

10 CFR Part 810

1986 Version	Final Rule (effective March 25, 2015)	Comments
<p>Part 810-ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES</p> <p>Sec.</p> <p>810.1 Purpose.</p> <p>810.2 Scope.</p> <p>810.3 Definitions.</p> <p>810.4 Communications.</p> <p>810.5 Interpretations.</p> <p>810.6 Authorization requirement.</p> <p>810.7 Generally authorized activities.</p> <p>810.8 Activities requiring specific authorization.</p> <p>810.9 Restrictions on general and specific authorization.</p> <p>810.10 Grant of specific authorization.</p> <p>810.11 Revocation, suspension, or modification of authorization.</p> <p>810.12 Information required in an application for specific authorization.</p> <p>810.13 Reports.</p> <p>810.14 Additional information.</p> <p>810.15 Violations.</p> <p>810.16 Effective date and savings clause.</p> <p>AUTHORITY: Secs. 57, 127, 128, 129, 161, and 223, Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2273); Sec. 104 of the Energy Reorganization Act of 1974, Pub. L. 93–438; Sec. 301, Department of Energy Organization Act, Pub. L. 95–91.</p> <p>SOURCE: 51 FR 44574, Dec. 10, 1986, unless otherwise noted.</p>	<p>PART 810--ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES</p> <p>Sec.</p> <p>810.1 Purpose.</p> <p>810.2 Scope.</p> <p>810.3 Definitions.</p> <p>810.4 Communications.</p> <p>810.5 Interpretations.</p> <p>810.6 Generally authorized activities.</p> <p>810.7 Activities requiring specific authorization.</p> <p>810.8 Restrictions on general and specific authorization.</p> <p>810.9 Grant of specific authorization.</p> <p>810.10 Revocation, suspension, or modification of authorization.</p> <p>810.11 Information required in an application for specific authorization.</p> <p>810.12 Reports.</p> <p>810.13 Additional information.</p> <p>810.14 Special provision regarding Ukraine.</p> <p>810.15 Violations.</p> <p>810.16 Effective date and savings clause.</p> <p>Appendix A to Part 810 -- Generally Authorized Destinations</p> <p>Authority: Secs. 57, 127, 128, 129, 161, 222, and 232 Atomic Energy Act of 1954, as amended by the Nuclear Nonproliferation Act of 1978, Pub. L. 95-242, 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2272, 2280), and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, 118 Stat. 3768; Sec. 104 of the Energy Reorganization Act of 1974, Pub. L. 93-438; Sec. 301, Department of Energy Organization Act, Pub. L. 95-91; National Nuclear Security Administration Act, Pub. L. 106-65, 50 U.S.C. 2401 et seq., as amended.</p>	

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<p>§ 810.1 Purpose.</p> <p>These regulations implement section 57b of the Atomic Energy Act which empowers the Secretary of Energy to authorize U.S. persons to engage directly or indirectly in the production of special nuclear material outside the United States. Their purpose is to:</p> <p>(a) Indicate activities which have been generally authorized by the Secretary of Energy and thus require no further authorization;</p> <p>(b) Indicate activities which require specific authorization by the Secretary and explain how to request authorization; and</p> <p>(c) Explain reporting requirements for various activities.</p>	<p>§ 810.1 Purpose.</p> <p>The regulations in this part implement section 57 b.(2) of the Atomic Energy Act, which empowers the Secretary, with the concurrence of the Department of State, and after consultation with the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense, to authorize persons to directly or indirectly engage or participate in the development or production of special nuclear material outside the United States. The purpose of the regulations in this part is to:</p> <p>(a) Identify activities that are generally authorized by the Secretary and thus require no other authorization under this part;</p> <p>(b) Identify activities that require specific authorization by the Secretary and explain how to request authorization; and</p> <p>(c) Specify reporting requirements for authorized activities.</p>	<p>The change to § 810.1 “Purpose” states the statutory basis and purpose of the part 810 regulation, eliminating the need for the 1986 version of § 810.6. “U.S. persons” has been replaced with “persons.”</p>

