

Federal Register issue of June 17, 1993 (58 FR 33320) adding 5 CFR chapter XXXIII and revising 22 CFR part 709 are adopted as final without change.

Authority: 5 U.S.C. 7301.

Dated: July 14, 1995.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs, Overseas Private Investment Corporation.

Dated: July 14, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 95-17844 Filed 7-20-95; 8:45 am]

BILLING CODE 3210-01-M

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 273

[Amendment No. 351]

Food Stamp Program; Distribution of Employment and Training Performance-Based Funds

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Food and Consumer Service is correcting a typographical error in the regulatory text to the final rule published on January 5, 1995 (60 FR 1708) entitled Food Stamp Program: Distribution of Employment and Training Performance-Based Funds. This action is necessary to ensure proper codification of the provisions of the January 5, 1995 rulemaking.

EFFECTIVE DATE: July 21, 1995.

FOR FURTHER INFORMATION CONTACT: Ellen Henigan, Supervisor, Work Program Section, Program Design Branch, Program Development Division, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. The telephone number is (703) 305-2762.

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** published on January 5, 1995, at 60 FR 1708 (column 3), amendatory instruction No. 3 under Part 273 calls for a revision to paragraph (d)(1)(i)(B) of 7 CFR 273.7. The reference to paragraph (d)(1)(i)(B) should have read "(d)(1)(i)(C)". Paragraph (d)(1)(i)(B) was redesignated by an earlier rulemaking as paragraph (d)(1)(i)(C). (See, 57 FR 60082, December 12, 1992). Therefore, the Department is amending Amendatory Instruction No. 3 to make

the necessary correction to the reference.

Correction of Publication

Accordingly, the publication on January 5, 1995, is corrected as follows:

§ 273.7 [Corrected]

1. On page 1708, third column, under Part 273, in amendatory statement no. 3, the reference to paragraph "(d)(1)(i)(B)" is corrected to read "(d)(1)(i)(C)".

2. On page 1708, third column, in § 273.7, paragraph (d)(1)(i)(B) is correctly designated as paragraph (d)(1)(i)(C).

Dated: July 11, 1995.

William E. Ludwig,

Administrator, Food and Consumer Services.

[FR Doc. 95-17943 Filed 7-20-95; 8:45 am]

BILLING CODE 3410-30-U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150-AD36

Import and Export of Radioactive Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to establish specific licensing requirements for the import and export of radioactive waste and to clarify the requirements for the import and export of incidental radioactive material coming into or leaving the United States. The amendments conform the policies of the United States to the guidelines of the International Atomic Energy Agency (IAEA) Code of Practice on the International Transboundary Movement of Radioactive Waste. These amendments strengthen the Commission's control over radioactive waste entering and leaving the United States.

EFFECTIVE DATE: August 21, 1995.

ADDRESSES: Copies of comments received are available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ronald Hauber, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone (301) 415-2344.

SUPPLEMENTARY INFORMATION:

- I. Objective and Background
- II. Analysis of Public Comments on Proposed Rule
- III. Overview of New Rule

I. Objective and Background

Radioactive waste is generated from the nuclear fuel cycle during the normal operation of nuclear power plants, fuel fabrication plants, enrichment facilities, uranium mining and milling facilities; the decommissioning and close out of nuclear facilities (environmental restoration); and the use of radioactive materials in medicine, industrial applications, research, and education. The nuclear fuel cycle is by far the largest source of radioactive waste, with low-level radioactive waste (LLW) currently accounting for the largest proportion of waste by volume. The importance of protecting human health and the environment in radioactive waste management and disposal has long been recognized by the NRC. This rule helps ensure the safe management and disposal of radioactive waste by amending the NRC's regulations in 10 CFR Part 110 with respect to radioactive waste entering or leaving the jurisdiction or control of the United States. The amendment also clarifies the requirements applicable to shipments of incidental radioactive material.

This final rule is intended to reflect the principles of the International Atomic Energy Agency (IAEA) Code of Practice on the International Transboundary Movement of Radioactive Waste (Code). The Code was approved in September 1990, with strong U.S. Government support. The Code resulted from an international effort within the IAEA to address concerns about possible improper transfer and disposal of radioactive waste. A set of principles was established to guide countries in the development and harmonization of policies and laws on transboundary movements of radioactive waste to ensure its safe management and disposal. A basic principle of the Code is that international movements of radioactive waste should take place with the prior notification and consent of the sending, receiving, and transit countries. The Code also provides that no receiving country should permit the receipt of radioactive waste for management or disposal unless it has the administrative and technical capacity and regulatory structure to manage and dispose of the waste in a manner consistent with international safety standards. Before the issuance of this final rule, NRC's regulations were not consistent with the principles

embodied in the Code, especially with regard to possible transfers of LLW. (The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal expressly excludes from its coverage "[w]astes which, as a result of being radioactive, are subject to other international control systems, including international instruments, applying specifically to radioactive materials". Because the IAEA Code of Practice is an international instrument applying specifically to radioactive materials, radioactive waste is excluded from the scope of the Basel Convention.)

Under the Atomic Energy Act of 1954, as amended, NRC has the statutory responsibility for authorizing the export and import of byproduct, source, and special nuclear material. The NRC regulates the import and export of these materials under 10 CFR Part 110. Until now, NRC's regulations in Part 110 were concerned primarily with exports and imports that have nuclear proliferation significance. Thus, radioactive materials that have little or no significance with respect to national security (proliferation), such as LLW, have not been subject to specific licensing. Rather, radioactive waste has been allowed to leave the United States under general export licenses pursuant to §§ 110.21-110.23, and to enter the United States under similar Part 110 provisions in § 110.27. (After entry into the United States, the domestic regulations of the NRC and Agreement States apply.) During the development of this rulemaking, the NRC, in consultation with other government agencies, published an advance notice of proposed rulemaking (ANPR) on February 7, 1990 (55 FR 4181) to seek comments from the public, industry, and other government agencies on four possible options and thirteen associated questions for establishing an NRC policy on radioactive waste exports and imports. The comments received in response to the ANPR were considered in a proposed rule published in the **Federal Register** on April 28, 1992 (57 FR 17859). The comments on the proposed rule were considered in the development of the definitions, exceptions, procedures, and licensing criteria of the final rule.

