



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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AUG 19 1993

MEMORANDUM FOR: Ronald Hauber, Assistant Director
Exports, Security and Safety Cooperation
Office of International Programs

FROM: Theodore S. Sherr, Chief
Regulatory and International Safeguards Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

SUBJECT: AMENDMENT TO PART 110 TO IMPLEMENT ENERGY POLICY ACT

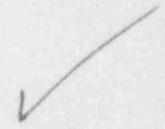
change
made
w/ha
8/19/93

We have reviewed the subject amendment and have the following comment:

Page 2, paragraph b.(1) should read:

"... nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;"

This paragraph incorrectly reads "... less than 10 percent...".



Theodore S. Sherr, Chief
Regulatory and International Safeguards Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Date

ROUTING AND TRANSMITTAL SLIP August 17, 1993

TO: (Name, Office Symbol, Room Number,
Building, Agency/Post)

- 1. MLesar, ADM/RRDB Concurrence
- 2. BJSelton, IRM/IRMB Concurrence
- 3. TSSherr, NMSS/FRIB Concurrence
- 4. JBecker, OGC Concurrence

ACTION - FOR YOUR REVIEW AND COMMENTS.

REMARKS

ATTACHED FOR YOUR REVIEW AND COMMENTS IS A FINAL RULE PACKAGE PERTAINING TO 10 CFR PART 110 ENTITLED "EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL; EXPORT OF HIGH-ENRICHED URANIUM"

THIS FINAL RULE IMPLEMENTS SECTION 903 OF THE ENERGY POLICY ACT OF 1992.

OGC PREPARED THE RULE.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No. -
Elaine O. Hemby, OIP	3-H-5 OWFN
	Phone No.
	504-2341

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

Export and Import of Nuclear Equipment and Material;
Export of High-Enriched Uranium

AGENCY: Nuclear Regulatory Commission

ACTION: Final rule

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the export and import of nuclear equipment and material to implement Section 903 of the Energy Policy Act of 1992, Public Law 102-496.

SUPPLEMENTARY INFORMATION: On October 24, 1992, Public Law 102-496, the Energy Policy Act of 1992, was enacted. Section 903 of that Act added a new Section 134 to the Atomic Energy Act of 1954, as amended. New Section 134 provides that the NRC may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of that Act, the Commission determines that--

(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export that can be used in that reactor;

(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

Section 134 b. defines the operative terms as follows:

b. As used in this section --

"(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 10 percent in the isotope U-235;

"(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U-235; and

"(3) a fuel or target 'can be used' in a nuclear research or test reactor if--

"(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

"(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor."

The Commission has adopted amendments to §§110.2 and 110.42(a) of 10 CFR Part 110 to implement Section 903 of the Energy Policy Act. The amendment to §110.2 adds a definition of the term "target" used in the statute. The amendment to §110.42(a) adds a new subparagraph (9) to add the criteria for export of high-enriched uranium specified in the Energy Policy Act.

Since this rulemaking involves a foreign affairs function of the United States and since Public Law 102-496 directs the Commission to impose the limitations on the issuance of licenses to export high-enriched uranium described above, notice of proposed rulemaking and public procedures thereon are not required by the Administrative Procedure Act (5 U.S.C. 553(a)(1)). The Commission has also found that, for the reasons stated above, good cause exists for making the amendment effective upon publication in the Federal Register without the customary thirty-day notice.

Environmental Impact: Categorical Exclusion

The NRC has determined that the final rule in Part 110 is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget under approval number 3150-0036.

Regulatory Analysis

The Commission has prepared a regulatory analysis of this final regulation. The analysis examines the costs and benefits of the regulation. The analysis is available for inspection in the NRC Public Document Room, 1717 P Street, NW, Washington, DC. Single copies of the analysis may be obtained from Elaine Hemby, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301)504-2341.

Backfit Analysis

The NRC has determined that the backfit analysis provisions in 10 CFR 50.109 do not apply to amendments to 10 CFR Part 110 because Part 110 applies only to the export and import of nuclear facilities, material and components, and does not deal with domestic facilities. Therefore, a backfit analysis has not been prepared for those amendments.