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<p>§ 810.2 Scope.</p> <p>10 CFR part 810:</p> <p>(a) Applies to all persons subject to the jurisdiction of the United States who engage directly or indirectly in the production of special nuclear material outside the United States.</p> <p>(b) Applies to activities conducted either in the United States or abroad by such persons or by licensees, contractors or subsidiaries under their direction, supervision, responsibility or control.</p> <p>(c) Applies, but is not limited to, activities involving nuclear reactors and other nuclear fuel cycle facilities for the following: fluoride or nitrate conversion; isotope separation (enrichment); the chemical, physical or metallurgical processing, fabricating, or alloying of special nuclear material; production of heavy water, zirconium (hafnium-free or low-hafnium), nuclear-grade graphite, or reactor-grade beryllium; production of reactor-grade uranium dioxide from yellowcake; and certain uranium milling activities.</p> <p>(d) Does not apply to exports licensed by the Nuclear Regulatory Commission</p>	<p>§ 810.2 Scope.</p> <p>(a) Part 810 (this part) applies to:</p> <p>(1) All persons subject to the jurisdiction of the United States who directly or indirectly engage or participate in the development or production of any special nuclear material outside the United States; and</p> <p>(2) The transfer of technology that involves any of the activities listed in paragraph (b) of this section either in the United States or abroad by such persons or by licensees, contractors or subsidiaries under their direction, supervision, responsibility, or control.</p> <p>(b) The activities referred to in paragraph (a) of this section are:</p> <p>(1) Chemical conversion and purification of uranium and thorium from milling plant concentrates and in all subsequent steps in the nuclear fuel cycle;</p> <p>(2) Chemical conversion and purification of plutonium and neptunium;</p> <p>(3) Nuclear fuel fabrication, including preparation of fuel elements, fuel assemblies and cladding thereof;</p> <p>(4) Uranium isotope separation (uranium enrichment), plutonium isotope separation, and isotope separation of any other elements (including stable isotope separation) when the technology or process can be applied directly or indirectly to uranium or plutonium;</p> <p>(5) Nuclear reactor development, production or use of the components within or attached directly to the reactor vessel, the equipment that controls the level of power in the core, and the equipment or components that normally contain or come in direct contact with or control the primary coolant of the reactor core;</p> <p>(6) Development, production or use of production accelerator-driven subcritical assembly systems;</p> <p>(7) Heavy water production and hydrogen isotope separation when the technology or process has reasonable potential for large-scale separation of deuterium (²H) from protium (¹H);</p> <p>(8) Reprocessing of irradiated nuclear fuel or targets containing special nuclear material, and post-irradiation examination of fuel elements, fuel assemblies and cladding thereof, if it is part of a reprocessing program; and</p> <p>(9) The transfer of technology for the development, production, or use of equipment or material especially designed or</p>	<p>The change to paragraph (a) in § 810.2 “Scope” states DOE’s jurisdiction under § 57 b.(2) of the Atomic Energy Act. Paragraph (b) in § 810.2 identifies activities governed by the regulation when those activities, whether conducted in the United States or abroad, constitute engaging or participating, directly or indirectly, in the development or production of special nuclear material outside the United States. Paragraph (c) of § 810.2 identifies exempt activities, some retained from the 1986 version of the rule. A person directly or indirectly engaging or participating in the development or production of special nuclear material outside the United States may be, for example, a U.S. citizen, a foreign national or a subsidiary of a U.S. company located abroad. The activity may take place in the United States, in a country listed in the Appendix or in a country not listed in the Appendix. Part 810 does not apply to transfers of nuclear technology or assistance within the United States between or among U.S. citizens, citizens or nationals of foreign countries who are U.S. lawful permanent residents, or protected individuals under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)), because such transfers would not constitute engaging or participating, directly or indirectly, in the development or</p>

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	<p>prepared for any of the above listed activities. (<i>See</i> Nuclear Regulatory Commission regulations at 10 CFR part 110, Appendices A through K, and O, for an illustrative list of items considered to be especially designed or prepared for certain listed nuclear activities.)</p> <p>(c) This part does not apply to:</p> <ol style="list-style-type: none"> (1) Exports authorized by the Nuclear Regulatory Commission, Department of State, or Department of Commerce; (2) Transfer of publicly available information, publicly available technology, or the results of fundamental research; (3) Uranium and thorium mining and milling (<i>e.g.</i>, production of impure source material concentrates such as uranium yellowcake and all activities prior to that production step); (4) Nuclear fusion reactors per se, except for supporting systems involving hydrogen isotope separation technologies within the scope defined in paragraph (b)(7) of this section and § 810.7(c)(3); (5) Production or extraction of radiopharmaceutical isotopes when the process does not involve special nuclear material; and (6) Transfer of technology to any individual who is lawfully admitted for permanent residence in the United States or is a protected individual under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)). <p>(d) Persons under U.S. jurisdiction are responsible for their foreign licensees, contractors, or subsidiaries to the extent that the former have control over the activities of the latter.</p>	<p>production of special nuclear material outside the United States.</p> <p>The following exempt activities are added:</p> <ul style="list-style-type: none"> • Exports authorized by the Department of State (DOS) or Department of Commerce (DOC), or the Nuclear Regulatory Commission (NRC); • Transfer of “publicly available information,” “publicly available technology,” and the results of “fundamental research”; • Assistance for certain mining and milling activities, and certain fusion reactors because these activities do not involve the production or use of special nuclear material; • Production or extraction of radiopharmaceutical isotopes when the process does not involve special nuclear material; and <p>Transfers to lawful permanent residents of the United States or protected individuals under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)).</p>
<p>§ 810.3 Definitions.</p> <p>As used in part 810:</p> <p><i>Accelerator driven subcritical assembly system is a system comprising a “subcritical assembly” and a “production accelerator” and which is designed or used for the purpose of producing or processing special nuclear material (SNM) or which a U.S. provider of assistance knows or has reason to know will be used for the production or processing of SNM. In such a system, the “production accelerator” provides a source of</i></p>	<p>§ 810.3 Definitions.</p> <p>As used in this part 810:</p> <p><i>Agreement for cooperation</i> means an agreement with another nation or group of nations concluded under sections 123 or 124 of the Atomic Energy Act.</p> <p><i>Assistance</i> means assistance in such forms as instruction, skills, training, working knowledge, consulting services, or any other assistance as determined by the Secretary. Assistance may involve the transfer of</p>	<p>In § 810.3 “Definitions” of this final rule, a number of definitions are added and revisions are made to existing definitions to reflect terminological changes and technological developments since the part 810 regulation was last updated, and to provide additional clarity to certain</p>