II. Analysis of Public Comments on Proposed Rule

Seventeen letters of comment were received in response to the proposed rule from individuals, organizations, industry, and government agencies. One letter was subsequently withdrawn.

One commenter believed that the NRC should not permit any category of

radioactive waste to be moved into or out of the United States, except perhaps in a few extraordinary circumstances. Another commenter urged the NRC to ban all imports and exports of radioactive waste. The NRC does not agree with these highly restrictive approaches. International commerce in radioactive waste, including movement of waste into and out of the United States, may be desirable from a policy perspective. For example, some commerce involving radioactive waste may further important policy goals of the international community (such as waste shipments for international research) and other shipments may embody desirable take-back features (such as return of U.S. Government radioactive waste and shipments of used radioactive sources to authorized consignees).

Other commenters urged the NRC to exempt from specific licensing controls movements of sealed sources that are being returned to the U.S. or another country for reconditioning, recycling or reprocessing. They noted that, while the supplementary information of the proposed rule incorporated this view, no such provision was expressly provided in the regulations. The NRC believes that there should be an exclusion from the definition of "radioactive waste" in Part 110 for movements of sealed sources and devices containing sealed sources to any qualified manufacturer authorized to receive and possess them. These types of transfers help to ensure that the materials are handled responsibly and not left in dispersed and perhaps unregulated locations around the world, and therefore they should not be subject to specific licensing if the radioactive material involved would not otherwise be subject to such licensing. The definition of radioactive waste has been revised to exclude these shipments.

One commenter expressed the view that export and import of LLW should be treated no differently from sealed sources and radiopharmaceuticals, opining that all radioactive materials should be handled consistently. It is not clear whether this means that the regulations should apply the same treatment to waste and non-waste forms of radioactive material, or whether the commenter simply believes that all types of radioactive waste should be treated identically. The NRC believes that the former approach would not be consistent with the view embodied in the Code of Practice that there should be a special regime for transboundary movements of radioactive waste. The NRC is in general agreement with the position that most radioactive waste

should be handled consistently, but in some situations there are policy considerations that militate in favor of a different result. An example of this is found in the exclusion of certain sealed sources from the definition of "radioactive waste", discussed above. Other exceptions are discussed elsewhere in the supplementary information.

Several commenters said that NRC's policy on regulation of export and import of radioactive waste for waste management purposes needs modification. They opined that import and export for waste management purposes, as distinct from disposal, should not be subject to specific licensing under Part 110. One of these commenters, representing businesses in decommissioning and environmental restoration activities, said that specific licensing should not be required for volume reduction, treatment, and resource recovery. Others argued that waste management practices should be encouraged internationally without unnecessary restrictions as rising disposal costs make them more feasible and cost effective, especially when residual LLW will be returned to the country of origin. In response to these comments, the NRC has made special provisions for certain shipments intended for recycling or resource recovery. (See the provisions in the final rule relating to incidental radioactive material.) However, though the proposed rule published in 1992 did have an exclusion for return of radioactive waste to a consignee in the country that previously exported the radioactive material, after careful consideration of the comments, the NRC has concluded that a general exemption for waste going to the country of origin would not ensure conformity with the Code of Practice. A country that exports radioactive material may not have adequate means to handle its management or disposal when returned as radioactive waste. Further, such a broad exemption would leave too large a regulatory gap, permitting a country of origin to be used as a way station for waste intended for disposition elsewhere. Thus, this change also addresses the concerns of commenters who expressed apprehension that radioactive waste might be exported from the U.S. under false pretenses.

Three commenters were of the view that specific licenses should not be required for transboundary movements of what the final rule terms "incidental radioactive material"—i.e., radioactive material not otherwise subject to specific licensing under Part 110 that is contained in or a contaminant of any

non-hazardous, non-radioactive material that is exported or imported for recycling or resource recovery of the non-radioactive component. The Commission agrees that such movements should not require the issuance of a specific license because, by definition, the immediate purpose of these shipments is not waste management or disposal of the radioactive component. The rule helps to ensure the purpose is bona fide by limiting the use of the term "incidental radioactive material" to situations in which the exported material will not be processed for separation of the radioactive component before the recycling or resource recovery occurs or during the resource recovery process. However, since in these cases the radioactive component of the material being shipped has, in itself, no foreseeable use, the Commission believes that some form of regulatory oversight of these exports is required in order to help ensure that an exporter will not ship radioactive waste for disposal in another country under the guise of shipping usable materials for recycling or resource recovery. The proposed rule was somewhat ambiguous on this point. Therefore, the final regulations have been clarified in that regard. (The term "incidental radioactive material" is applied to the radioactive component of the exported material, rather than a term identifying the radioactive component as a form of radioactive waste, because the Commission believes that this will avoid unnecessary limitations on the usefulness of the material for recycling or resource recovery.)

Under the rule proposed in 1992, an exporter of material that contains or is contaminated with radioactive material for which no use is foreseen was generally required to file an NRC Form 7 before the export took place and the export required a specific license issued by the NRC. Under the final rule, an exporter of incidental radioactive material will still be required to file an NRC Form 7 before the export takes place (if the total amount of the shipment containing the incidental radioactive material exceeds 100 kilograms), but the NRC will not issue a specific license in these cases. Shipments involving incidental radioactive material will continue to take place under the general license provisions in §§ 110.19–110.30. Deliberate misrepresentations on the form are subject to the same penalties as apply to falsification of other documents submitted in matters involving the United States and may subject a person

to criminal sanctions under section 223 of the Atomic Energy Act. To help clarify the application of the rule in these cases, definitions of "incidental radioactive material" and "management" have been added in the final rule.

Several commenters were concerned that the proposed definition of "radioactive waste" was too vague and subjective, possibly leading to an exporter shipping radioactive waste for disposal in another country under the guise of shipping usable materials for recycling or resource recovery. Several other commenters, including one representing electrical utilities in the United States, criticized the proposed definition of radioactive waste as differing from the various waste terms in other parts of NRC's regulations. One said that the definition had not been sufficiently evaluated by affected parties and that basing it upon whether "use is foreseen" is unprecedented in NRC's regulations and represents new NRC thinking which could have implications beyond the amendments to Part 110. The NRC recognizes that the concept of foreseeable use, introduced by the IAEA Code of Practice, could cause some confusion. Therefore, in response to these concerns, the definition of "radioactive waste" has been clarified to provide for usage of the term in a manner that is generally more consistent with NRC's usage for domestic purposes. As so defined, the export and import of radioactive waste requires issuance of a specific license under Part 110.