List of Subjects in 10 CFR Part 110

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

Pursuant to section 903 of Public Law 102-496, 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 following amendments to 10 CFR Part 110 are published as a document subject to codification.

PART 110 - EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for Part 110 is revised 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 11.52 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. In § 110.2, a definition of "target" is added to read as follows:

§ 110.2 Definitions,

* * * * *

Target means material subjected to irradiation in an accelerator or nuclear reactor to induce a reaction or produce nuclear material.

3. A new paragraph (9) is added to § 110.42(a) to read as follows:

§ 110.42 Export licensing criteria

(a) * * * * *

(9) With respect to a license to export high-enriched uranium to be used as a fuel or target in a nuclear research or test reactor, the Commission determines that -

(i) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

(ii) the proposed recipient of the uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative fuel or target in lieu of highly enriched uranium; and

(iii) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

As used in this paragraph, a fuel or target "can be used" in a nuclear research or test reactor if -

(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.

Dated at Rockville, Maryland,
this day of 1993,

For the Nuclear Regulatory Commission

James M. Taylor
Executive Director for Operations

Approved for Publication

The Commission has delegated to the Executive Director for Operations (10 CFR 1.31(c)) the authority to develop and promulgate rules as defined in the Administration Procedure Act (5 U.S.C. 551(4)) subject to the limitations in NRC Management Directive 9.17, Organization and Functions, Office of the Executive Director for Operations, paragraphs 0213, 038, 039, and 0310.

The attached final rule entitled "Export and Import of Nuclear Equipment and Material; Export of High-Enriched Uranium," implements Section 903 of the Energy Policy Act of 1992, Public Law 102-496. Section 903 of that Act adds a new Section 134 to the Atomic Energy Act of 1954, as amended, regarding the Commission's licensing requirements for the export of highly enriched uranium.

The rule does not raise a significant question of policy, nor does it amend regulations contained in 10 CFR Parts 7, 8, or 9 of Subpart C concerning matters of policy. I therefore find that the final rule is within the scope of my rulemaking authority and am proceeding to issue it.

Date

James M. Taylor,
Executive Director for Operations

DAILY STAFF NOTES
OFFICE OF INTERNATIONAL PROGRAMS

Final Rule Signed by the EDO

On _____ 1993, the Executive Director for Operations approved a final rule which amends NRC's regulations in 10 CFR Part 110 pertaining to the export and import of nuclear equipment and material to implement Section 903 of the Energy Policy Act of 1992, Public Law 102-496. Section 903 adds a new Section 134 to the Atomic Energy Act of 1954, as amended, regarding the Commission's licensing requirements for the export of highly enriched uranium. The rule has been forwarded to the Office of the Federal Register for publication.

DRAFT

The Honorable Philip R. Sharp, Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The U.S. Nuclear Regulatory Commission (NRC) has sent to the Office of the Federal Register for publication the enclosed final rule which amends the Commission's regulations in 10 CFR Part 110 pertaining to the export and import of nuclear equipment and material. The amendments implement Section 903 of the Energy Policy Act of 1992, Public Law 102-496. Section 903 adds a new Section 134 to the Atomic Energy Act of 1954, as amended, regarding the Commission's licensing requirements for the export of highly enriched uranium.

The amendments are not inimical to the common defense and security of the United States, do not constitute an unreasonable risk to the public health and safety, and are consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and the Energy Policy Act of 1992. Further, the amendments are not inconsistent with the obligations of the United States under any treaty or international arrangement.

Sincerely,

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Representative Michael Bilirakis

Record Note: Identical letters will also be sent to the six addressees on attached page.

1. The Honorable Joseph I. Lieberman, Chairman
Subcommittee on Clean Air and Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

cc: Senator Alan K. Simpson

2. The Honorable Richard H. Lehman, Chairman
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
United States House of Representatives
Washington, DC 20515

cc: Representative Barbara Vucanovich

3. The Honorable Lee H. Hamilton, Chairman
Committee on Foreign Affairs
United States House of Representatives
Washington, DC 20515

cc: Representative Benjamin A. Gilman

4. The Honorable Claiborne Pell, Chairman
Committee on Foreign Relations
United States Senate
Washington, DC 20510

cc: Senator Jesse Helms

5. The Honorable John Glenn, Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

cc: Senator William V. Roth, Jr.