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<p>neutrons used to effect SNM production in the “subcritical assembly.”</p> <p><i>Agreement for cooperation</i> means an agreement with another nation or group of nations concluded under sections 123 or 124 of the Atomic Energy Act.</p> <p><i>Atomic Energy Act</i> means the Atomic Energy Act of 1954, as amended.</p> <p><i>Classified information</i> means National Security Information classified under Executive Order 12356 or any superseding order, or Restricted Data classified under the Atomic Energy Act.</p> <p><i>General authorization</i> means an authorization granted by the Secretary of Energy under section 57b(2) of the Atomic Energy Act to provide certain assistance to foreign atomic energy activities and which is effective without a specific request to the Secretary or the issuance of an authorization to a particular person.</p> <p><i>IAEA</i> means the International Atomic Energy Agency.</p> <p><i>Non-nuclear-weapon state</i> is a country not recognized as a nuclear-weapon state by the NPT (i.e., states other than the United States, Russia, the United Kingdom, France, and China).</p> <p><i>NNPA</i> means the Nuclear Non-Proliferation Act of 1978.</p> <p><i>NPT</i> means the Treaty on the Non-Proliferation of Nuclear Weapons.</p> <p><i>Nuclear reactor</i> means an apparatus, other than a nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.</p> <p><i>Open meeting</i> means a conference, seminar, trade show or other gathering that all technically qualified members of the public may attend and at which they may make written or other personal record of the proceedings.</p>	<p>technical data.</p> <p><i>Atomic Energy Act</i> means the Atomic Energy Act of 1954, as amended.</p> <p><i>Classified information</i> means national security information classified under Executive Order 13526 or any predecessor or superseding order, and Restricted Data classified under the Atomic Energy Act.</p> <p><i>Cooperative enrichment enterprise</i> means a multi-country or multi-company (where at least two of the companies are incorporated in different countries) joint development or production effort. The term includes a consortium of countries or companies or a multinational corporation.</p> <p><i>Country</i>, as well as government, nation, state, and similar entity, shall be read to include Taiwan, consistent with section 4 of the Taiwan Relations Act (22 U.S.C. 3303).</p> <p><i>Development</i> means any activity related to all phases before production such as: design, design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, and layouts.</p> <p><i>DOE</i> means the U.S. Department of Energy.</p> <p><i>Enrichment</i> means isotope separation of uranium or isotope separation of plutonium, regardless of the type of process or separation mechanism used.</p> <p><i>Fissile material</i> means isotopes that readily fission after absorbing a neutron of any energy, either fast or slow. Fissile materials are uranium-235, uranium-233, plutonium-239, and plutonium-241.</p> <p><i>Foreign national</i> means an individual who is not a citizen or national of the United States, but excludes U.S. lawful permanent residents and protected individuals under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)).</p> <p><i>Fundamental research</i> means basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.</p> <p><i>General authorization</i> means an authorization granted by the Secretary</p>	<p>terms defined and used in the 1986 version of the rule.</p> <p>The 1986 version of the rule has 23 defined terms. This final rule substantially revises 5 terms, adds 23 terms, deletes 5 terms, and leaves 13 terms essentially unchanged, for a total of 36 defined terms in the regulation.</p> <p>The following terms have been added to the final rule to update the terms used in part 810 to make them consistent with terms used in other U.S. export control programs and Nuclear Suppliers Group (NSG) guidelines (IAEA Information Circular [INFCIRC] 254/Part I): assistance, cooperative enrichment enterprise, development, enrichment, fissile material, fundamental research, production, technical data, technology, and use. The following terms are added or revised in line with changes in the approach of the final rule to authorized destinations and authorized activities: foreign national, general authorization, operational safety, production accelerator, production accelerator-driven subcritical assembly system, production subcritical assembly, publicly available information, publicly available technology, and specific authorization. The term “country” has been added to clarify that Taiwan is covered under this final rule, consistent with section 4 of the Taiwan Relations Act (22 U.S.C. 3303). The terms “Secretary” and</p>

