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DOCUMENT DATE: 05/31/1973

TITLE: PRM-070-003 - 38FR14302 - GENERAL ELECTRIC  
COMPANY

CASE REFERENCE: PRM-070-003  
38FR14302

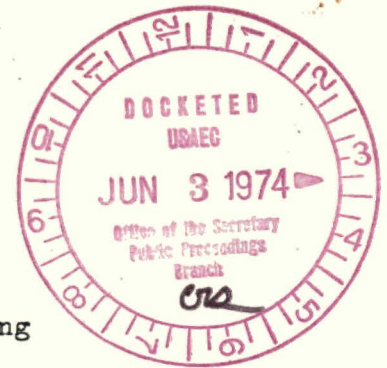
KEY WORD: RULEMAKING COMMENTS

Document Sensitivity: Non-sensitive - SUNSI Review Complete

ATOMIC ENERGY COMMISSION

/Docket Nos. PRM-70-3 and PRM-70-47

GENERAL ELECTRIC CO.  
TEXAS NUCLEAR CORP.



Notice of Denial of Petitions for Rule Making

Please take notice that the Atomic Energy Commission has denied petitions for rule making submitted by General Electric Co., 175 Curtner Avenue, San Jose, California and Texas Nuclear Corporation, 9101 Research Blvd., Austin, Texas.

By letter dated May 8, 1973, General Electric Co. petitioned the Commission to amend its regulation 10 CFR Part 70 to authorize export under a general license of small amounts of special nuclear materials such as (a) not more than one gram of uranium-235 and uranium-233 in enriched uranium; (b) not more than one gram of plutonium in any physical or chemical form except metal; (c) not more than 5 g of plutonium in a sealed neutron source; and (d) not more than 0.5 g of plutonium in a heat source such as a pacemaker battery. A notice of filing of petition, Docket No. PRM-70-3, was published in the FEDERAL REGISTER on May 31, 1973 (38 FR 14302).

By letter dated July 17, 1973, Texas Nuclear Corp. petitioned the Commission to amend its regulation 10 CFR Part 70 to authorize export under a general license of not more than 3 milligrams of contained plutonium-238 in a solid, encapsulated form as the component part of a small, portable instrument which uses the technique of X-ray fluorescence to perform quantitative elemental

analysis. A notice of filing of petition, Docket No. PRM-70-4, was published in the FEDERAL REGISTER on August 16, 1973 (38 FR 22177).

The Atomic Energy Act of 1954, as amended, authorizes the Commission to issue licenses to export special nuclear material under the terms of an agreement for cooperation arranged pursuant to section 123 of the Act. All such agreements have limiting language as to type, amount, and end-use of the special nuclear material which may be exported. At present, such exports are dealt with by specific licenses that specify, on a case-by-case basis, the full name and address of the ultimate consignee, and of any intermediate consignee, and the type, amount, and end-use of the material which may be exported regardless of the amount of special nuclear material involved. In addition, section 123 of the Act requires that each agreement for cooperation contain (1) a guaranty by the cooperating party that security safeguards and standards as set forth therein will be maintained, (2) a guaranty that any material to be transferred thereunder will not be re-exported except as specified therein, and (3) a guaranty that the material to be transferred thereunder will not be used for any military purpose.

The Commission considers that these requirements cannot be met by the conditions of any general license that the Commission could issue for the export of special nuclear material. Accordingly, the Commission has denied the petitions on the grounds that the terms of agreements for cooperation, arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended, are not conducive to the

issuance of a general license authorizing export of small quantities of special nuclear material.

Copies of the petitions for rule making and of the Commission's letters of denial are available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Germantown, Maryland this 3rd day of June 1974.

For the Atomic Energy Commission.



Paul C. Bender  
Secretary of the Commission



DOCKET NUMBER

PETITION FILE

PRM-70-3

# Gulf Oil Corporation

LAW DEPARTMENT

July 25, 1973

P.O. Box 608

San Diego, California 92112

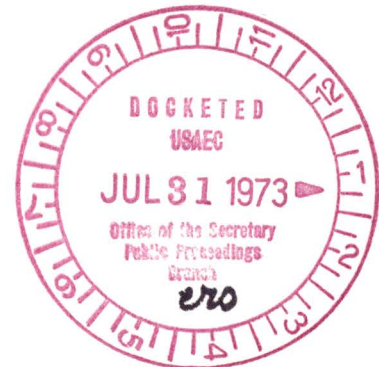
Tel: (714) 453-1000

Secretary of the Commission  
United States Atomic Energy Commission  
Washington, D. C. 20545

Attention: Chief, Public Proceedings Branch

Subject: PRM 70-3

Dear Sir:



In lieu of filing a petition for rulemaking concerning 10 CFR Part 70 as it had previously planned to do independently, Gulf expresses support for the petition recently filed by General Electric Company, now pending in Docket No. PRM 70-3 dated May 8, 1973. We suggest a variation which might make the contemplated regulatory amendment more broadly useful.

