

IN RESPONSE, PLEASE
REFER TO: M100609A

June 9, 2010

MEMORANDUM FOR: Margaret Doane, Director
Office of International Programs

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 1:25 P.M.,
WEDNESDAY, JUNE 9, 2010, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-10-0044 – Review of Final Rule Package, “Export and Import of Nuclear Equipment and Material; Updates and Clarifications (10 CFR Part 110, RIN 3150-A116)

The Commission approved a final rule amending 10 CFR Part 110, “Export and Import of Nuclear Equipment and Material,” with the attached changes. The final rule updates, clarifies, and corrects several provisions of Part 110 to improve the regulatory framework for the export and import of nuclear equipment and material including radioactive waste.

Following incorporation of these changes, the Federal Register notice should be reviewed by the Rulemaking, Directives, and Editing Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(OIP) (SECY Suspense: 7/16/10)

The staff should consider the need to develop guidance and to engage in further stakeholder interaction to ensure that general licensees understand the regulatory restrictions for exporting materials to embargoed nations. The staff should inform the Commission of its efforts in this regard and provide any relevant feedback on its interactions.

Attachment: Changes to the Final Rule in SECY-10-0044

cc: Chairman Jaczko
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
EDO
OGC
CFO
OCAA
OCA
OIG
OPA
Office Directors, Regions, ACRS, ASLBP (via E-Mail)
PDR

Changes to the Final Rule in SECY-10-0044

1. Federal Register Notice, bottom of page 40, revise last full sentence to read: “The change mandates Commission review of import **and export** license applications that raise significant policy issues.” Insert the following immediately after the sentence:

“Significant policy issues include, but are not limited to, the proposed initial decision on whether to issue a license with special limitations to a country, or the proposed decision on issuance of a license covering a facility where major safety or security issues have been recently raised. If the staff is uncertain whether a license application raises a significant policy issue, the license application should receive Commission review.”
2. Federal Register Notice, top of page 41, revise first full sentence as follows: “**However,** ~~a~~Any export that is subject to special limitations as determined by the staff or the Executive Branch is **will be** considered ~~to be~~ one that raises ~~an important~~ **a significant** policy issue and will continue to require Commission review.”
3. Federal Register Notice, page 1, revise second sentence of Summary Section to read: “This rule allows **International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources** Category 1 and 2 quantities of radioactive materials to be imported under a general license.”
4. Federal Register Notice, page 3, revise fourth sentence of Background Section to read: “In addition, changes are made to the regulations governing the export and import of **International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources** Category 1 and 2 quantities of radioactive materials listed in Appendix P to Part 110 and the definition of “radioactive waste” in Part 110.
5. Federal Register Notice, page 3, insert the following citation after the last full sentence: “(EA-05-090) (70 FR 72128; Dec. 1, 2005).”
6. Federal Register Notice, page 4, delete the last sentence of the first full paragraph: “~~The Agreement States have also imposed these requirements on their licensees using these types of materials.~~”
7. Federal Register Notice, page 4, add new paragraph after the second full paragraph to read: “**For all of these requirements, NRC Agreement States have also imposed legally-binding measures on their licensees possessing Category 1 and 2 quantities of radioactive material.**”
8. Federal Register Notice, page 4, revise last full sentence to read: “The **security** requirements put in place by the orders...”
9. Federal Register Notice, page 5, revise the first sentence of second full paragraph to read: “**In light of the many security enhancements, the Commission had decided to eliminate** ~~t~~The specific license requirement in § 110.27(f) for imports of radioactive material listed in Table 1 of Appendix P to Part 110 ~~has been removed.~~”
10. Federal Register Notice, page 7, first full paragraph, revise the first sentence to read: “In response to comments, the **NRC staff Commission** clarified....” Revise the fifth sentence to read: The ~~NRC staff~~ **Commission** also added...”

11. Federal Register Notice, page 9, revise last sentence of number 6. to read: “In response to comments, the ~~staff~~ **Commission** revised...”
12. Federal Register Notice, page 11, revise first sentence of Response to read: “The ~~proposed~~ change to the definition...”
13. Federal Register Notice, page 11, revise the fourth sentence of Response to read: “The NRC will not issue an import license **for radioactive waste** unless the...”
14. Federal Register Notice, page 14, first sentence of first full paragraph, move comma inside quotation after “radioactive waste;”
15. Federal Register Notice, page 15, revise first sentence of last paragraph to read: The ~~NRC~~ **Commission** is aware that there could be instances...”
16. Federal Register Notice, page 16, revise line 2 to read: “...recommends that the ~~NRC~~ **Commission** be consulted...”
17. Federal Register Notice, page 16, revise first sentence of first full paragraph to read: “The ~~NRC~~ **Commission** does not accept...”
18. Federal Register Notice, page 17, revise first sentence of Response to read: “The intent of this ~~proposed~~ change it to address...” Revise the last sentence of Response to read: “Therefore, no change was made to the ~~proposed~~ definition ...”
19. Federal Register Notice, page 26, first Response, revise first sentence to read: “The NRC’s ~~proposed revisions~~ to the definition...” Revise the third sentence to read: “The ~~proposed~~ changes to the definition of...”
20. Federal Register Notice, page 28, revise first sentence of Response to read: “...the NRC’s ~~proposed~~ revisions...”
21. Federal Register Notice, page 29, first full paragraph, revise first sentence to read: “The ~~proposed~~ **final** rule ~~would~~ **does** not require classification...” Revise third sentence to read “The **This** approach ~~proposed in the rulemaking~~ is consistent with domestic...”
22. Federal Register Notice, page 29, revise second line from the bottom to read: “~~staff~~ **NRC** will ensure...”
23. Federal Register Notice, page 30, revise line 2 to read: “...The ~~proposed~~ **final** rule notes that license applicants ~~would~~ need to...” Revise line 4 to read: “...classification ~~would~~ **is** not ~~be~~ required...”
24. Federal Register Notice, page 30, revise first sentence of first full paragraph to read: “...the ~~proposed rule stated that the NRC would~~ **will** consult with ...”
25. Federal Register Notice, page 30, last paragraph, revise third sentence to read: “...the ~~staff~~ **NRC** will consult with other...” Revise fifth sentence to read: “...regulations, ~~staff~~ **the NRC** will follow...”