Generally, the final rule requires the filing of an NRC Form 7 for export of radioactive waste, as was provided under the proposed rule. Exports of radioactive waste remain subject to the specific licensing requirements of Part 110, unless expressly excluded. In addition, an NRC Form 7 must be filed before the export of incidental radioactive material (if the total amount of the shipment containing the incidental radioactive material exceeds 100 kilograms), but in most instances a specific license will not be required for such an export. Information required to be reported on NRC Form 7 is listed in 10 CFR 110.32.

Under the final rule, imports of radioactive waste are also subject to the specific licensing provisions of Part 110. Imports of incidental radioactive material, however, do not require the filing of any information with the NRC and remain subject to the general licensing provisions of Part 110. This is considered sufficient in light of the extensive domestic regulatory program

to which they will be subject when they enter the United States.

One commenter said the proposed regulation was unclear on NRC's position on imports and exports of mixed waste (i.e., waste that consists of hazardous waste and radioactive waste). It is the NRC's view that with respect to radioactive waste components of mixed waste, such transboundary movements should be subject to the specific licensing requirements of Part 110, and the definitions of "incidental radioactive material" and "radioactive waste" reflect this position. Accordingly, the NRC, under the Atomic Energy Act, will license movements of mixed waste into and out of the United States. The Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act and the NRC under the Atomic Energy Act jointly regulate exports of mixed waste from the jurisdiction of the United States. The NRC will consult with the EPA regarding Part 110 license applications relating to movements of mixed waste. (Domestically, mixed waste is subject to applicable regulations of the EPA and NRC.) A sentence has been added to § 110.19 alerting potential shippers to the fact that an NRC license does not avoid the need to consult with the EPA regarding the hazardous component of mixed waste.

One commenter stated its view that service tooling used in nuclear facilities contaminated with radioactive materials is not radioactive waste as defined in the proposed rule. It was not NRC's intent to include as radioactive waste exports and imports of contaminated equipment (including service tools) used in nuclear facilities, if the equipment is being shipped for use in another such facility and not for management or disposal. While one could reasonably maintain that this is not a question of radioactive waste at all, to ensure that the NRC's intent is free from doubt, the definition of "radioactive waste" in the final rule clarifies this point.

Two commenters expressed concern that the information required on an application for a specific license did not include the date, time, and route of transit of the radioactive waste, or a statement of ultimate disposition of the waste. The NRC believes that at the time of filing an application for a specific license it may be too early for an exporter or importer to provide a precise shipping date and time. However, the approximate date of shipment is required to be stated. In addition, the NRC has added a requirement for the route of transit information to be

provided before the export or import takes place.

One Federal official asked how other Federal agencies would be notified of an application for a specific license. The Department of State, as lead Executive Branch agency for the review of nuclear exports, has agreed to notify other appropriate Federal agencies. For an import application, the NRC would itself seek the views of appropriate Federal and State agencies. The NRC recognizes the unique interest and responsibilities of the States under the Low-level Radioactive Waste Policy Act for safe management and disposal of LLW. Therefore, consultation with affected States is appropriate.

One commenter expressed concern that the proposed rule did not include a provision for informing LLW compacts before issuance of a specific license for import or export of radioactive waste. Section 110.70(b) has been revised to require that the Commission publish in the **Federal Register** a notice of receipt of an application for a specific license for the export or import of radioactive waste (other than incidental radioactive material). To promote consideration of LLW compacts' restrictions on waste disposal, the Commission will exchange information and views with interested compacts. The NRC also intends to take other reasonable steps to inform States and LLW compacts of pending requests for specific licenses for import or export of radioactive waste, but believes it to be unnecessary to spell this out in the regulations.

One commenter suggested that the Department of Transportation and the Customs Service should be able to initiate efforts to determine the validity of statements made with respect to a particular export or import. The Commission expects that if the Department of Transportation or the Customs Service encounters a questionable export, they will seek assistance from the NRC. The NRC will then work with the Department of State and other concerned parties in resolving questions raised in such circumstances.

Another commenter referred, among other things, to the proposed rule's inconsistency with NRC's below regulatory concern (BRC) policy. The BRC policy has been withdrawn by the NRC (See 58 FR 44610; August 24, 1993).

One commenter suggested offering the import and export licensing program to the Agreement States for administration over its licensees. The NRC disagrees with this suggestion. This transfer would be inconsistent with Section 274 c. of the Atomic Energy Act, which specifically provides that no agreement

entered into under the Agreement States program shall provide for discontinuance of any NRC authority with respect to the export from or import into the United States of byproduct, source, or special nuclear material. However, NRC's export and import licensing authority does not diminish any separate authority vested in States and LLW compacts, by the Atomic Energy Act or the Low-Level Radioactive Waste Policy Act, in regard to the licensing, handling, and disposal of radioactive materials within the United States.

III. Overview of New Rule

The purpose of this rule is to conform NRC's regulations on export and import of nuclear equipment and material with the principles of the IAEA Code of Practice on the International Transboundary Movement of Radioactive Waste. The Code's guidelines state that each individual country should take the appropriate steps necessary to ensure that the international transboundary movement of radioactive waste is managed safely. This rule is designed to serve that purpose.

The final rule requires that a person file an application with the NRC for a specific license to export or import radioactive waste, including mixed waste, but distinguishes a separate category of "incidental radioactive material". Radioactive waste subject to the specific licensing requirements of Part 110 may not be exported from or imported into the United States unless the NRC has granted such a license. The export and import of incidental radioactive material (i.e., radioactive material not subject to the specific licensing controls of Part 110 that is contained in or a contaminant of any non-hazardous, non-radioactive material that is exported or imported for recycling or resource recovery) continues to be covered by the general license provisions of Part 110. However, an exporter must file an NRC Form 7 before a shipment of incidental radioactive material takes place if the total amount of the shipment containing the incidental radioactive material exceeds 100 kilograms. (Use of the 100 kilogram threshold is consistent with the threshold established in § 110.27(b). This provision provides that a general license may not be used for import of source or special nuclear material in the form of irradiated fuel that exceeds 100 kilograms per shipment.) The final rule takes into account changes made in Part 110 by the final rule on Specific Licensing of Exports of Certain Alpha-Emitting Radionuclides and Byproduct

Material, published on September 26, 1994 (59 FR 48994).