6. The Honorable Mike Synar, Chairman
Subcommittee on Environment, Energy and Natural Resources
Committee on Government Operations
United States House of Representatives
Washington, DC 20515

cc: Representative J. Dennis Hastert

D R A F T

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Carlton R. Stoiber, Director
Office of International Programs

SUBJECT: MINOR AMENDMENT TO PART 110 TO IMPLEMENT ENERGY POLICY ACT

Attached for your signature are a final rule entitled "Export and Import of Nuclear Equipment and Material; Export of High-Enriched Uranium", and an "Approved for Publication" notice. The rule implements Section 903 of the Energy Policy Act of 1992, Public Law 102-496. Section 903 of that Act adds a new Section 134 to the Atomic Energy Act of 1954, as amended, regarding the Commission's licensing requirements for the export of highly enriched uranium.

Section 110.2 of 10 CFR Part 110 is amended to add a definition of the term "target" used in the statute. Section 110.42(a) is amended to add a new subparagraph (9) that sets forth the licensing criteria for export of high-enriched uranium specified in the Energy Policy Act.

In accordance with the staff requirements memorandum of October 11, 1985 regarding SECY-85-298, the Commission delegated to the Executive Director for Operations the authority to issue minor rules and minor amendments of a non-policy or corrective nature to Part 110 regulations without Commission review. I believe that the rule falls within this delegation. Upon the EDO's approval of the rule, the Office of International Programs will forward the documents to the Office of the Federal Register for publication.

Because the rule involves a foreign affairs function of the United States, the provisions of the Administrative Procedure Act (5 U.S.C. 553(a)(1)), requiring notice of proposed rulemaking, do not apply. Therefore, we recommend that the rule become effective upon publication in the Federal Register pursuant to 5 U.S.C. 553(d)(3).

A notice to the Commission that the EDO has signed the rule is attached for inclusion in the next Daily Staff Notes. Also attached is a draft letter notifying the appropriate Congressional Committees of this rule.

The Offices of Nuclear Material Safety and Safeguards, Information Resources Management, and Administration concur in the rule. The Office of the General Counsel has no legal objection.

Attachments:

1. Federal Register Notice of Rulemaking
2. "Approved for Publication" Notice
3. Daily Staff Note
4. Draft Congressional Letter

Contact: E. Hemby, IP (504-2341)

D R A F T

903. RESTRICTIONS ON NUCLEAR EXPORTS.

(a) FURTHER RESTRICTIONS.—

(1) IN GENERAL.—Chapter 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 134. FURTHER RESTRICTIONS ON EXPORTS.—

"a. The Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

"(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

"(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

"(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

"b. As used in this section—

"(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

"(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U-235; and

"(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

→ "(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

"(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor."

(2) CLERICAL AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 11 the following new item:

sec. 134 Further restrictions on exports."

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

(A) their location;

(B) whether they are irradiated;

(C) whether they have been used for the purpose stated in their export license; and

(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

(b) SOURCE.—Funds described in subsection (a) shall be provided from the Fund established under section 1801 of the Atomic Energy Act of 1954.

SEC. 1004. DEFINITIONS.

For purposes of this subtitle:

(1) The term "active uranium or thorium processing site" means—

(A) any uranium or thorium processing site, including the mill, containing byproduct material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, or by a State as permitted under section 274 of such Act (42 U.S.C.

subparagraphs (A), (B), and (C) of this paragraph shall be (D) INFLATION ESCALATION INDEX.—The amounts in

disposal not exceed \$70,000,000, and may only be made for off-site paragraph (1) to the license of the active thorium site shall

(C) TO THORIUM LICENSEES.—Payments made under shall not in the aggregate exceed \$270,000,000.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees

(A) TO THORIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed \$270,000,000.

described in subsection (a), and generated as an incident of this Act at the site of the activities of such licensee de-

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary of Energy shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the costs described in such subsection as are—

(A) determined by the Secretary to be attributable to byproduct material generated as an incident of sales to the United States; and

(B) either—

(i) incurred by such licensee not later than December 31, 2002; or

(ii) placed in escrow not later than December 31, 2002, in accordance with a plan for subsequent decontamination, decommissioning, reclamation, and other remedial action approved by the Secretary.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 1602 and, for uranium mill tailings only, shall not exceed an amount equal to \$5.50 multiplied by the dry short tons of byproduct material located on the date of the enactment of

AE82-2009

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150-AE82

Export and Import of Nuclear Equipment and Material;
Export of High-Enriched Uranium

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the export and import of nuclear equipment and material to implement Section 903 of the Energy Policy Act of 1992. The final rule augments NRC regulations to include the criteria for the export of high-enriched uranium specified in the Energy Policy Act.