Provided that a suitable substitute for the safety and common defense reassurances inherent in the present system can be found, Gulf believes it would clearly be in the best interests of the industry and of the Commission, as well as simple good practice, to generalize licensing for exports of small quantities of SNM. It cannot be rewarding for AEC to devote time to individually processing pedestrian applications for permission to export very minor quantities of SNM, and it certainly is not satisfactory for the applicants or their consignees.

As the volume of international transactions affecting shipments of very small quantities of SNM mounts, it may be foreseen that the ministerial tasks of obtaining end-use statements or the like from numerous foreign countries concerning minute quantities of material, the statements being in response to individual requests of applicants, will become disproportionate to their worth. No overwhelming reason suggests itself to explain why a responsible licensee in the nuclear business could not export small quantities of SNM under a general license which requires it to obtain from the foreign consignees or their governments written assurances about receipt under the terms of international agreements and concerning the ultimate use to be made of materials. Such assurances could be filed annually with AEC as a condition of a domestic licensee's being entitled to use the general license for small-quantity exports in the succeeding year.



Acknowledged

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July 25, 1973

Quantity ceilings expressed in international agreements might be exceeded by such a practice, but that could be avoided readily enough by a requirement that general licensees proposing exports notify AEC by wire or telephone at least a week in advance of each proposed shipment, under terms which would entitle them to presume in the absence of a reply from AEC that no ceiling is about to be pierced.

The pending petition suggests that 10 CFR Part 70 be amended to authorize a general license for exporting small amounts of SNM, for example as much as one gram of U-235 and U-233 in enriched uranium or one gram of plutonium in any physical or chemical form except metal. It has been suggested also that sealed neutron or heat sources containing as much as five grams of plutonium in a neutron source and one-half gram in a pacemaker battery would be candidates for general export license treatment. Gulf agrees, but sees no reason for a distinction between a neutron source and another device containing the same element. Thus, thermoelectric sources which will contain from three to five grams of Pu-238 are presently under development and it is distinctly possible that such devices, very similar to heart pacer batteries, will find users abroad. On balance, they are radiologically less hazardous than the typical five-gram Pu-239 sealed neutron source and from any other point of view are less significant, so Gulf suggests that the proposed regulatory change allow exporting as much as (a) one gram of U-235 or U-233 or any combination of them in enriched uranium, or as much as one gram of plutonium, in any physical or chemical form except metal; or (b) sealed neutron or heat energy sources each containing as much as five grams of plutonium. It is anticipated that AEC would wish to limit the number and frequency of such general license transactions with individual recipients or countries.

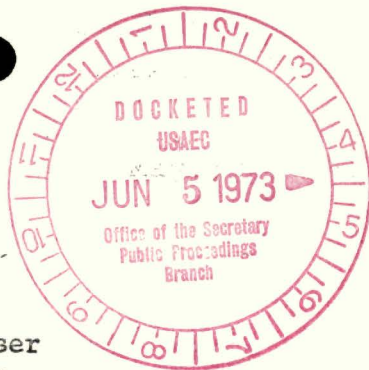
As an alternative approach, Gulf suggests that AEC consider revising its customary form for specific licenses under 10 CFR Part 70. It would be possible to authorize specific licensees, whose systems and business interests justify it, to export SNM under transactions and consignee limits of the kind outlined above and subject to assurances about compliance with international agreements, without going all the way to a full-scale general license. Although not so desirable as a general license expressed in Part 70, such a procedure would be more efficient than the one currently in use.

