

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150-AH21

**General License for Import of
Major Nuclear Reactor Components**

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct Final Rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to issue a general license for the import of major components of utilization facilities for end-use at NRC-licensed reactors. The amendment is necessary to facilitate imports of major components of domestic nuclear reactors in furtherance of protection of public health and safety and will also reduce unnecessary regulatory burdens related to the maintenance of NRC-licensed reactors.

DATES: The final rule will become effective (Insert date 75 days after date of publication in the **Federal Register**), unless significant adverse comments on the amendment are received by (Insert date 30 days after date of publication in the **Federal Register**). If the rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after (Insert date 30 days after date of publication in the **Federal Register**) will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number [RIN 3150-AH21] in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking web site. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking website to Carol Gallagher (301) 415-5905; email CAG@nrc.gov.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 p.m. on Federal workdays.

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC's rulemaking web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to PDR@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Grace H. Kim, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3605, email GHK@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. The Direct Final Rule Process

The rulemaking has the simple aim of issuing a new general license to facilitate the import of major nuclear reactor components. Because the NRC believes that this action should not cause controversy, the NRC is using the direct final rule process for this rule. The amendment in this rule will become effective on (Insert day 75 days after publication in **Federal Register**). However, if the NRC receives significant adverse comments on this direct final rule by (Insert day 30 days after publication in **Federal Register**), the NRC will publish a document that withdraws this action. In that event, the comments received in response to these amendments would then be considered as comments on the companion proposed rule published elsewhere in this **Federal Register**, and the comments will be addressed in a later

final rule based on that proposed rule. Unless the modifications to the proposed rule are significant enough to require that it be republished as a proposed rule, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

II. Background

Increasingly, NRC licensees need to import nuclear reactor vessel closure heads (which are not currently manufactured in the United States) to replace vessel closure heads at NRC-licensed reactors. Under the NRC's regulations governing the import and export of nuclear

equipment in 10 CFR Part 110, this item, constituting a significant part of the reactor pressure vessel, is categorized as a “major component” of a nuclear reactor, along with three other significant parts of a nuclear reactor. See 10 CFR 110.2 (definition of “Utilization facility”); 10 CFR Part 110, Appendix A (defining “Reactor pressure vessels”). The NRC’s regulations currently require a specific license for importing and exporting any of these four major components of a nuclear reactor into and out of the United States. See 10 CFR 110.5 and 110.20(a)(2).

In anticipation of requests for imports of reactor vessel closure heads and possibly other major components, the NRC reexamined the need for a specific license authorization for import of major components into the United States. After consultation with the U.S. Department of State, the NRC has concluded that major components of a nuclear reactor should be permitted to be imported into the United States under general license, provided that legally binding arrangements are in place establishing that the import is for end-use by a 10 CFR Part 50 or Part 52 licensee. The NRC believes that such a general license will facilitate domestic reactor licensees’ obtaining needed major components for safety-related maintenance and refurbishing of the reactor by permitting import of these items. The NRC has determined that the promulgation of this general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety and will otherwise meet applicable statutory requirements.

The NRC emphasizes that the amendment set forth in this rule does not apply to exports of those components addressed in this regulation.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC is adopting a general rule for a certain category of imports. This action does not constitute the establishment of a standard for which the use of a voluntary consensus standard would be applicable.

Environmental Impact: Categorical Exclusion

The NRC has determined that this direct final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for the regulation.

Paperwork Reduction Act Statement

This direct final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0036.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The NRC already controls imports of major components of utilization facilities. Currently, the NRC's import regulations in part 110 require a specific license to import these components into the United States. The NRC's sole objective in developing the revision is to facilitate imports of major nuclear reactor components for end-use in safety-related maintenance and refurbishment efforts at NRC-licensed reactors by reducing the unnecessary burdens imposed by specific licensing. The direct final rule accomplishes this objective by permitting imports of major components to be made under general license. There are no alternatives for achieving the stated objective. By facilitating maintenance of NRC-licensed reactors, this NRC rulemaking action will have a positive impact on protection of the public health and safety and the common defense and security and, at the same time, reduce unnecessary regulatory burdens. In this respect, the NRC believes that no persons will be adversely affected by this rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this direct final rule will not have a significant economic impact on a substantial

number of small entities. The rule affects only companies importing major components for end-use at nuclear power plants. The companies that own these plants do not fall within the scope of the definition of “small entities” set forth in the Regulatory Flexibility Act (5 U.S.C. 601(3)), or the Size Standards established by the NRC (10 CFR 2.810).

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this direct final rule because these amendments do not include any provisions that would impose backfits as defined in 10 CFR Chapter I.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 110.

PART 110 - - EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

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

AUTHORITY: Secs. 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 5, Pub. L. 101-575, 104 Stat 2835 (42 U.S.C.2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96-92, 93 Stat. 710 (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). Section 110.27 also issued under sec. 309(a), Pub. L. 99-440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80-110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130-110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42 (a)(9) also issued under sec. 903, Pub. L. 102-496 (42 U.S.C. 2151 et seq.).

2. Section 110.27 is amended by adding new paragraph (e), to read as follows:

§110.27 General license for imports.

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(e) A general license is issued to any person to import the major components of a utilization facility as defined in § 110.2 for end-use at a utilization facility licensed by the Commission.

Dated at Rockville, Maryland, this 9th day of May, 2003.

For the Nuclear Regulatory Commission.

/RA/

William D. Travers
Executive Director For Operations