DATES: The rule becomes effective 30 days after the date of publication in the Federal Register. Submit comments within 75 days after the date of publication.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing

~~9312160202~~

and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 am and 4:15 pm Federal workdays. (Telephone 301-504-1966.)

Copies of comments received may be examined at: the NRC Public Document Room at 2120 L Street NW (Lower Level), Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Elaine Hemby, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504-2341.

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 1992 (Pub.L. 102-496), was enacted on October 24, 1992. Section 903 of that Act added a new Section 134 to the Atomic Energy Act of 1954, as amended. The new Section 134 provides that the NRC may issue a license for the export of high-enriched uranium to be used as a fuel or as a target in a nuclear research or test reactor only if, in addition to any other requirement of that Act, the Commission determines that:

(1) There is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

(2) The proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative

in lieu of highly enriched uranium; and

(3) The United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

Section 134 b. of the Atomic Energy Act of 1954, as amended, defines the operative terms as follows:

b. As used in this section --

" (1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U-235; and

(3) a fuel or target 'can be used' in a nuclear research or test reactor if--

(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor. "

The Commission has adopted amendments to §§110.2 and 110.42(a) of 10 CFR part 110 to include provisions of Section 134

of the Atomic Energy Act of 1954, as amended. The amendment to §110.2 adds a definition of the term "target" as used in the statute. The amendment to §110.42 adds a new paragraph (a)(9) that sets forth the criteria for export of high-enriched uranium as specified in the legislation.

This rulemaking involves a foreign affairs function of the United States. Additionally, the Atomic Energy Act of 1954, as amended, directs the Commission to impose the limitations on the issuance of licenses to export high-enriched uranium as described above. The changes to Commission regulations incorporate and interpret the relevant language of the Energy Policy Act of 1992 into 10 CFR part 110. The Commission has therefore found that, for the reasons stated above, notice of proposed rulemaking and comment thereon are not required by the Administrative Procedure Act (5 U.S.C. 553(a)(1), codified at 10 CFR § 110.132(e), and 5 U.S.C. 553(b)(A)). Nevertheless, any interested member of the public who believes that the Commission has not accurately conformed Part 110 to Section 134 of the Atomic Energy Act of 1954, as amended, or has comments on any other relevant issue is invited to submit comments within 75 days of the date of publication of this rule.

Environmental Impact: Categorical Exclusion

The NRC has determined that the final rule in Part 110 is

the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0036.

Regulatory Analysis

The Commission has considered alternatives to as well as the costs and benefits of the final rule. There is no alternative to amending NRC's regulations in 10 CFR 110 because the Energy Policy Act of 1992 directs the Commission to impose limitations on the issuance of licenses to export high-enriched uranium. NRC's regulations already provide strong regulatory control over the export of high-enriched uranium by strictly limiting its supply; therefore, the rule will have minimal impact on affected exporters. The final rule will not result in any increase or cost to the public. The foregoing constitutes the regulatory analysis for this final rule.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and, therefore, a backfit analysis is not required for this final rule because Part 110 applies only to the export and import of nuclear facilities, material and components, and does not deal with domestic facilities.

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.