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<p>notwithstanding that (1) a reasonable registration fee may be charged, or (2) a reasonable numerical limit exists on actual attendance.</p> <p><i>Operational safety</i> means the capability of a reactor to be operated in a manner that prevents uncontrolled or inadvertent criticality, prevents or mitigates uncontrolled release of radioactivity to the environment, monitors and limits staff exposure to radiation and radioactivity, and protects off-site population from exposure to radiation or radioactivity. Operational safety may be enhanced by providing expert advice, equipment, instrumentation, technology, software, services, analyses, procedures, training, or other assistance that improves the capability of the reactor to be operated in such a manner.</p> <p><i>Person</i> means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Department of Energy, any State or political entity within a State; and (2) any legal successor, representative, agent or agency of the foregoing. Persons under U.S. jurisdiction are responsible for their foreign licensees, contractors or subsidiaries to the extent that the former have control over the activities of the latter.</p> <p><i>Production accelerator</i> is a particle accelerator designed and/or intended to be used, with a subcritical assembly, for the production or processing of SNM or which a U.S. provider of assistance knows or has reason to know will be used for the production or processing of SNM.</p> <p><i>Production reactor</i> means a nuclear reactor specially designed or used primarily for the production of plutonium or uranium-233.</p> <p><i>Public information</i> means: (1) Information available in periodicals, books or other print or electronic media for distribution to any member of the public, or to a community of persons such as those in a scientific, engineering, or educational discipline or in a particular commercial</p>	<p>under section 57 b.(2) of the Atomic Energy Act to provide assistance or technology to foreign atomic energy activities subject to this part and which does not require a request for, or the Secretary's issuance of, a specific authorization.</p> <p><i>IAEA</i> means the International Atomic Energy Agency.</p> <p><i>NNPA</i> means the Nuclear Non-Proliferation Act of 1978, 22 U.S.C. 3201 <i>et seq.</i></p> <p><i>NPT</i> means the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.</p> <p><i>Nuclear reactor</i> means an apparatus, other than a nuclear explosive device, designed or used to sustain nuclear fission in a self-sustaining chain reaction.</p> <p><i>Operational safety</i> means the capability of a reactor to be operated in a manner that complies with national standards or requirements or widely-accepted international standards and recommendations to prevent uncontrolled or inadvertent criticality, prevent or mitigate uncontrolled release of radioactivity to the environment, monitor and limit staff exposure to radiation and radioactivity, and protect off-site population from exposure to radiation or radioactivity. Operational safety may be enhanced by providing expert advice, equipment, instrumentation, technology, software, services, analyses, procedures, training, or other assistance that improves the capability of the reactor to be operated in compliance with such standards, requirements or recommendations.</p> <p><i>Person</i> means:</p> <ol style="list-style-type: none"> (1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution; (2) Any group, government agency other than DOE, or any State or political entity within a State; and (3) Any legal successor, representative, agent, or agency of the foregoing. <p><i>Production</i> means all production phases such as: construction, production engineering, manufacture, integration, assembly or mounting, inspection, testing, and quality assurance.</p> <p><i>Production accelerator</i> means a particle accelerator especially designed, used, or intended for use with a production subcritical assembly.</p>	<p>"DOE" were added to define administrative terms. The following terms are retained with no change except technical edits or format changes: "Agreement for cooperation", "Atomic Energy Act", "classified information", "IAEA", "NNPA", "NPT", "nuclear reactor", "person", "production reactor", "Restricted Data", "sensitive nuclear technology", "source material", "special nuclear material", and "United States". The following terms have been deleted as unused: "accelerator-driven subassembly", "non-nuclear-weapon state", "open meeting", "public information", and "subcritical assembly". Several changes from the definitions proposed in the SNOPR are made in the final rule including: "technical assistance" is changed to "assistance," the term "technical assistance" is replaced with "assistance" in the definition of "technology", and the term "technical services" is replaced with "assistance" in the definition of "sensitive nuclear technology". These changes are explained in section IV.D. in response to public comments on the SNOPR.</p>

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<p>activity who are interested in a subject matter; (2) Information available in public libraries, public reading rooms, public document rooms, public archives, or public data banks, or in university courses; (3) Information that has been presented at an open meeting (see definition of “open meeting”); (4) Information that has been made available internationally without restriction on its further dissemination; or (5) Information contained in an application which has been filed with the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. 184 or which has been made available under 5 U.S.C. 552, the Freedom of Information Act. Public information must be available to the public prior to or at the same time as it is transmitted to a foreign recipient. It does not include any technical embellishment, enhancement, explanation or interpretation which in itself is not public information, or information subject to sections 147 and 148 of the Atomic Energy Act.</p> <p><i>Restricted Data</i> means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act.</p> <p><i>Sensitive nuclear technology</i> means any information (including information incorporated in a production or utilization facility or important</p>	<p><i>Production accelerator-driven subcritical assembly system</i> means a system comprised of a production subcritical assembly and a production accelerator and which is especially designed, used, or intended for the production of plutonium or uranium-233. In such a system, the production accelerator target provides a source of neutrons used to effect special nuclear material production in the production subcritical assembly.</p> <p><i>Production reactor</i> means a nuclear reactor especially designed or used primarily for the production of plutonium or uranium-233.</p> <p><i>Production subcritical assembly</i> means an apparatus that contains source material or special nuclear material to produce a nuclear fission chain reaction that is not self-sustaining and that is especially designed, used, or intended for the production of plutonium or uranium-233.</p> <p><i>Publicly available information</i> means information in any form that is generally accessible, without restriction, to the public.</p> <p><i>Publicly available technology</i> means technology that is already published or has been prepared for publication; arises during, or results from, fundamental research; or is included in an application filed with the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. 184.</p> <p><i>Restricted Data</i> means all data concerning:</p> <ol style="list-style-type: none"> (1) Design, manufacture, or utilization of atomic weapons; (2) The production of special nuclear material; or (3) The use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act. <p><i>Secretary</i> means the Secretary of Energy.</p> <p><i>Sensitive nuclear technology</i> means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public (see definition of “publicly available information”) and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the Atomic Energy Act. The information may take a tangible form such as a model, prototype, blueprint, or operation manual or an intangible form such as assistance.</p>	