The NRC has decided that it is consistent with the IAEA Code of Practice not to include the following within the definition of radioactive waste:

(These kinds of shipments will continue to enter or leave the United States under general or specific license, whichever is applicable under Part 110 to the nuclear material in question.)

1. Radioactive material in used sealed sources, or devices containing used sealed sources, being sent to any qualified manufacturer authorized to receive and possess them. This exclusion acknowledges that shipment of used sources to a qualified manufacturer should be handled as expeditiously as possible because these types of shipments help to ensure that used sources are handled in a safe and responsible manner.

2. Radioactive material that is a contaminant on equipment (including service tools) used in nuclear facilities, if the equipment is being shipped for use in another nuclear facility and is not being shipped for management or disposal. This exclusion recognizes that equipment used in nuclear facilities frequently becomes contaminated. However, this does not prevent the equipment from being used to service other nuclear facilities instead of being subject to disposal or waste management.

3. Return of military and other U.S. Government radioactive waste to the United States when destined for a Federal or military facility authorized to possess the waste (see § 110.27). This exclusion from specific licensing was requested by the Department of State.

4. Radioactive waste generated in support of U.S. Government waste research and development testing programs under international arrangements. This exclusion recognizes that shipment of the waste is not for the purpose of disposal or waste management and that the exclusion will facilitate government-to-government waste research programs.

In addition incidental radioactive material can continue to enter or leave the country without specific NRC approval. However, an export of incidental radioactive material requires the filing of an NRC Form 7 if the total amount of the shipment containing the incidental radioactive material exceeds 100 kilograms.

In applying for a specific license, applicants for the export or import of radioactive waste must include the information required by §§ 110.31 and

110.32 of Part 110 for export and import of nuclear equipment and material. In addition, this final rule also requires the submission of the following information for the proposed export or import of radioactive waste: information on the volume and classification of the waste, the chemical and physical characteristics of the waste, its routing (including countries to be transited), and its disposition (including waste management). In the case of proposed imports, the information provided must include the industrial or other process responsible for generation of the waste and whether the compact and host State have agreed to accept the waste. The application must contain sufficient information to allow NRC to make a determination on whether a license should be granted. A notice of receipt of each application for a specific license for export or import of radioactive waste will be published in the **Federal Register**.

As is the case with all applications for a specific license for export of radioactive material, the review of an application for a specific license for a proposed export of radioactive waste is governed by whether licensing the proposed export would be inimical to the common defense and security interests of the United States. The Commission's review is also governed by whether the receiving country consents to receipt of the radioactive waste.

It is NRC's policy that the agency normally will not consider extraterritorial impacts. The latter policy was enunciated by the Commission in Westinghouse Electric Corporation (Exports to the Philippines), CLI-80-14, 11 NRC 631 (1980), where (among other things) the Commission refused to consider the health, safety, and environmental impacts on Philippine citizens of a proposed reactor export to the Philippines on the ground that the Commission should not consider such impacts upon the citizens of another country. (Though there was some divergence in the reasoning of the judges, the Commission's decision was upheld in *NRDC v. NRC*, 647 F.2d 1345 (D.C. Cir. 1981).) The rationale for the Commission's conclusion was that the regulation of economic and industrial activities taking place within a nation's territorial boundaries is a function of the territorial sovereign.

The IAEA Code of Practice provides in clear terms that a receiving State should not permit receipt of radioactive waste for management or disposal unless the receiving country has an appropriate "administrative and

technical capacity and regulatory structure to manage and dispose of such waste in a manner consistent with international safety standards." In contrast, the Code of Practice is far from clear when it states that it is the sending State's obligation to satisfy itself "in accordance with the receiving State's consent" that the receiving State is meeting the foregoing requirement. The Code does not explain the intended meaning of the phrase "in accordance with the receiving State's consent," and it does not indicate how the sending State is expected to satisfy itself regarding the receiving State's capability.

The NRC will expect a receiving State to indicate to the Department of State, during the process for obtaining the receiving State's consent, that it has found that it has the administrative and technical capacity and regulatory structure to manage and dispose of the waste. At this time, however, the NRC is not prepared to include provisions in this final rule that would necessitate independent and specific NRC assessments and findings and an opportunity for adjudication regarding the adequacy of the receiving State's administrative and technical capacity and regulatory structure for managing and disposing of the waste. This decision flows from (1) The ambiguity of the guiding provision in the IAEA Code, (2) the NRC's longstanding policy of not considering health, safety and environmental impacts in foreign countries, (3) the ongoing work—under the aegis of the IAEA—to develop a Convention on Safety of Radioactive Waste Management, and (4) Congressional inaction regarding implementation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their disposal. Nevertheless, as indicated in the notice for the proposed rule, the NRC does not contemplate any circumstances in which a license would be issued to export radioactive waste to a country without a regulated waste disposal program. Moreover, the Commission would obtain the views of the Executive Branch before approving an application for export of radioactive waste.

Note that this rule does not address on a generic basis the applicability of the National Environmental Policy Act to Part 110 specific licensing actions. Such applicability (if any) will be determined on a case-by-case basis. Note also that export licenses and (with limited exceptions not relevant here) actions related to nuclear activities are exempt from the requirements of Executive Order 12114 (44 FR 1957;

January 4, 1979), Environmental Effects Abroad of Major Federal Actions.

NRC has exclusive jurisdiction, vis-a-vis the States, for granting or denying all import licenses. However, in the case of a proposed import, the NRC recognizes the authority of LLW compacts to decide whether or not to accept an import of LLW for disposal in the compact region. The NRC will consult with interested States and LLW compacts prior to issuing an import license for LLW. The NRC will not grant an import license for waste intended for disposal unless it is clear that the waste will be accepted by a disposal facility, host State, and compact (where applicable). This will be part of the determination regarding the appropriateness of the facility that has agreed to accept the waste for management or disposal.

