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PRESS PAGE DOWN OR ENTER TO SEE RULE HISTORY OR STAFF CONTACT

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PART AFFECTED: PR-110

RULE TITLE: IMPORTS FROM SOUTH AFRICA.

PROPOSED RULE	PROPOSED RULE	DATE PROPOSED RULE
SECY PAPER:	SRM DATE: / /	SIGNED BY SECRETARY: 08/01/91
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[7590-01] - rule excluded item -  
USNRC

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150 - AD99

'91 AUG -8 P5:22

OFFICE OF SECRETARY  
SECRETARY'S OFFICE  
WASHINGTON, D.C.

Imports from South Africa

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the import of source material or special nuclear material from South Africa to permit uranium manufactured or produced in South Africa to be imported into the United States under general license. This action is being taken to conform the Commission's regulations to Executive Order 12769, issued by the President on July 10, 1991, which, among other things, terminates the prohibition on nuclear trade with South Africa in sections 309 and 311 of the Comprehensive Anti-Apartheid Act of 1986.

EFFECTIVE DATE: (on publication).

FOR FURTHER INFORMATION CONTACT: Ronald D. Hauber, Assistant Director for Exports, Security and Safety Cooperation, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492-0344.

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SUPPLEMENTARY INFORMATION:

Background

The Comprehensive Anti-Apartheid Act of 1986 (the Act), Public Law 99-440, was enacted on October 2, 1986 to establish a framework to guide the efforts of the United States to help end the apartheid system in South Africa and to assist in the establishment of a nonracial, democratic form of government in that country. The Act imposed a wide range of measures against South Africa to undermine apartheid, including a ban on the importation of uranium ore and oxide "produced or manufactured" in South Africa. Section 309(a) of the Act (22 U.S.C. 5059) prohibited the importation into the United States of uranium ore and uranium oxide that is produced or manufactured in South Africa.

The NRC, which has independent regulatory authority under the Atomic Energy Act over the import of uranium, amended its regulations in 1986 to conform with the requirements of the Act and to ensure that its regulations were consistent with the provisions of the regulations of the Treasury Department (51 FR 47207; Dec. 31, 1986), which was delegated authority in the Executive Branch to implement the Act's provisions on the importation of uranium (Section 309(a)). The amendment deleted the Commission's general license in 10 CFR 110.27 with respect to the import of any uranium of South African origin. Before the amendment, NRC's import regulations in §110.27 had permitted a person to import byproduct material or unirradiated source or special nuclear material, including uranium ore and uranium oxide, from any country under general license if the consignee in the United States was authorized to possess the material.

Section 311 of the Act (22 USC 5061) provides that the conditions specified in Title 3 (i.e., the ban on imports of uranium from South Africa) shall terminate when the President determines, and so reports to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate that the Government of South Africa has taken all of the actions specified in section 311(a) of the Act, namely:

(1) Released all persons persecuted for their political beliefs or detained unduly without trial and Nelson Mandela from prison;

(2) Repealed the state of emergency in effect on the date of enactment of the Act and released all detainees held under such state of emergency;

(3) Unbanned democratic political parties and permitted the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) Repealed the Group Areas Act and the Population Registration Act and instituted no other measures with the same purposes; and

(5) Agreed to enter into good faith negotiations with truly representative members of the black majority without preconditions.

The President, by Executive Order 12769 dated July 10, 1991, has concluded that the Government of South Africa has taken all of the steps described, thus satisfying the specified conditions in section 311 of the Act. Therefore, Title 3 of the Act has been terminated, including the ban on the import of uranium from South Africa. The President has directed all agencies affected by this determination to take all necessary steps to comply with the Executive Order, effective immediately.

### Commission Action on the Executive Order

To conform with the President's determination, the Commission has reinstated the pre-1986 formulation of its regulations in §110.27 to permit a person to import byproduct material or unirradiated source or special nuclear material, including uranium ore and uranium oxide, from any country under general license if the consignee in the United States is authorized to possess the material. Accordingly, uranium manufactured or produced in South Africa may now be imported into the United States under general license.

Because this rulemaking involves a foreign affairs function of the United States and since the President has directed affected agencies to take all necessary steps to comply with the Executive Order 12769, effective immediately, notice of proposed rulemaking and public procedure thereon are not required by the Administrative Procedure Act (5 U.S.C. 553(a)(1)), and the final rule may be made effective upon publication in the Federal Register.

### Environmental Impact: Categorical Exclusion

The NRC has determined that the final rule in Part 110 is the type of action described in 10 CFR §§51.10 and 51.22(c)(1) of this chapter. 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

NRC already controls the import of uranium of South-African origin. Currently, the NRC's import regulations in Part 110 require a specific license to import this material into the United States. NRC's sole objective in developing the revision is to conform with the President's Executive Order of July 10, 1991, by amending NRC's import regulations in §110.27 to permit uranium manufactured or produced in South Africa to be imported into the United States under general license. There are no alternatives for achieving the stated objective. The consequences of the specific NRC rulemaking action will have a minor but positive impact on the public. It will mean that those persons previously submitting specific license applications to import South African origin uranium for NRC consideration would now be allowed to use the general license provision in §110.27 as their licensing authority. In this respect, NRC believes that no persons will be adversely affected by this rule. The rule will become effective immediately.

### **Backfit Analysis**

The NRC has determined that the backfit analysis provisions in 10 CFR 50.109 do not apply to this final rule, and, therefore, a backfit analyses is not required.

### **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 Executive Order 12769, sections 309(a) and 311 of Public Law 99-440, 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 amendment 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 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).

Section 110.1(b)(2) 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 110.30-110.35 also issued under 5 U.S.C. 553.

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); secs. 110.20-110.29, 110.50, and 110.120-110.129 also issued under secs. 161b and i, 68 Stat. 948, 949, as amended (42 U.S.C. 2201 (b) and (i)); and secs. 110.7a and 110.53 are also issued under sec. 161(o), 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In §110.27, paragraph (b) is revised to read as follows:

§110.27 Imports.

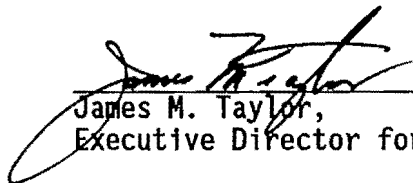
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(b) The general license in paragraph (a) of this section does not authorize the import of source or special nuclear material in the form of irradiated fuel that exceeds 100 kilograms per shipment.

\* \* \* \* \*

Dated at Rockville, Maryland this 1<sup>st</sup> day of August, 1991.

For the Nuclear Regulatory Commission.

  
James M. Taylor,  
Executive Director for Operations.