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<p>component part thereof) which is not available to the public [see definition of “public information”] which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to Chapter 12 of the Atomic Energy Act. The information may take a tangible form such as a model, prototype, blueprint, or operation manual or an intangible form such as technical services.</p> <p><i>Source Material</i> means: (1) Uranium or thorium, other than special nuclear material or (2) ores which contain by weight 0.05 percent or more of uranium or thorium, or any combination of these.</p> <p><i>Special nuclear material</i> means (1) plutonium, (2) uranium-233, or (3) uranium enriched above 0.711 percent by weight in the isotope uranium-235.</p> <p><i>Specific authorization</i> means an authorization granted by the Secretary of Energy under section 57b(2) of the Atomic Energy Act to a person to provide specified assistance to a foreign atomic energy activity in response to an application filed under 10 CFR part 810.</p> <p><i>Subcritical assembly is an apparatus containing source material or SNM designed or used to produce a nuclear fission chain reaction that is not self-sustaining.</i></p> <p><i>United States</i>, when used in a geographical sense, includes all territories and possessions of the United States.</p> <p>[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39638, July 26, 1993; 65 FR 16126, Mar. 27, 2000]</p>	<p><i>Source material</i> means:</p> <ol style="list-style-type: none"> (1) Uranium or thorium, other than special nuclear material; or (2) Ores that contain by weight 0.05 percent or more of uranium or thorium, or any combination of these materials. <p><i>Special nuclear material</i> means:</p> <ol style="list-style-type: none"> (1) Plutonium, (2) Uranium-233, or (3) Uranium enriched above 0.711 percent by weight in the isotope uranium-235. <p><i>Specific authorization</i> means an authorization granted by the Secretary under section 57 b.(2) of the Atomic Energy Act, in response to an application filed under this part, to engage in specifically authorized nuclear activities subject to this part.</p> <p><i>Technical data</i> means data in such forms as blueprints, plans, diagrams, models, formulae, engineering designs, specifications, manuals, and instructions written or recorded on other media or devices such as disks, tapes, read-only memories, and computational methodologies, algorithms, and computer codes that can directly or indirectly affect the production of special nuclear material.</p> <p><i>Technology</i> means assistance or technical data required for the development, production or use of any plant, facility, or especially designed or prepared equipment for the activities described in § 810.2(b).</p> <p><i>Use</i> means operation, installation (including on-site installation), maintenance (checking), repair, overhaul, or refurbishing.</p> <p><i>United States</i>, when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.</p>	
<p>§ 810.4 Communications.</p> <p>(a) All communications concerning the regulations in this part should be addressed to: U.S. Department of Energy, Washington, DC 20585. Attention: Director, Nuclear Transfer and Supplier Policy Division, NN-43, Office of Arms Control and Nonproliferation. Telephone: (202) 586-2331.</p>	<p>§ 810.4 Communications.</p> <p>(a) All communications concerning the regulations in this part should be addressed to: U.S. Department of Energy, Washington, DC 20585. Attention: Senior Policy Advisor, National Nuclear Security Administration/Office of Nonproliferation and Arms Control (NPAC), Telephone (202) 586-7924.</p> <p>(b) Communications also may be delivered to DOE’s</p>	<p>Sections 810.4 “Communications” and § 810.5 “Interpretations” update points of contact information to reflect the current DOE organizational structure and office designations for applications, questions, or requests. Section 810.4(c) has</p>

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<p>(b) Communications also may be delivered to the Department’s headquarters at 1000 Independence Avenue, SW., Washington, DC. All clearly marked proprietary information will be given the maximum protection allowed by law.</p> <p>[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39638, July 26, 1993; 65 FR 16127, Mar. 27, 2000]</p>	<p>headquarters at 1000 Independence Avenue, SW, Washington, DC 20585. All clearly marked proprietary information will be given the maximum protection allowed by law.</p> <p>(c) Communications may also be delivered by e-mail to: Part810@nnsa.doe.gov . For “fast track” activities described in §§ 810.6(c)(1) and (c)(2) e-mails should be sent to: Part810-OperationalSafety@nnsa.doe.gov . Notifications regarding activity in the Ukraine should be delivered by e-mail to: Part810-Ukraine@nnsa.doe.gov .</p>	<p>been added to allow communication, fast-track requests, and Ukraine notifications to be e-mailed. The final rule adds paragraph (c) to § 810.5 that states DOE may periodically publish abstracts of general or specific authorizations, excluding applicants’ proprietary data and other information protected by law from public disclosure, that may be of general interest.</p>
<p>§ 810.5 Interpretations.</p> <p>A person may request the advice of the Director, Nuclear Transfer and Supplier Policy Division (NN–43), on whether a proposed activity falls outside the scope of this part, is generally authorized under § 810.7, or requires specific authorization under § 810.8; however, unless authorized by the Secretary of Energy, in writing, no interpretation of the regulations in this part other than a written interpretation by the General Counsel is binding upon the Department. When advice is requested from the Director, Nuclear Transfer and Supplier Policy Division, or a binding, written determination is requested from the General Counsel, a response normally will be made within 30 days and, if this is not feasible, an interim response will explain the delay.</p> <p>[65 FR 16127, Mar. 27, 2000]</p>	<p>§ 810.5 Interpretations.</p> <p>(a) The advice of the DOE Office of Nonproliferation and Arms Control may be requested on whether a proposed activity falls outside the scope of this part, is generally authorized under § 810.6, or requires a specific authorization under § 810.7. However, unless authorized by the Secretary in writing, no interpretation of the regulations in this part other than a written interpretation by the DOE General Counsel is binding upon DOE.</p> <p>(b) When advice is requested from the DOE Office of Nonproliferation and Arms Control, or a binding, written determination is requested from the DOE General Counsel, a response normally will be made within 30 calendar days and, if this is not feasible, an interim response will explain the reason for the delay.</p> <p>(c) The DOE Office of Nonproliferation and Arms Control may periodically publish abstracts of general or specific authorizations that may be of general interest, exclusive of proprietary business-confidential data submitted to DOE or other information protected by law from unauthorized disclosure.</p>	
<p>§ 810.6 Authorization requirement.</p> <p>Section 57b of the Atomic Energy Act in pertinent part provides that:</p> <p>It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: <i>Provided,</i></p>		<p>The 1986 version of § 810.6 “Authorization requirement,” which quotes § 57 b. of the Atomic Energy Act, is deleted and replaced by § 810.1 “Purpose.” The 1986 version of § 810.6 “Authorization requirement,” which quotes § 57 b. of the Atomic Energy Act, is deleted and replaced by § 810.1 “Purpose.”</p>