Very truly yours,



James P. Hogan  
Attorney

JPH:gjc



DOCKET NUMBER  
PETITION RULE PRM-70-3  
MAY 23 1973

Mr. Edward J. Bauser  
Executive Director  
Joint Committee on Atomic Energy  
Congress of the United States

Dear Mr. Bauser:

Enclosed for the information of the Joint Committee on Atomic Energy is a copy of a petition for rule making filed by General Electric Company. The petitioner requests that the Commission amend its regulation 10 CFR Part 70 to authorize export under a general license of small amounts of special nuclear material such as (a) not more than one gram of uranium-235 and uranium-233 in enriched uranium; (b) not more than one gram of plutonium in any physical or chemical form except metal; (c) not more than 5 grams of plutonium in a sealed neutron source; and (d) not more than 0.5 grams of plutonium in a heat source such as a pacemaker battery.

The petition has been docketed to recognize the request for amendment of 10 CFR Part 70 and has been assigned Docket No. PRM-70-3. Enclosed also is a Notice of Filing of Petition for Rule Making which will be published in the Federal Register.

Distribution:

Chairman Ray (2)

Cong. Rel. (3)

Secretary (2)

OGC

Central Files

RS Docket File

F. W. Karas

Hutton Rdr

R&P Br. Rdr

Sincerely,

ORIGINAL SIGNED BY

Daniel J. Donoghue

Daniel J. Donoghue, Director  
Office of Administration -  
Regulation

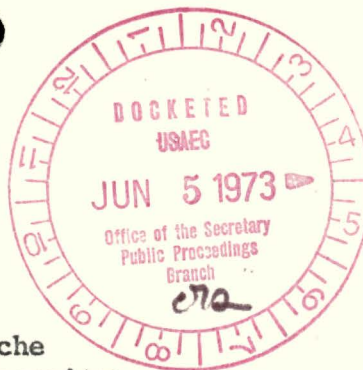
Enclosures:

1. Petition for Rule Making
2. Notice of Filing of Petition for Rule Making

OFFICE ▶	DRA	DRA	OGC	RS	DRA	
SURNAME ▶	GLHutton:drh	JMFelton		LRogers	DJDonoghue	
DATE ▶	5/16/73	5/ /73	5/22/73	5/18/73	5/ /73	



Docket No. PRM-70-3



DOCKET NUMBER  
PETITION RULE PRM-70-3

MAY 25 1973

Mr. A. N. Tschaeché  
Administrator-Licensing  
General Electric Company  
175 Curtner Avenue  
San Jose, California 95114

Dear Mr. Tschaeché:

This is in response to your letter of May 8, 1973, in which you request that the Commission amend its regulation 10 CFR Part 70 to authorize export under a general license of small amounts of special nuclear material such as (a) not more than one gram of uranium-235 and uranium-233 in enriched uranium; (b) not more than one gram of plutonium in any physical or chemical form except metal; (c) not more than 5 grams of plutonium in a sealed neutron source; and (d) not more than 0.5 grams of plutonium in a heat source such as a pacemaker battery.

This request is considered a petition for rule making as provided in 10 CFR Part 2.802 of the Commission's regulations. The petition has been docketed to recognize your request for amendment and has been assigned Docket No. PRM-70-3. An appropriate notice of the petition and request for comments will be published in the Federal Register.

As staff review progresses on your petition, it may be necessary to request additional information. Please reference the assigned docket number on any correspondence you may have concerning the petition.

Sincerely,

Distribution:  
Central Files  
RS Docket File  
OGC

Secretariat:

F. W. Karas w/copy for PDR  
Rules & Proceedings Br. Rdr  
Hutton Rdr

(Signed) Gerald L. Hutton

J. M. Felton, Chief  
Rules and Proceedings Branch  
Office of Administration -  
Regulation

OFFICE ▶	DRA	DRA	OGC	RS		
SURNAME ▶	GLHutton:drh	JMFelton	gm3	L.Rogers		
DATE ▶	5/16/73	5/ /73	5/22/73	5/18/73		



DOCKET NUMBER  
PETITION RULE PRM-70-3

Docket No. PRM-70-3

JUN 4 1973

Mr. A. N. Tschaeche  
Administrator-Licensing  
General Electric Company  
175 Curtner Avenue  
San Jose, California 95114

Dear Mr. Tschaeche:

Enclosed for your information is a copy of the notice that was published in the Federal Register on May 31, 1973 (38 FR 14302), concerning the May 8, 1973 petition for rule making (PRM-70-3) filed by the General Electric Company.

