

Nuclear Regulatory Commission

§ 110.42

water or nuclear grade graphite; or (iv) 1,000 curies of tritium, to any country listed in §110.28 or §110.29.

(7) Any export subject to special limitations as determined by the staff or a majority of the Commissioners.

(c) If the Commission has not completed action on a license application within 60 days after receipt of the Executive Branch judgment, as provided for in §110.41, or the license application when an Executive Branch judgment is not required, it will inform the applicant in writing of the reason for delay and, as appropriate, provide followup reports.

[43 FR 21641, May 19, 1978, as amended at 45 FR 51184, Aug. 1, 1980; 49 FR 47200, Dec. 3, 1984; 58 FR 13004, Mar. 9, 1993; 60 FR 37564, July 21, 1995]

§ 110.41 Executive Branch review.

(a) An application for a license to export the following will be promptly forwarded to the Executive Branch for review:

(1) A production or utilization facility.

(2) More than one effective kilogram of high-enriched uranium or 10 grams of plutonium or U-233.

(3) Nuclear grade graphite, more than 100 curies of tritium, and deuterium oxide (heavy water), other than exports of heavy water to Canada.

(4) One kilogram or more of source or special nuclear material to be exported under the US-IAEA Agreement for Cooperation.

(5) An export involving assistance to end uses related to isotope separation, chemical reprocessing, heavy water production, advanced reactors, or the fabrication of nuclear fuel containing plutonium, except for exports of source material or low-enriched uranium to EURATOM and Japan for enrichment up to 5 percent in the isotope uranium-235, and those categories of exports approved in advance by the Executive Branch as constituting permitted incidental assistance.

(6) The initial export of nuclear material or equipment to a foreign reactor.

(7) An export involving radioactive waste.

(8) An export to any country listed in §110.28 or §110.29.

(9) An export subject to special limitations as determined by the Commission or the Executive Branch.

(b) The Executive Branch will be requested to:

(1) Provide its judgment as to whether the proposed export would be inimical to the common defense and security, along with supporting rationale and information.

(2) Where applicable, confirm that the proposed export would be under the terms of an agreement for cooperation; and

(3) Address the extent to which the export criteria in §110.42 are met, if applicable, and the extent to which the recipient country or group of countries has adhered to the provisions of any applicable agreement for cooperation.

(c) The Commission may request the Executive Branch to address specific concerns and provide additional data and recommendations as necessary.

[43 FR 21641, May 19, 1978, as amended at 49 FR 47200, Dec. 3, 1984; 58 FR 13004, Mar. 9, 1993; 60 FR 37564, July 21, 1995; 61 FR 35602, July 8, 1996]

§ 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:

(1) IAEA safeguards as required by Article III (2) of the NPT will be applied with respect to any such facilities or material proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation,

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).