The NRC will consult with the Department of State and other cognizant Federal agencies regarding proposed exports of radioactive waste. In addition, in all proposed export and import cases, the NRC will ask the Department of State to consult with transit countries, as the Department of State deems appropriate, to obtain any necessary approvals pursuant to the IAEA Code of Practice.

Following review by the NRC staff, a determination will be made whether to approve or deny the application for a specific license for the import or export of radioactive waste. An import or export license issued by the NRC only authorizes the radioactive waste covered by the license to enter or exit the United States. This license alone does not authorize possession of the waste material or guarantee access to a waste management facility or a disposal site in the United States or another country.

This rule requires specific licenses for exports and imports of mixed waste. Mixed waste is waste that consists of both hazardous waste and radioactive waste. In addition to meeting NRC requirements, mixed waste must also meet Environmental Protection Agency requirements applicable to the hazardous component of the waste. The exporter or importer is responsible for ensuring compliance with those requirements.

The rule does not cover the export or import of naturally-occurring radioactive material (other than source material and byproduct material under section 11 e.(2) of the Atomic Energy Act) and accelerator-produced radioactive material. Naturally-occurring radioactive material and accelerator-produced radioactive material lie outside NRC's regulatory authority and are subject to health and

safety regulation by the States and other Federal agencies.

The new regulations in Part 110 do not affect existing or future NRC regulations in other parts of this chapter which may relate to matters covered by this rule.

The Commission notes that violation of regulations issued under sections 161b, 161i, or 161o of the Atomic Energy Act of 1954 may subject a person to criminal sanctions under section 223 of the Atomic Energy Act. The regulations in Part 110 that are not issued under §§ 161b, 161i, or 161o of the Atomic Energy Act of 1954 for the purposes of section 223 of the Act are listed in § 110.67 of Part 110, as amended by this final rule. The following regulations amended by this final rule are not listed in § 110.67: §§ 110.19, 110.20, 110.21, 110.22, 110.23, and 110.27. Violation of these sections may subject a person to criminal sanctions under section 223 of the Atomic Energy Act.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 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 amends information collection requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These paperwork requirements were approved by the Office of Management and Budget, approval numbers 3150-0036 and 3150-0027.

The public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T-6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0036 and 3150-0027), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

NRC regulations provide strong regulatory control over the export of strategic nuclear material from a national security (nonproliferation) standpoint, but they have traditionally provided much less control over non-strategic materials. Many non-strategic imports and exports qualify for general licenses without specific review or approval by the NRC. (Domestic regulations in the United States and abroad, and international transportation regulations, have provided the primary regulatory controls for health and safety and environmental protection purposes.) In recent years, national and worldwide concerns about radioactive waste disposal practices have brought attention to the limited focus of the NRC's import and export regulations and the fact that certain types and quantities of radioactive materials, including LLW, may be imported or exported without specific authorization by the NRC and without NRC's knowledge.

The IAEA Code of Practice on the International Transboundary Movement of Radioactive Waste, which was approved by the IAEA General Conference in 1990 with strong U.S. Government support, provides that international shipments of radioactive wastes should take place only with the prior notification and consent of the sending, receiving and transit countries. The Code also provides that no receiving country should permit the receipt of radioactive waste for management or disposal unless it has the administrative and technical capacity and regulatory structure to manage and dispose of such waste in a manner consistent with international safety standards. This final rule is intended to conform U.S. regulations with these international guidelines. The final rule amends the Part 110 general license provisions applicable to the export and import of special nuclear, source, and byproduct materials to state specifically that general licenses do not provide authority to import or export radioactive waste, as defined by Part 110. Instead, persons desiring to import or export radioactive waste may do so only upon issuance of a specific license by the NRC. Persons desiring to export incidental radioactive material (i.e., radioactive material not otherwise subject to specific licensing under Part 110 that is contained in or a contaminant of any non-hazardous, non-radioactive material that is exported or imported for recycling or resource recovery of the non-radioactive component) are required to file an NRC

Form 7 if the total amount of the shipment containing the incidental radioactive material exceeds 100 kilograms, thus providing information about the proposed export, but the NRC will not issue a specific license for such exports. Instead, the material may continue to be shipped under general license. Imports of incidental radioactive material continue to be subject to general licensing under Part 110, but they do not require any filing of information with the NRC under Part 110.

The rule impacts persons interested in exporting radioactive waste from, or importing radioactive waste into, the United States, and those exporting or importing incidental radioactive material (i.e., radioactive material not subject to specific licensing under Part 110 combined with non-hazardous, non-radioactive material exported or imported for recycling or resource recovery). The rule is necessary to satisfy the U.S. Government's commitment to the Code of Practice. There are no alternatives other than rulemaking for achieving the stated objective. (Alternatives to the changes made by this final rule were discussed in the ANPR published in February 1990 and the proposed rule published in April 1992.) We expect that there will be few exports and imports per year that will be covered by the new requirements established by the rule. (There should actually be little, if any, effect on those importing incidental radioactive material.) The agency also believes that, outside of having to pay a licensing fee, this regulation will have a minimal impact on the affected exporters and importers, since they should have ready access to most of the information required to be submitted to the NRC.

The NRC has considered the resource implications for the agency in developing this final rule, and based on analogous NRC experience under Part 110, it is estimated that a typical waste export or import licensing case resulting from this final rule will require 40 to 50 NRC staff hours for review and processing. It is estimated that the cost associated with such review and processing will, on the average, be approximately \$5,000 per case, though a few cases (particularly the first license applications received) may cost as much as \$10,000. The total annual cost to the NRC is expected to be approximately \$50,000, which would be offset by the collection of application fees.

To the NRC's knowledge, there is no appreciable U.S. import or export traffic in radioactive waste. A possible exception is the widely accepted

practice of returning depleted sealed radioactive sources to a manufacturer for recycle or disposal. This practice is generally encouraged by governmental authorities as a way of helping to ensure that the items are handled in a responsible manner at the end of their useful life. For this reason such shipments are excluded from the definition of "radioactive waste" in the final rule.