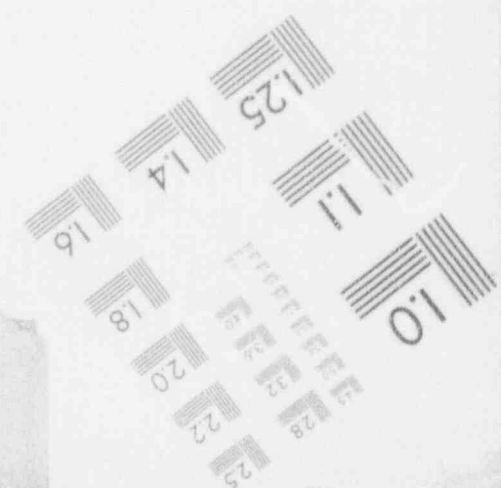
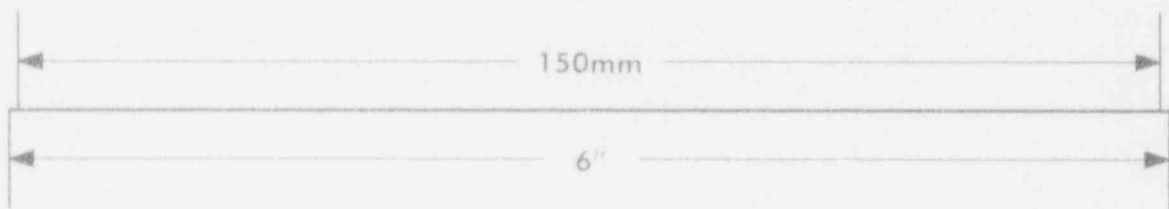
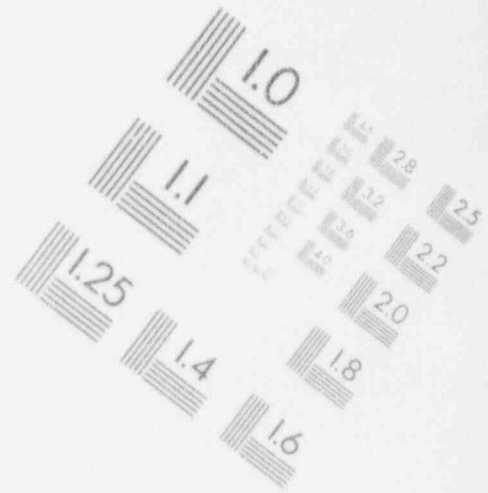
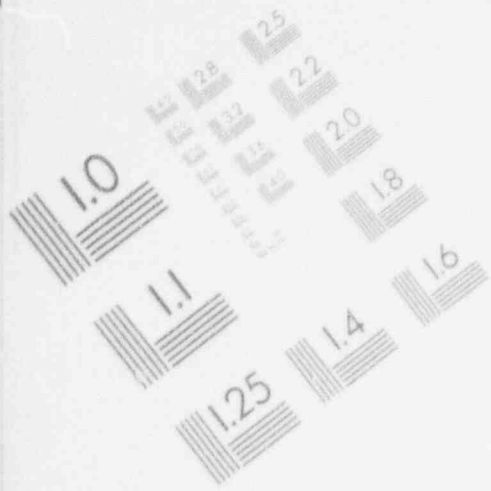
For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 110.

PART 110 - EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for Part 110 is revised to read