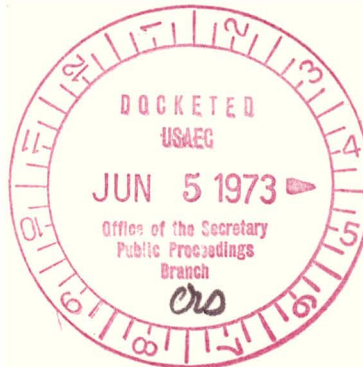
Sincerely,

(Signed) Gerald L. Hutton

J. M. Felton, Chief  
Rules and Proceedings Branch  
Office of Administration -  
Regulation

Enclosure:  
38 FR 14302

Distribution:  
Central Files Subj.  
RS Docket File  
F. W. Karas, SECY  
PDR  
Hutton Rdr  
R&P Br. Rdr



OFFICE ▶	DRA					
SURNAME ▶	<i>J. Hutton</i> G. Hutton:drh					
DATE ▶	6/4/73					

DOCKET NUMBER

PETITION RULE PRM-70-3

JUN 4 1973

Lester Rogers, Director of Regulatory Standards

GENERAL ELECTRIC COMPANY -- PRM-70-3

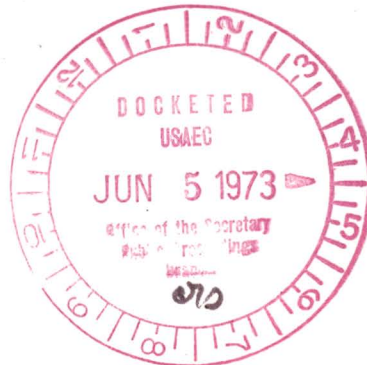
Enclosed for your further action is the docket file on the petition for rule making filed by General Electric Company (PRM-70-3). We have provided Central Mail and Files and the Public Document Room with a copy of the docket file on this petition.

(Signed) Gerald L. Hutton

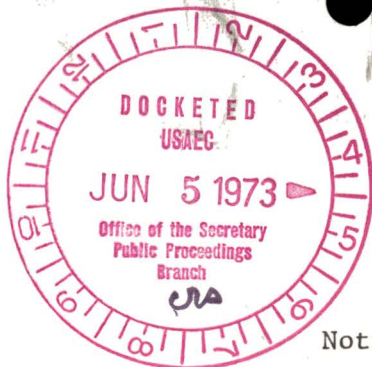
J. M. Felton, Chief  
Rules and Proceedings Branch  
Office of Administration -  
Regulation

Enclosure:  
PRM-70-3 File Folder

Distribution:  
Central Files  
Hutton RDR  
R&P Br. Rdr  
F. W. Karas



OFFICE ▶	DRA	DRA				
SURNAME ▶	<i>GLHutton</i> GLHutton:drh	JMFelton				
DATE ▶	5/17/73	5/ /73				



DOCKET NUMBER  
PETITION RULE PRM-70-3

ATOMIC ENERGY COMMISSION

[Docket No. PRM-70-3]

GENERAL ELECTRIC COMPANY

Notice of Filing of Petition for Rule Making

Notice is hereby given that General Electric Company, 175 Curtner Avenue, San Jose, California, by letter dated May 8, 1973, has filed with the Atomic Energy Commission a petition for rule making.

The petitioner requests that the Commission amend its regulation 10 CFR Part 70 to authorize export under a general license of small amounts of special nuclear materials such as (a) not more than one gram of uranium-235 and uranium-233 in enriched uranium; (b) not more than one gram of plutonium in any physical or chemical form except metal; (c) not more than 5 grams of plutonium in a sealed neutron source; and (d) not more than 0.5 grams of plutonium in a heat source such as a pacemaker battery.

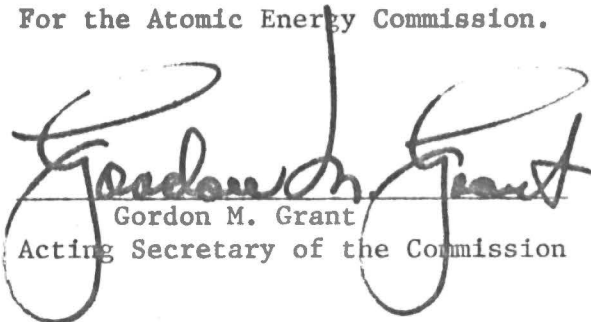
The petitioner indicates that maintenance of certain records and filing of certain reports by general licensees may be necessary to assure that appropriate information is available for Commission monitoring of exports under the general license. The petitioner states also that the general license may authorize exports to specific nations depending on the provisions of agreements for cooperation between the United States and those nations.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petition may be obtained by writing the Rules and Proceedings Branch at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Rules and Proceedings Branch, Office of Administration - Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, on or before July 30, 1973.