The changes made by this rule could affect waste management companies interested in importing radioactive waste from other countries because the imports will now require specific import licenses from the NRC, and an individual import of this type may not satisfy the licensing criteria. However, it is not clear whether this licensing requirement imposes any more difficult obstacles to a prospective waste importer than does the authority given LLW compacts to block shipments of such waste into their respective jurisdictions. (Note that the function of new § 110.43, which sets forth import licensing criteria, is primarily to bring together criteria stated in other sections of Part 110. That the host State and compact do not object to the importation of the waste will be part of the determination regarding the appropriateness of the facility that has agreed to accept the waste for management purposes or disposal.)

The final rule focuses greater attention on shipments of radioactive waste from or into the United States. This is consistent with the intent of the recommendations of the Code of Practice. The rule effectively excludes from the new requirements for specific licensing export and import of sealed sources, and devices containing sealed sources, to manufacturers qualified to receive and possess them; export and import of contaminated service equipment used in nuclear facilities, if the service equipment is being shipped for use in another nuclear facility and not for management purposes or disposal; and import of government waste returning to the United States. These exclusions from the specific licensing requirements for export and import of radioactive waste, the limited nature of the requirement for export of incidental radioactive material (confined to filing of NRC Form 7), and the absence of any new requirement with respect to import of incidental radioactive material, help to minimize the impact of the rule on commercial activities in the United States. Persons applying for a specific license will be subject to license application fees, which are currently under \$10,000 per license. (Fees for licensing services

rendered by the NRC pursuant to 10 CFR Part 110 are covered in 10 CFR Part 170.) We do not expect that an annual fee will be assessed because we do not foresee that any significant NRC inspection or enforcement activities will result from this final rule.

Overall, the NRC believes that requiring specific licensing of radioactive waste coming into or leaving the United States for management purposes or disposal is a sound regulatory approach to help ensure that such shipments are subject to U.S. Government approval and the consent of other involved parties. Filing of an NRC Form 7 before export of incidental radioactive material (if the total amount of the shipment containing the incidental radioactive material exceeds 100 kilograms) will help ensure that the regulatory program is effective.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule establishes specific licensing requirements on the import and export of radioactive waste coming into or leaving the United States, pursuant to which certain information must be filed with the NRC. It also clarifies the application of these requirements with respect to the import and export of incidental radioactive material. The additional burden for the collection of this information is estimated to average 20 hours per response, which will increase the cost of the shipment only by a minimal amount. In all, the amendments to Part 110 are expected to result in fewer than ten new export and import licenses per year.

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 because these amendments do not involve any provision which would impose backfits as defined in 10 CFR 50.109(a)(1).

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 continues 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 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. Section 110.2 is amended by adding the terms *disposal*, *incidental radioactive material*, *management*, *radioactive material*, *radioactive waste*, *storage*, and *treatment* to read as follows:

§ 110.2 Definitions.

* * * * *

Disposal means permanent isolation of radioactive material from the surrounding environment.

* * * * *

Incidental radioactive material means any radioactive material not otherwise subject to specific licensing under this part that is contained in or a contaminant of any non-radioactive material that:

(1) For purposes unrelated to the regulations in this part, is exported or imported for recycling or resource recovery of the non-radioactive component; and

(2) Will not be processed for separation of the radioactive component before the recycling or resource recovery occurs or as part of the resource recovery process.

The term does not include material that contains or is contaminated with "hazardous waste" as defined in section

1004(5) of the Solid Waste Disposal Act, 42 U.S.C. 6903(5).

* * * * *

Management means storage, packaging, or treatment of radioactive waste.

* * * * *

Radioactive material means source, byproduct, or special nuclear material.

Radioactive waste means any waste that contains or is contaminated with source, byproduct, or special nuclear material, including any such waste that contains or is contaminated with "hazardous waste" as defined in section 1004(5) of the Solid Waste Disposal Act, 42 U.S.C. 6903(5), but such term does not include radioactive material that is—

(1) Contained in a sealed source, or device containing a sealed source, that is being returned to any manufacturer qualified to receive and possess the sealed source or the device containing a sealed source;

(2) A contaminant on service equipment (including service tools) used in nuclear facilities, if the service equipment is being shipped for use in another nuclear facility and not for waste management purposes or disposal; or

(3) Generated or used in a United States Government waste research and development testing program under international arrangements.

* * * * *

Storage means the temporary holding of radioactive material.

* * * * *

Treatment means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any radioactive material.

* * * * *

3. Section 110.19 is revised to read as follows:

§ 110.19 Types of licenses.

(a) Licenses for the export and import of nuclear equipment and material in this part consist of two types: General licenses and Specific licenses. Except as provided in paragraph (b) of this section, a general license is effective without the filing of an application with the Commission or the issuance of licensing documents to a particular person. A specific license is issued to a named person and is effective upon approval by the Commission of an application filed pursuant to the regulations in this part and issuance of licensing documents to the applicant. Issuance of a specific or general license under this part does not relieve a person

from complying with applicable regulations of the Environmental Protection Agency for any export or import that contains or is contaminated with hazardous waste.

(b) A person using a general license under this part as authority to export incidental radioactive material that is contained in or a contaminant of a shipment that exceeds 100 kilograms in total weight shall file a completed NRC Form 7 before the export takes place.

4. In § 110.20, paragraph (a) is revised to read as follows:

§ 110.20 General license information.

(a) A person may use an NRC general license as authority to export or import nuclear equipment or material (including incidental radioactive material), if the nuclear equipment or material to be exported or imported is covered by the NRC general licenses described in §§ 110.21 through 110.30.

(1) A person using a general license under this part as authority to export incidental radioactive material that is contained in or a contaminant of a shipment that exceeds 100 kilograms in total weight shall file a completed NRC Form 7 before the export takes place.

(2) If an export or import is not covered by the NRC general licenses described in §§ 110.21 through 110.30, a person must file an application with the Commission for a specific license in accordance with §§ 110.31 through 110.32.

* * * * *

5. Section 110.21 is amended by revising the introductory texts of paragraphs (a) and (b), revising paragraph (c), and adding new paragraphs (d) and (e) to read as follows:

§ 110.21 General license for the export of special nuclear material.