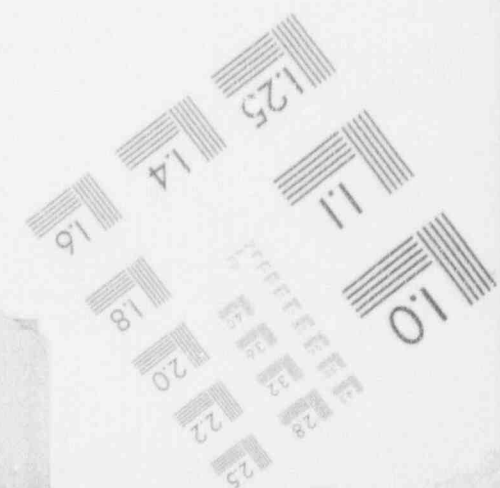
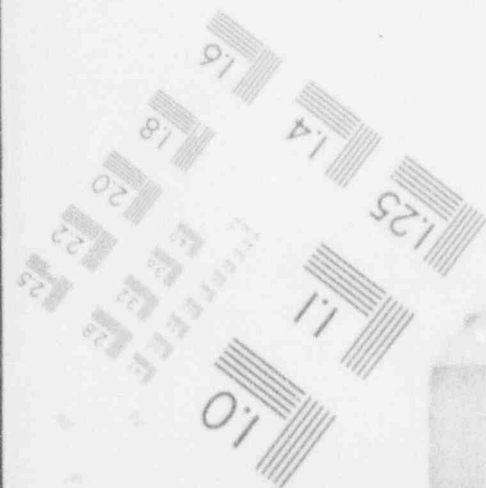
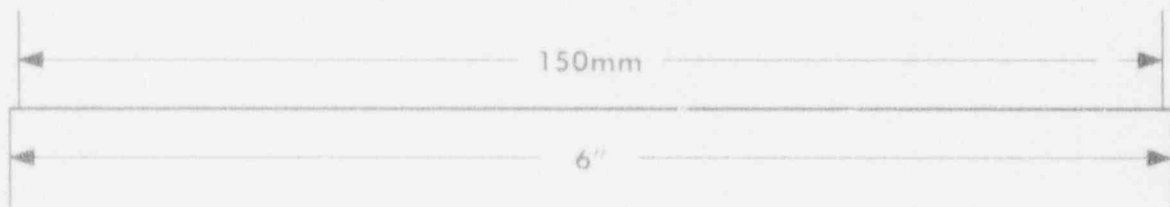
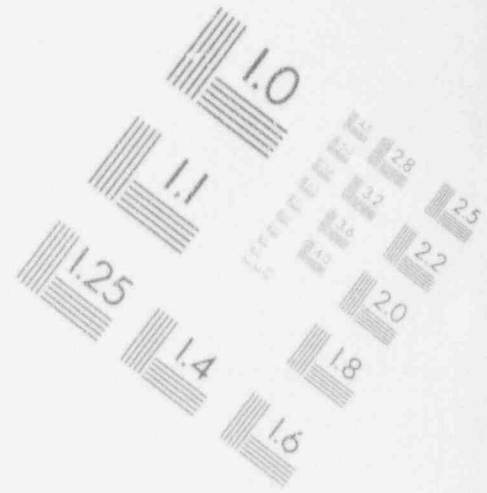
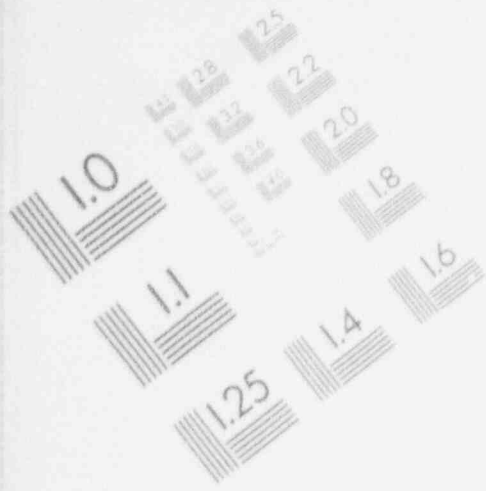
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IMAGE EVALUATION TEST TARGET (MT-3)



1

IMAGE EVALUATION TEST TARGET (MT-3)



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. In § 110.2, a definition of "target" is added to read as follows:

§ 110.2 Definitions.

* * * * *

Target means material subjected to irradiation in an accelerator or nuclear reactor to induce a reaction or produce nuclear material.

* * * * *

3. In §110.42, paragraph (a)(9) is added to read as follows:

§ 110.42 Export licensing criteria.

(a) * * *

* * * * *

(9)(i) With respect to exports of high-enriched uranium to be used as a fuel or target in a nuclear research or test reactor, the Commission determines that:

(A) There is no alternative nuclear reactor fuel or target enriched to less than 20 percent in the isotope U-235 that can be used in that reactor;

(B) The proposed recipient of the uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative fuel or target in lieu of highly-enriched uranium; and

(C) The United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

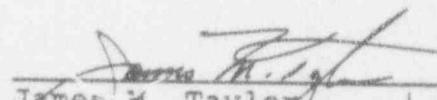
(ii) A fuel or target "can be used" in a nuclear research or test reactor if -

(A) The fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

(B) Use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.

Dated at Rockville, MD, this th 13th day of October 1993.

For the Nuclear Regulatory Commission.



James M. Taylor,
Executive Director for Operations.