

Rulemaking Comments

PR 110  
(74FR29614)

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**From:** Nelson, Terryann (TAN) [nelsont@y12.doe.gov]  
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**To:** Rulemaking Comments  
**Subject:** RIN 3150-A116  
**Attachments:** NRC Proposed Rule Changes 10CFR110 7-09 .doc

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**BLUE LETTERING - EXISTING WORDING**

**BLACK LETTERING – PROPOSED REVISED LETTERING**

**1) Removal of DOE Import Contract exemption under 110.27 (a)(1)**

**Current 110.27**

**§ 110.27 General license for import.**

(a) Except as provided in paragraphs (b), (c), and (f) of this section, a general license is issued to any person to import byproduct, source, or special nuclear material if the consignee is authorized to receive and possess the material under:

(1) A contract with the Department of Energy;

(2) An exemption from licensing requirements issued by the Commission; or

(3) A general or specific NRC or Agreement State 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.

(b) The general license in paragraph (a) of this section does not authorize the import of source or special nuclear material in the form of irradiated fuel that exceeds 100 kilograms per shipment.

(c) Paragraph (a) of this section does not authorize the import under general license of radioactive waste, other than radioactive waste that is being returned to a United States Government or military facility in the United States which is authorized to possess the material.

(d) A person importing formula quantities of strategic special nuclear material (as defined in § 73.2 of this chapter) under this general license shall provide the notifications required by § 73.27 and § 73.72 of this chapter.

(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.

(f) Individual import shipments of radioactive material listed in Appendix P must be less than the amounts specified in Category 2 in Table 1 of Appendix P to this part.

## **Proposed 110.27**

### § 110.27 General license for import.

(a) Except as provided in paragraphs (b) and (c) of this section, a general license is issued to any person to import byproduct, source, or special nuclear material if the U.S. consignee is authorized to receive and possess the material under a general or specific NRC or Agreement State 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.

(b) The general license in paragraph (a) of this section does not authorize the import of source or special nuclear material in the form of irradiated fuel if the total weight of the material exceeds 100 kilograms per shipment.

(c) Paragraph (a) of this section does not authorize the import under general license of radioactive waste, other than radioactive waste that is being returned to a United States Government or military facility in the United States which is authorized to possess the material.

(d) A person importing formula quantities of strategic special nuclear material (as defined in § 73.2 of this chapter) under this general license shall provide the notifications required by § 73.27 and § 73.72 of this chapter.

(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.

(f) Importers of radioactive material listed in Appendix P to this part must provide the notifications required by § 110.50.

**Comments (In the section by section analysis of the proposed rule change of section 110.27):**  
The proposal claims that removal of a) 1) in section 110.27 (above) is made up by activities authorized by Sections 54, 64, 82 and 91 of the Atomic Energy Act. It does not appear that these sections cover imports of materials to Y-12 and would have an impact on DOE/NNSA Y-12's current activities for materials being returned to Y-12 under GTRI projects. Therefore, it appears that a specific import license would be required for each project return.

**2) “Incidental Radioactivity” will be deleted from the definition section.**

Also it has been removed as a part of General Licenses. Significance: we have used this general license with Incidental Radioactivity when we have sent out “cleaned” containers, but did not certify the insides were 100% clean. It will no longer be available to use.

Proposed change to the definition of Radioactive Waste includes the following

Radioactive waste does not include radioactive material that is

(2) A contaminant on any nonradioactive material used in a nuclear facility (including service tools and protective clothing), if the material is being shipped for recovery and beneficial use of the non-radioactive material in a nuclear facility and not solely for waste management purposes or disposal.

**Comment: Assuming the thresholds on the general license exports remain the same and the incidental radioactivity as described in the new radioactive waste substitute appropriately, there is no impact here.**

**3) Increased NSTS reporting requirements**

The most significant enhancement pertinent to these materials is the establishment of the National Source Tracking System (NSTS) that will track from “cradle to grave” transactions involving Category 1 and 2 radioactive sources (71 FR 65686; November 8, 2006). Licensees will be responsible for recording the manufacture, shipment, arrival, and disposal of all licensed and tracked Category 1 and 2 sources. For every nationally tracked source that is imported, the facility obtaining the source will be required to report the information to the NSTS by the close of the next business day after receipt of the imported source. The effective date for this proposed change to allow imports of Category 1 and 2 material under a general license would be delayed until the NSTS is fully operational; however, it is expected that the NSTS would be fully operational well before this proposed change is promulgated as a final rule. The current estimate for the launch of the NSTS (tracking of Category 1 and 2 sources) is January 31, 2009. With the NSTS in place, there will be much more information about imported sources available to the staff.....

**Comment: Currently per 10 CFR Part 20 Appendix E, uranium is not tracked in the NSTS program. If this were to change, significant impact would be felt. No impact expected from NMC&A and the sealed source program.**

**4) Section 110.50 (c) –Require advance notifications of imports to be submitted seven days in advance of shipment, instead of “at least seven days in advance of each shipment, to the extent practical, but in no case less than 24 hours in advance of each shipment.**

**Comment: No significant impact to Y-12 import activities. Project planning would have to include sufficient time in schedule for the advance notification.**

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