(a) Except as provided in paragraph (d) of this section, a general license is issued to any person to export the following to any country not listed in § 110.28:

* * * * *

(b) Except as provided in paragraph (d) of this section, a general license is issued to any person to export the following to any country not listed in § 110.28 or § 110.29:

* * * * *

(c) Except as provided in paragraph (d) of this section, a general license is issued to any person to export Pu-236 or Pu-238 to any country listed in § 110.30 in individual shipments of 1 gram or less, not to exceed 100 grams per year to any one country.

(d) The general licenses in paragraphs (a), (b), and (c) of this section do not

authorize the export of special nuclear material in radioactive waste.

(e) Persons using the general licenses in paragraphs (a), (b), and (c) of this section as authority to export special nuclear material as incidental radioactive material shall file a completed NRC Form 7 before the export takes place if the total weight of the shipment exceeds 100 kilograms.

6. Section 110.22 is amended by revising the introductory text of paragraph (a), revising paragraphs (b), (c), and (d), and adding new paragraphs (e) and (f) to read as follows:

§ 110.22 General license for the export of source material.

(a) Except as provided in paragraph (e) of this section, a general license is issued to any person to export the following to any country not listed in § 110.28:

* * * * *

(b) Except as provided in paragraph (e) of this section, a general license is issued to any person to export uranium or thorium, other than U-230, U-232, Th-227, or Th-228, in individual shipments of 10 kilograms or less to any country not listed in § 110.28 or § 110.29, not to exceed 1,000 kilograms per year to any one country or 500 kilograms per year to any one country when the uranium or thorium is of Canadian origin.

(c) Except as provided in paragraph (e) of this section, a general license is issued to any person to export uranium or thorium, other than U-230, U-232, Th-227, or Th-228, in individual shipments of 1 kilogram or less to any country not listed in § 110.29, not to exceed 100 kilograms per year to any one country.

(d) Except as provided in paragraph (e) of this section, a general license is issued to any person to export U-230, U-232, Th-227, or Th-228 in individual shipments of 10 kilograms or less to any country listed in § 110.30, not to exceed 1,000 kilograms per year to any one country or 500 kilograms per year to any one country when the uranium or thorium is of Canadian origin.

(e) Paragraphs (a), (b), (c), and (d) of this section do not authorize the export under general license of source material in radioactive waste.

(f) Persons using the general licenses in paragraphs (a), (b), (c), and (d) of this section as authority to export source material as incidental radioactive material shall file a completed NRC Form 7 before the export takes place if the total weight of the shipment exceeds 100 kilograms.

7. Section 110.23 is amended by revising the introductory text of

paragraph (a), revising paragraphs (b) and (c), and adding new paragraphs (d) and (e) to read as follows:

§ 110.23 General license for the export of byproduct material.

(a) Except as provided in paragraph (d) of this section, a general license is issued to any person to export the following to any country not listed in § 110.28:

* * * * *

(b) Except as provided in paragraph (d) of this section, a general license is issued to any person to export to the countries listed in § 110.30 tritium in any dispersed form (e.g., luminescent light sources and paint, accelerator targets, calibration standards, labeled compounds) in quantities of 40 curies (4.12 milligrams) or less per item, not to exceed 1,000 curies (103 milligrams) per shipment or 10,000 curies (1.03 grams) per year to any one country. This general license does not authorize exports for tritium recovery or recycling purposes.

(c) Except as provided in paragraph (d) of this section, a general license is issued to any person to export to the countries listed in § 110.30 actinium-225, actinium-227, californium-248, californium-250, californium-252, curium-240, curium-241, curium-242, curium-243, curium-244, einsteinium-252, einsteinium-253, einsteinium-254, einsteinium-255, fermium-257, gadolinium-148, mendelevium-258, polonium-208, polonium-209, polonium-210, and radium-223, except that polonium-210 when contained in static eliminators must not exceed 100 curies (22 grams) per individual shipment.

(d) Paragraphs (a), (b), and (c) of this section do not authorize the export under general license of byproduct material in radioactive waste.

(e) Persons using the general licenses in paragraphs (a), (b), and (c) of this section as authority to export byproduct material as incidental radioactive material shall file a completed NRC Form 7 before the export takes place if the total weight of the shipment exceeds 100 kilograms.

8. Section 110.27 is amended by revising the introductory text of paragraph (a), redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read as follows:

§ 110.27 General license for imports.

(a) Except as provided in paragraphs (b) and (c) of this section, a general license is issued to any person to import byproduct, source, or special nuclear

material if the consignee is authorized to possess the material under:

* * * * *

(c) Paragraph (a) of this section does not authorize the import under general license of radioactive waste, other than radioactive waste that is being returned to a United States Government or military facility in the United States which is authorized to possess the material.

* * * * *

9. Section 110.32 is amended by revising the heading, redesignating paragraph (f)(5) as (f)(7), and adding new paragraphs (f)(5) and (f)(6) to read as follows:

§ 110.32 Information required in an application for a specific license/NRC Form 7.

* * * * *

(f) * * *

(5) For proposed exports or imports of radioactive waste, and for proposed exports of incidental radioactive material—the volume, classification (as defined in § 61.55 of this chapter), physical and chemical characteristics, route of transit of shipment, and ultimate disposition (including forms of management) of the waste.

(6) For proposed imports of radioactive waste—the industrial or other process responsible for generation of the waste, and the status of the arrangements for disposition, e.g., any agreement by a low-level waste compact or State to accept the material for management purposes or disposal.

* * * * *

10. In § 110.40, paragraph (a) is revised to read as follows:

§ 110.40 Commission review.

(a) Immediately after receipt of a license application for an export or import requiring a specific license under this part, the Commission will initiate its licensing review and, to the maximum extent feasible, will expeditiously process the application concurrently with any applicable review by the Executive Branch.

* * * * *

11. Section 110.41 is amended by redesignating paragraphs (a)(7) and (a)(8) as paragraphs (a)(8) and (a)(9) and adding a new paragraph (a)(7) to read as follows:

§ 110.41 Executive Branch review.

(a) * * *

(7) An export involving radioactive waste.

* * * * *

12. Section 110.42 is amended by revising the introductory text of

paragraph (a) and paragraphs (a)(3) and (c) and adding a new paragraph (d) to read as follows:

§ 110.42 Export licensing criteria.