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<p>That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense.</p>		
<p>§ 810.7 Generally authorized activities.</p> <p>In accordance with section 57b(2) of the Atomic Energy Act, the Secretary of Energy has determined that the following activities are generally authorized, provided no sensitive nuclear technology is transferred:</p> <p>(a) Furnishing public information as defined in § 810.3;</p> <p>(b) Furnishing information or assistance to prevent or correct a current or imminent radiological emergency posing a significant danger to the health and safety of the off-site population, provided the Department of Energy is notified in advance and does not object;</p> <p>(c) Furnishing information or assistance, including through continuing programs, to enhance the operational safety of an existing civilian nuclear power plant in a country listed in § 810.8(a) or to prevent, reduce, or correct a danger to the health and safety of the off-site population posed by a civilian nuclear power plant in such a country; provided the Department of Energy is notified in advance by certified mail, return receipt requested, and approves the use of the authorization in writing; the Department will notify the applicant of the status of the request within 30 days from the date of receipt of the notification.</p> <p>(d) Implementing the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States;</p> <p>(e) Participation in exchange programs approved by the Department of State in consultation with the Department of Energy;</p> <p>(f) Participation approved by a U.S. Government agency in IAEA programs, and activities of IAEA employees whose employment was approved by the U.S. Government;</p> <p>(g) Participation in open meetings as defined in § 810.3 that are sponsored by educational, scientific, or technical organizations or institutions;</p> <p>(h) Otherwise engaging directly or indirectly in the production of SNM</p>	<p>§ 810.6 Generally authorized activities.</p> <p>The Secretary has determined that the following activities are generally authorized, provided that no sensitive nuclear technology or assistance described in § 810.7 is involved:</p> <p>(a) Engaging directly or indirectly in the production of special nuclear material at facilities in countries or with entities listed in the Appendix to this part;</p> <p>(b) Transfer of technology to a citizen or national of a country other than the United States not listed in the Appendix to this part and working at an NRC-licensed facility, provided:</p> <ol style="list-style-type: none"> (1) The foreign national is lawfully employed by or contracted to work for a U.S. employer in the United States; (2) The foreign national executes a confidentiality agreement with the U.S. employer to safeguard the technology from unauthorized use or disclosure; (3) The foreign national has been granted unescorted access in accordance with NRC regulations at an NRC-licensed facility; and (4) The foreign national's U.S. employer authorizing access to the technology complies with the reporting requirements in § 810.12(g). <p>(c) Activities at any safeguarded or NRC-licensed facility to:</p> <ol style="list-style-type: none"> (1) Prevent or correct a current or imminent radiological emergency posing a significant danger to the health and safety of the off-site population, which emergency in DOE's assessment cannot be met by other means, provided DOE is notified in writing in advance and does not object within 48 hours of receipt of the advance notification; (2) Furnish operational safety information or assistance to existing safeguarded civilian nuclear reactors outside the United States in countries with safeguards agreements with the IAEA or an equivalent voluntary offer, provided DOE is notified in writing and approves the activity in writing within 45 calendar days of the notice. The applicant should 	<p>Significant revisions – See Final Rulemaking Notice Section II for full details.</p>

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<p>outside the United States in ways that: (1) Do not involve any of the countries listed in § 810.8(a); and (2) Do not involve production reactors, accelerator-driven subcritical assembly systems, enrichment, reprocessing, fabrication of nuclear fuel containing plutonium, production of heavy water, or research reactors, or test reactors, as described in § 810.8 (c)(1) through (6).</p> <p>[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39639, July 26, 1993; 65 FR 16127, Mar. 27, 2000]</p>	<p>provide all the information required under § 810.11 and specific references to the national or international safety standards or requirements for operational safety for nuclear reactors that will be addressed by the assistance; or</p> <p>(3) Furnish operational safety information or assistance to existing, proposed, or new-build civilian nuclear facilities in the United States, provided DOE is notified by certified mail return receipt requested and approves the activity in writing within 45 calendar days of the notice. The applicant should provide all the information required under § 810.11.</p> <p>(d) Participation in exchange programs approved by the Department of State in consultation with DOE;</p> <p>(e) Activities carried out in the course of implementation of the “Agreement between the United States of America and the IAEA for the Application of Safeguards in the United States,” done on December 9, 1980;</p> <p>(f) Activities carried out by persons who are full-time employees of the IAEA or whose employment by or work for the IAEA is sponsored or approved by the Department of State or DOE; or</p> <p>(g) Extraction of Molybdenum-99 for medical use from irradiated targets of enriched uranium, provided that the activity does not also involve purification and recovery of enriched uranium materials, and provided further, that the technology used does not involve significant components relevant for reprocessing spent nuclear reactor fuel (e.g., high-speed centrifugal contactors, pulsed columns).</p>	
<p>§ 810.8 Activities requiring specific authorization.</p> <p>Unless generally authorized by § 810.7, a person requires specific authorization by the Secretary of Energy before:</p> <p>(a) Engaging directly or indirectly in the production of special nuclear material in any of the following countries. Countries marked with an asterisk (*) are non-nuclear-weapon states that do not have full-scope IAEA safeguards agreements in force.</p> <p><u>Afghanistan</u></p>	<p>§ 810.7 Activities requiring specific authorization.</p> <p>Any person requires a specific authorization by the Secretary before:</p> <p>(a) Engaging in any of the activities listed in § 810.2(b) with any foreign country or entity not specified in the Appendix to this part;</p> <p>(b) Providing or transferring sensitive nuclear technology to any foreign country or entity; or</p> <p>(c) Engaging in or providing technology (including assistance) for any of the following activities with respect to any foreign country or entity (or a citizen or national of that country other than U.S.</p>	<p>Significant revisions – See Final Rulemaking Notice Section II for full details.</p>