Dated at Germantown, Maryland this 24th day  
of May 1973.

For the Atomic Energy Commission.



Gordon M. Grant  
Acting Secretary of the Commission





DOCKET NUMBER  
PETITION RULE PRM-70-3

NUCLEAR ENERGY  
DIVISION

GENERAL ELECTRIC COMPANY, 175 CURTNER AVENUE, SAN JOSE, CALIFORNIA 95114  
Phone (408) 297-3000, TWX NO. 910-338-0116

May 8, 1973

Secretary  
U.S. Atomic Energy Commission  
Washington, D.C. 20545

Attention: Chief, Public Proceedings Branch

Subject: Petition for Rule Making

Dear Sir:



Current Atomic Energy Commission Regulations set forth in 10 CFR 70 require issuance of a specific AEC license for export of any form or quantity of special nuclear material (SNM). It is our experience that such licenses take from weeks to months for issuance no matter whether the quantity is a few grams or many kilograms, or whether the SNM is in the form of a sealed source or in a container designed to be opened.

We infer that the original intent of requiring such licenses was for control of SNM with respect to safety and the common defense. However, the safety of SNM use in most nations is now carefully regulated by appropriate governmental agencies and very small quantities and certain forms of SNM do not appear to be significant with respect to the common defense. Consider, for example, the following:

1. Human heart pacemakers which incorporate sealed plutonium heat sources as the driving mechanism for tiny electric batteries,
2. Oil well logging neutron sources which contain plutonium intimately mixed with a target material, usually beryllium and are sealed, usually by welding, in two thicknesses of nonradioactive metal,

Acknowledged

5-10-73, ew

Secretary  
USAEC

-2-

May 8, 1973

3. Laboratory counting standards containing microgram quantities of plutonium firmly attached to a nonradioactive substrate such that the standards are considered "sealed" sources,
4. Nuclear detection instruments containing less-than-gram quantities of U-235 90+% enriched as uranium oxide sealed in nonradioactive metal, usually for use in nuclear reactors.

Further, less-than-gram quantities of enriched uranium or plutonium which are used for laboratory analysis or for nondestructive, non-nuclear demonstration, testing or analysis, do not appear so significant as to require specific, as opposed to general, licensing for export. We anticipate that the number of exports of such small amounts of SNM as well as SNM in the forms listed above will increase significantly in the future, particularly for plutonium-powered pacemakers. The annual issuance rate of export licenses for SNM is now approximately one hundred while four years ago it was approximately twenty.

Accordingly, pursuant to 10 CFR 2.802, General Electric hereby petitions the Commission to amend 10 CFR 70 to authorize, under a general license, export of small amounts (e.g. not more than one gram) of U-235 and U-233 in enriched uranium and of plutonium, in any physical or chemical form except metal, and of such materials as sealed neutron or heat sources, for example, 5 grams of plutonium in a neutron source and 0.5 grams of plutonium in a pacemaker battery. If the Commission finds that the examples may not be sufficiently definitive, further appropriate description of materials could be included in the authorization for export under a general license. In addition, maintenance by the licensee of certain records may be necessary as may certain reports, so that appropriate information is available for Commission monitoring of export under the license. Further, the general license may authorize exports to specific nations depending on the provisions of agreements for cooperation between the United States and those nations or the International Atomic Energy Agency.

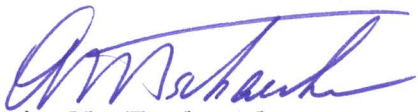
Secretary  
USAEC

-3-

May 8, 1973

We believe that such amendment of 10 CFR 70 is within the intent of the Atomic Energy Act of 1954 (Public Law 83-703), as amended, Section 3, "Purpose," paragraph e. "A program of international cooperation to...make available to cooperating nations the benefits of peaceful applications of atomic energy as widely as expanding technology...will permit." However, because the Act may not indicate with sufficient clarity that general licensing of such material is authorized, amendment of the Act may be necessary. If so, we hereby request that the Commission take such appropriate action as will result in amendment of the Act so that the requested amendment can be issued. We believe that activities conducted pursuant to the amendment will not endanger life or property or the common defense and is otherwise in the public interest.

Very truly yours,



A. N. Tschaeché  
Administrator-Licensing  
MC-273, Ext. 2235

hb

cc. V. A. Hudgins  
USAEC