

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
OFFICE OF FEDERAL AND STATE MATERIALS AND
ENVIRONMENTAL MANAGEMENT PROGRAMS
OFFICE OF INTERNATIONAL PROGRAMS
OFFICE OF NEW REACTORS
WASHINGTON, DC 20555-0001

April 14, 2011

NRC INFORMATION NOTICE 2011-07: SPECIFIC LICENSE REQUIRED WHEN
EXPORTING TO EMBARGOED DESTINATIONS
LISTED IN 10 CFR 110.28

ADDRESSEES

All holders of, or applicants for, a license issued by the U.S. Nuclear Regulatory Commission (NRC). All Agreement State Radiation Control Program Directors and State Liaison Officers.

PURPOSE

The NRC is issuing this information notice (IN) to inform addressees of recent operating experience involving the requirement to obtain a specific license under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 110, "Export and Import of Nuclear Equipment and Material," for exporting nuclear equipment and material to an embargoed destination and to provide information on the NRC's planned actions on unauthorized exports to embargoed destinations. The NRC expects recipients to review the information for applicability to their facilities and consider actions, as appropriate, to avoid similar problems. The suggestions that appear in this IN are not NRC requirements; therefore, no specific action or written response is required. The NRC is providing this IN to the Agreement States for their information and for distribution to their licensees, as appropriate.

DESCRIPTION OF CIRCUMSTANCES

On November 21, 2008, a U.S. electronics company shipped a moisture density gauge containing americium-241 to Jordan, with subsequent forwarding through a local distributor to Iraq. However, 10 CFR 110.28, "Embargoed Destinations," lists Iraq as an embargoed destination. Although the general license that the NRC issued as 10 CFR 110.20, "General License Information," and 10 CFR 110.23, "General License for the Export of Byproduct Material," broadly grants authorization to export selected byproduct material to certain destinations, this U.S. electronics company did not apply for and obtain a specific license, as required by 10 CFR 110.20(a) and (f), prior to exporting the device to an embargoed destination. This U.S. electronics company determined that the cause of the event was inadequate procedures and training on NRC export regulations.

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BACKGROUND

The NRC is the U.S. licensing authority for exports and imports of nuclear materials and equipment. The regulations at 10 CFR Part 110 apply to all individuals in the United States who export and import nuclear equipment and material (including byproduct material) under NRC licensing authority. Unless the export or import transaction falls in one of the specific exception categories identified in 10 CFR 110.1(b)(1)–(5), it must be authorized by an appropriate NRC license. The NRC issues two types of export licenses: general and specific.

General License

The NRC issues general export licenses under 10 CFR 110.21-110.26 as a regulation (i.e., the regulation itself is also a general license). NRC general licenses authorize selected exports of nuclear material or equipment and are effective without the filing of a specific application with the NRC or the issuance of a licensing document (piece of paper) by the NRC to a particular person. Individual exporters do not need to apply for an NRC general export license under 10 CFR 110.21-110.26 because authorization is already granted through the regulation; they only need to know that the authorization is available and in accordance with 10 CFR 110.20, “General license information.” The NRC general export licenses authorize exports of nuclear material below specified quantities, in certain forms or as contained in consumer products, to any country not listed in [10 CFR 110.28](#) as an embargoed destination. The regulation at [10 CFR 110.29](#), “Restricted Destinations,” includes additional restrictions on the use of the general license for exports of certain commodities to those destinations. The NRC general export license also authorizes exports of certain minor nuclear reactor components to designated eligible recipient countries. The regulations at 10 CFR 110.21, “General License for the Export of Special Nuclear Material,” through 10 CFR 110.24, “General License for the Export of Deuterium,” do not authorize exports to the embargoed destinations listed in 10 CFR 110.28.

Specific License

A specific license is an export license document that is issued to a named person based on the NRC’s review and approval of the application. Under 10 CFR 110.20(a), the NRC must first approve, through the issuance of a specific license, exports of nuclear equipment and material (including byproduct material) under its licensing authority that are not explicitly authorized under one of the general export license provisions in 10 CFR 110.21 through 10 CFR 110.26, “General License for the Export of Nuclear Reactor Components,” such as exports to embargoed destinations. To obtain a specific license, the exporter must file an application with the NRC ([10 CFR 110.31](#), “Application for a Specific License”) using [NRC Form 7](#), “Application for NRC Export or Import License, Amendment, or Renewal.” As noted above, exports to an embargoed destination listed in 10 CFR 110.28 must be authorized by an NRC specific license. Currently, 10 CFR 110.28 lists six embargoed destinations—Cuba, Iran, Iraq, North Korea, Sudan, and Syria. This list changes from time to time to allow the NRC to ensure that its regulations conform to U.S. law and foreign policy. The regulatory effect of listing a country in 10 CFR 110.28 is to prohibit the export of any nuclear material or components (including byproduct material) under a general license. Exports to an embargoed destination must be authorized by a specific export license. As part of the NRC review process,

10 CFR 110.41(a)(9) requires the NRC to forward applications for a specific license to export nuclear material or components (including byproduct material) to an embargoed destination to the Executive Branch for review. As part of its review, the Executive Branch will submit to the NRC its judgment as to whether the proposed export to an embargoed destination would be inimical to the common defense and security of the United States.

DISCUSSION

The regulation at 10 CFR 110.20(a) requires the NRC's approval, through the issuance of a specific license, of exports under the agency's licensing authority that are not explicitly authorized under one of the general export license provisions in 10 CFR 110.21 through 10 CFR 110.26. Each of the regulations at 10 CFR 110.21 through 10 CFR 110.26 has a provision related to the country or destination where the items are being exported (e.g., embargoed destinations), which, as described in [10 CFR 110.32](#), "Information Required in an Application for a Specific License/NRC Form 7," includes the country of both the intermediate and ultimate consignees. Specifically, 10 CFR 110.32(d) and 10 CFR 110.32(f)(7) require that the application for a specific license include the "[n]ames and addresses of all intermediate and ultimate consignees, other than intermediate consignees performing shipping services only," and a "[d]escription of end use by all consignees in sufficient detail to permit accurate evaluation of the justification for the proposed export or import."

Shipments to a distributor or to a "middle man" in a nonembargoed destination do not relieve the exporter of the requirement to obtain a specific license for exports in which the ultimate consignee is in an embargoed destination.

Additional information on NRC export and import regulations at 10 CFR Part 110 may be found at <http://www.nrc.gov/about-nrc/ip/export-import.html>.

CONTACT

This IN requires no specific action or written response. Please direct any questions about this matter to the technical contact listed below.

/RA/

Timothy J. McGinty, Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

/J. Leuhman for/

Terrence Reis, Acting Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs

/M. Shuaibi for/

Laura A. Dudes, Director
Division of Construction Inspection
and Operational Programs
Office of New Reactors

/RA/

John D. Kinneman, Director
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards

Technical Contact: Brooke G. Smith, OIP
301-415-2347
E-mail: Brooke.Smith@nrc.gov

Note: NRC generic communications may be found on the NRC public Web site, <http://www.nrc.gov>, under Electronic Reading Room/Document Collections.

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/RA/

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ADAMS Accession Number: ML110180287

TAC ME5187

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NAME	TReis JLeuhman for	JKinneman	LDudes MShuaibi for	TMcGinty
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