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<p> Albania Algeria Andorra* Angola* Armenia Azerbaijan* Bahrain* Belarus Benin* Botswana* Burkina Faso* Burma (Myanmar) Burundi* Cambodia* Cameroon* Cape Verde* Central African Republic* Chad* China, People's Republic of Comoros* Congo* (Zaire) Cuba* Djibouti* Equatorial Guinea* Eritrea* Gabon* Georgia* Guinea* Guinea-Bissau* Haiti* India* Iran Iraq* Israel* Kazakhstan Kenya* Korea, People's Democratic Republic of* Kuwait* Kyrgyzstan* Laos* Liberia* Libya Macedonia Mali* Marshall Islands* </p>	<p>lawful permanent residents or protected individuals under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)):</p> <ol style="list-style-type: none"> (1) Uranium isotope separation (uranium enrichment), plutonium isotope separation, or isotope separation of any other elements (including stable isotope separation) when the technology or process can be applied directly or indirectly to uranium or plutonium; (2) Fabrication of nuclear fuel containing plutonium, including preparation of fuel elements, fuel assemblies, and cladding thereof; (3) Heavy water production, and hydrogen isotope separation, when the technology or process has reasonable potential for large-scale separation of deuterium (^2H) from protium (^1H); (4) Development, production or use of a production accelerator-driven subcritical assembly system; (5) Development, production or use of a production reactor; or (6) Reprocessing of irradiated nuclear fuel or targets containing special nuclear material. 	

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<p> Mauritania* Micronesia* Moldova* Mongolia Mozambique* Niger* Oman* Pakistan* Palau* Qatar* Russia Rwanda* Sao Tome and Principe* Saudi Arabia* Seychelles* Sierra Leone* Somalia* Sudan Syria Tajikistan* Tanzania* Togo* Turkmenistan* Uganda* Ukraine United Arab Emirates* Uzbekistan Vanuatu* Vietnam Yemen* Yugoslavia </p> <p> (b) Providing sensitive nuclear technology for an activity in any foreign country. </p> <p> (c) Engaging in or providing assistance or training in any of the following activities with respect to any foreign country. </p> <p> (1) Designing production reactors, accelerator driven subcritical assembly systems, or facilities for the separation of isotopes of source or SNM (enrichment), chemical processing of irradiated SNM (reprocessing), fabrication of nuclear fuel containing plutonium, or the production of heavy water; </p> <p> (2) Constructing, fabricating, operating, or maintaining such reactors, accelerator driven subcritical assembly systems, or facilities; </p> <p> (3) Designing, constructing, fabricating, operating or maintaining </p>		

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<p>components especially designed, modified or adapted for use in such reactors, accelerator driven subcritical assembly systems, or facilities; (4) Designing, constructing, fabricating, operating or maintaining major critical components for use in such reactors, accelerator driven subcritical assembly systems, or production scale facilities; or (5) Designing, constructing, fabricating, operating, or maintaining research reactors, test reactors or subcritical assemblies capable of continuous operation above five megawatts thermal; (6) Training in the activities of paragraphs (c)(1) through (5) of this section.</p> <p>[65 FR 16127, Mar. 27, 2000; 65 FR 26278, May 5, 2000]</p>		
<p>§ 810.9 Restrictions on general and specific authorization.</p> <p>A general or specific authorization granted by the Secretary of Energy under these regulations:</p> <p>(a) Is limited to activities involving only unclassified information and does not permit furnishing Restricted Data or other classified information.</p> <p>(b) Does not relieve a person from complying with relevant laws or the regulations of other Government agencies applicable to exports;</p> <p>(c) Does not authorize a person to engage in any activity when the person knows or has reason to know that the activity is intended to provide assistance in designing, developing, fabricating or testing a nuclear explosive device.</p>	<p>§ 810.8 Restrictions on general and specific authorization.</p> <p>A general or specific authorization granted by the Secretary under this part:</p> <p>(a) Is limited to activities involving only unclassified information and does not permit furnishing classified information;</p> <p>(b) Does not relieve a person from complying with the relevant laws or the regulations of other U.S. Government agencies applicable to exports; and</p> <p>(c) Does not authorize a person to engage in any activity when the person knows or has reason to know that the activity is intended to provide assistance in designing, developing, fabricating, or testing a nuclear explosive device.</p>	<p>Section 810.8 “Restrictions on general and specific authorization” remains unchanged from § 810.9 in the 1986 version of the rule, except for the following editorial revisions: replacing “these regulations” with “this part” in the introductory phrase; replacing “Restricted Data and other classified information” with “classified information” in paragraph (a), and replacing “Government agencies” with “U.S. Government agencies” in paragraph (b).</p>
<p>§ 810.10 Grant of specific authorization.</p> <p>(a) Any person proposing to provide assistance for which § 810.8 indicates specific authorization is required may apply for the authorization to the U.S. Department of Energy, National Nuclear Security Administration, Washington, DC 20585, Attention: Director, Nuclear Transfer and Supplier Policy Division, NN-43, Office of Arms Control and Nonproliferation.</p> <p>(b) The Secretary of Energy will approve an application for specific authorization if he determines, with the concurrence of the Department of</p>	<p>§ 810.9 Grant of specific authorization.</p> <p>(a) An application for authorization to engage in activities for which specific authorization is required under § 810.7 should be made to the U.S. Department of Energy, National Nuclear Security Administration, Washington, DC 20585, Attention: Senior Policy Advisor, Office of Nonproliferation and Arms Control (NPAC).</p> <p>(b) The Secretary will approve an application for specific authorization if it is determined, with the concurrence of the Department of State and after consultation with the Nuclear Regulatory Commission, Department of Commerce, and Department</p>	<p>Section 810.9 “Grant of specific authorization” of the final rule, § 810.10 of the 1986 version, identifies the factors consistent with U.S. international nonproliferation commitments that will be considered by the Secretary in granting a specific authorization. Paragraph (b) adds as factors to be considered: whether the government of the</p>

