your staff, stated our view that it would be desirable for the AEC, with respect to those items over which it exercises export license control, to take action parallel to the controls instituted by the Secretary of Commerce as of October 20, 1960. We continue to believe it would be desirable for the AEC to bring its procedures into conformity with national export policy respecting Cuba.

Our several memoranda on this subject exchanged since last October identify certain administrative judgment factors and contain specific suggestions as to the details of your proposed action.

/s/ Philip J. Farley

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- in medical diagnosis or therepy: Provided, That the authority conferred by this paregraph shall apply only to byproduct material having an atomic number from 3 to 83, inclusive. in medical diagnosis or therepy: or in devices, applicators, or applicances designed for use license to Cuba to the extent that the byproduct meterial is contained in medicinals or pharmocutical preparations Any licenses may expect byproduct material covered by his
- inimical to the occurou defence and security. will not iosme a license suthorizing such export if, in in Section 30.33(c), above: Provided, That the Commission of byproduct material other than the byproduct material which may be exported under the functual license established of the United States Department of Commerce (15 CFR 371.3), or (2) the export of byproduct naterial not having an atomic number from 3 to 83, inclusive, or (3) the export to Cuba material to a country or area listed as a Subgroup country The Commission may upon application by an interested person issue a license suthorizing (1) the export of byproduct 371.3 of the Comprehensive Expert Schedule 10 10
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FOR THE ATOMIC PHENOT COMMISSION

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This material contains information affecting the national defense of the Unked Stotes within the meaning of the explonage laws, Title 12, U.S.C., Sec., 735 and 784, the transmission of revelation of which in any manner to an unauthorized person is prohibited by, law.

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