GENERAL ATOMIC COMPANY
P.O. BOX 81608
SAN DIEGO, CALIFORNIA 92138
(714) 455-3000

DOCKET NUMBER
PROPOSED RULE PR-110 (43FR19861)

(20)

Law Department

DOCKETED USNRC
JUL 21 1978

July 14, 1978

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch

Subject: Proposed Rule, 10 CFR Part 110, Export of Certain Minor Quantities of Nuclear Material, 43 FR 19861

Gentlemen:

General Atomic Company, as stated in our earlier correspondence, regards the subject proposed rule as a laudable step forward toward responsible regulation of the export of nuclear material. We believe, however, that the goals of the proposed rule could be furthered by expansion of the general license provisions to include somewhat larger quantities of material which will still have little or no significance for national security or the public health. Excessive regulation of the export of such materials commonly used for commercial or research purposes tends to be destructive of international business relations, restricts development of improved nuclear technology, and diminishes the credibility of the United States as a supplier of nuclear equipment and materials. We therefore advance for your consideration the following suggested improvements to the proposed regulations.

The proposed §110.3 provides for a general license for exports of special nuclear material in quantities of up to 3 grams when contained in sensing components installed in instruments. Reactor instrumentation systems typically require two or three fission chambers, each of which contains almost 2 grams of fully enriched uranium. Therefore, it appears sensible that the upper limit be increased to at least 6 grams to avoid the need for shipping such chambers one at a time rather than delivering two or three in a single shipment. For the same reason, the 3-gram limit contained in the proposed §110.42(a)(2)(i) should be

Acknowledged by card. 7/21

8002290184

increased to 6 grams.

We also believe that subparagraph (ii) of §110.42(a)(2) is overly vague. We suggest that the following wording will conform with the intent of §127(2) of the Atomic Energy Act as recently amended, as we understand it, and provide a more objective standard:

> "(ii) 100 grams or less of special nuclear material that is practicably nonrecoverable and not reasonably susceptible for processing or reprocessing for use in a nuclear explosive device."

We also urge the Commission to provide for further general licensing for exports to foreign government agencies and licensees of minor quantities of special nuclear material up to limits of, say, 100 grams by private entities licensed by the NRC to use, possess, etc., special nuclear material. There is no perceived need for an absolute requirement for review on a case-by-case basis of such minc exports. Further, interested executive departments, such as State, Energy and ACDA, have already determined that exports of less than 40 grams of highly enriched uranium are not inimical to the common defense and security of the United States (ref. 43 FR 25328).

NRC's function in reviewing exports could easily be fulfilled on an after the fact basis by simply requiring licensees to provide NRC with a copy of export declarations. In such a fasion, NRC could monitor exports of minor quantities of SNM and thus indirectly accomplish its regulatory function without the additional administrative expense necessarily incurred by both the licensee and the NRC in issuing export licenses. Any abuses by the NRC licensees could be quickly and easily remedied under present regulations.

It is still the stated policy of the United States, as expressed in both statutes and executive department pronuncements, to further the development of nuclear energy for peaceful purposes and to further the United States' role as a leader in the supply of nuclear equipment and materials throughout the free world. While it may not be NRC's function to participate directly in such promotion, it is counter to these policies for the NRC to overly restrict otherwise legitimate Government and industrial activities.

In addition to the above comments, we note that there are several discrepancies between the section numbers contained in the proposed rule and those in the rule now in effect. We presume that

these discrepancies will be cleared up in any final rule promulgated by the Commission and that there is no intent to delete the general licenses for exports of deuterium and nuclear grade graphite presently set forth in §§110.25 and 110.26.

Your consideration of the above comments would be appreciated.

Very truly yours,

Joseph A. Lestyk

Joseph A. Lestyk
Attorney

JAL:mtv

POOR ORIGINAL

ENCLOSURE C