(a) The review of license applications for export for peaceful nuclear uses of production or utilization facilities¹ or for export for peaceful nuclear uses of special nuclear or source material requiring a specific license under this part is governed by the following criteria:

* * * * *

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Physical security measures will be deemed adequate if such measures provide a level of protection equivalent to that set forth in § 110.44.

* * * * *

(c) Except where paragraph (d) is applicable, the review of license applications for export of byproduct material or for export of source material for non-nuclear end uses requiring a specific license under this part is governed by the criterion that the proposed export is not inimical to the common defense and security.

(d) The review of license applications for the export of radioactive waste requiring a specific license under this part is governed by the following criteria:

(1) The proposed export is not inimical to the common defense and security.

(2) The receiving country, after being advised of the information required by § 110.32(f)(5), finds that it has the administrative and technical capacity and regulatory structure to manage and dispose of the waste and consents to the receipt of the radioactive waste. In the case of radioactive waste containing a nuclear material to which paragraph (a) or (b) of this section is applicable, the criteria in this paragraph (d) shall be in addition to the criteria provided in paragraph (a) or (b) of this section.

¹ Exports of nuclear reactors, reactor pressure vessels, reactor primary coolant pumps, "on-line" reactor fuel charging and discharging machines, and complete reactor control rod systems, as specified in paragraphs (1) through (4) of appendix A to this part, are subject to the export licensing criteria in § 110.42(a). Exports of nuclear reactor components, as specified in paragraphs (5) through (9) of appendix A to this part, when exported separately from the items described in paragraphs (1) through (4) of appendix A of this part, are subject to the export licensing criteria in § 110.42(b).

§§ 110.43, 110.44, and 110.45
[Redesignated]

13. Sections 110.43, 110.44, and 110.45 are redesignated as §§ 110.44, 110.45, and 110.46.

14. A new § 110.43 is added to read as follows:

§ 110.43 Import licensing criteria.

The review of license applications for imports requiring a specific license under this part is governed by the following criteria:

(a) The proposed import is not inimical to the common defense and security.

(b) The proposed import does not constitute an unreasonable risk to the public health and safety.

(c) Any applicable requirements of subpart A of part 51 of this chapter are satisfied.

(d) With respect to the import of radioactive waste, an appropriate facility has agreed to accept the waste for management or disposal.

15. Section 110.45 is amended by revising paragraphs (b) and (c) to read as follows:

§ 110.45 Issuance or denial of licenses.

* * * * *

(b) The Commission will issue an import license if it finds that:

(1) The proposed import will not be inimical to the common defense and security;

(2) The proposed import will not constitute an unreasonable risk to the public health and safety;

(3) The requirements of subpart A of part 51 of this chapter (to the extent applicable to the proposed import) have been satisfied; and

(4) With respect to a proposed import of radioactive waste, an appropriate facility has agreed to accept the waste for management or disposal.

(c) If, after receiving the Executive Branch judgement that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under the Atomic Energy Act, the Commission will publicly issue a decision to that effect and will submit the license application to the President. The Commission's decision will include an explanation of the basis for the decision and any dissenting or separate views. The provisions in this paragraph do not apply to Commission decisions regarding license applications for the export of byproduct material or radioactive waste requiring a specific license.

* * * * *

16. In § 110.67, paragraph (b) is revised to read as follows:

§ 110.67 Criminal Penalties.

* * * * *

(b) The regulations in part 110 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 110.1, 110.2, 110.3, 110.4, 110.7, 110.10, 110.11, 110.30, 110.31, 110.32, 110.40, 110.41, 110.42, 110.43, 110.44, 110.45, 110.46, 110.51, 110.52, 110.60, 110.61, 110.62, 110.63, 110.64, 110.65, 110.66, 110.67, 110.70, 110.71, 110.72, 110.73, 110.80, 110.81, 110.82, 110.83, 110.84, 110.85, 110.86, 110.87, 110.88, 110.89, 110.90, 110.91, 110.100, 110.101, 110.102, 110.103, 110.104, 110.105, 110.106, 110.107, 110.108, 110.109, 110.110, 110.111, 110.112, 110.113, 110.120, 110.122, 110.124, 110.130, 110.131, 110.132, 110.133, 110.134, and 110.135.

17. Section 110.70 is amended by revising paragraph (a), adding a new paragraph (b)(4), redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read as follows:

§ 110.70 Public notice of receipt of an application.

(a) The Commission will notice the receipt of each license application for an export or import for which a specific license is required by placing a copy in the Public Document Room.

(b) * * *

(4) Radioactive waste.

(c) The Commission will also publish in the **Federal Register** a notice of receipt of a license application for an import of radioactive waste for which a specific license is required.

* * * * *

18. Section 110.72 is amended by revising the introductory text to read as follows:

§ 110.72 Availability of documents in the Public Document Room.

Unless exempt from disclosure under part 9 of this chapter, the following documents pertaining to each license and license application for an import or export requiring a specific license under this Part will be made available in the Public Document Room:

* * * * *

19. Section 110.82(a) is revised to read as follows:

§ 110.82 Hearing request or intervention petition.

(a) A person may request a hearing or petition for leave to intervene on a license application for an import or export requiring a specific license.

* * * * *

Dated in Rockville, Maryland, this 14th day of July, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95-17826 Filed 7-20-95; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 95-ASW-09]

Revision of Class E Airspace; Venice, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action revises the Class E airspace at Venice, LA. This revision of Class E airspace results from the abandoning of the Garden Island Bay Seaplane Base, LA, and the decommissioning of the Venice Radio Beacon (RBN). This action is intended to delete the Class E airspace at Venice, LA, that was previously needed to protect aircraft operating under instrument flight rules (IFR) at the now abandoned Garden Island Bay Seaplane Base, LA, and removes that airspace needed to protect aircraft operating IFR on standard instrument approach procedures (SIAP) using the Venice RBN which is now decommissioned.

DATES: *Effective date.* 0901 UTC, August 7, 1995.

Comment date. Comments must be received on or before September 19, 1995.

ADDRESSES: Send comments on the rule in triplicate to Manager, System Management Branch, Air Traffic Division, Federal Aviation Administration Southwest Region, Docket No. 95-ASW-09, Fort Worth, TX 76193-0530. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, System Management Branch, Air Traffic Division, Southwest