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<p>State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense, that the activity will not be inimical to the interest of the United States. In making this determination, the Secretary will take into account:</p> <p>(1) Whether the United States has an agreement for nuclear cooperation with the nation or group of nations involved;</p> <p>(2) Whether the country involved is a party to the NPT, or a country for which the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) is in force;</p> <p>(3) Whether the country involved has entered into an agreement with the IAEA for the application of safeguards on all its peaceful nuclear activities;</p> <p>(4) Whether the country involved, if it has not entered into such an agreement, has agreed to accept IAEA safeguards when applicable to the proposed activity;</p> <p>(5) Other nonproliferation controls or conditions applicable to the proposed activity;</p> <p>(6) The relative significance of the proposed activity;</p> <p>(7) The availability of comparable assistance from other sources;</p> <p>(8) Any other factors that may bear upon the political, economic, or security interests of the United States, including U.S. obligations under international agreements or treaties.</p> <p>(c) If the proposed assistance involves the export of “sensitive nuclear technology” as defined in § 810.3, the requirements of sections 127 and 128 of the Atomic Energy Act and of any applicable U.S. international commitments must also be met.</p> <p>(d) Approximately 30 days after the Secretary’s grant of a specific authorization, a copy of the Secretary’s determination may be provided to any person requesting it at the Department’s Public Reading Room, unless the applicant submits information showing that public disclosure will cause substantial harm to its competitive position. This provision does not affect any other authority provided by law for the Department not to disclose information</p> <p>[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39639, July 26, 1993; 65 FR 16128, Mar. 27, 2000]</p>	<p>of Defense, that the activity will not be inimical to the interest of the United States. In making such a determination, the Secretary will take into account the following factors:</p> <p>(1) Whether the United States has an agreement for cooperation in force covering exports to the country or entity involved;</p> <p>(2) Whether the country is a party to, or has otherwise adhered to, the NPT;</p> <p>(3) Whether the country is in good standing with its acknowledged nonproliferation commitments;</p> <p>(4) Whether the country is in full compliance with its obligations under the NPT;</p> <p>(5) Whether the country has accepted IAEA safeguards obligations on all nuclear materials used for peaceful purposes and has them in force;</p> <p>(6) Whether other nonproliferation controls or conditions exist on the proposed activity, including that the recipient is duly authorized by the country to receive and use the technology sought to be transferred;</p> <p>(7) Significance of the assistance or transferred technology relative to the existing nuclear capabilities of the country;</p> <p>(8) Whether the transferred technology is part of an existing cooperative enrichment enterprise or the supply chain of such an enterprise;</p> <p>(9) The availability of comparable assistance or technology from other sources; and</p> <p>(10) Any other factors that may bear upon the political, economic, competitiveness, or security interests of the United States, including the obligations of the United States under treaties or other international agreements, and the obligations of the country under treaties or other international agreements.</p> <p>(c) If the proposed activity involves the export of sensitive nuclear technology, the requirements of sections 127 and 128 of the Atomic Energy Act and of any applicable United States international commitments must also be met. For the export of sensitive nuclear technology, in addition to the factors in paragraph (b) of this section, the Secretary will take into account:</p> <p>(1) Whether the country has signed, ratified, and is implementing a comprehensive safeguards agreement with the IAEA and has in force an Additional Protocol based on the Model Additional Protocol, or, pending this, in the case of a regional accounting and control arrangement for nuclear materials, is implementing,</p>	<p>country concerned is in good standing with respect to its nonproliferation commitments (subparagraph (b)(3)); and whether, under subparagraph (b)(8), the transfer is part of an existing “cooperative enrichment enterprise” (as defined in § 810.3 of this final rule) or the supply chain of such an enterprise. Section 810.9(c) addresses the export of “sensitive nuclear technology” as the quoted term is defined in § 810.3 of this final rule. This section is expanded to describe additional factors, which include compliance with the United States’ NSG commitments, the Secretary will take into account when considering a specific authorization request for transfers of sensitive nuclear technology. The United States adheres to the NSG Guidelines for Nuclear Transfers, and NSG Guidelines for Transfers of Nuclear-related Dual-Use Equipment, Materials, Software and Related Technology (IAEA INFCIRC/254/Part 2). The current versions of both sets of Guidelines can be found at www.nuclearsuppliersgroup.org. In the final rule a new paragraph (d) is added to § 810.9 concerning requests to engage in authorized foreign atomic energy assistance activities related to the enrichment of source material and special nuclear material. Approval of such requests will be conditioned upon the receipt of written nonproliferation</p>

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	<p>in cooperation with the IAEA, a safeguards agreement approved by the IAEA Board of Governors prior to the publication of INFCIRC/540 (September 1997); or alternatively whether comprehensive safeguards, including the measures of the Model Additional Protocol, are being applied in the country;</p> <p>(2) Whether the country has not been identified in a report by the IAEA Secretariat that is under consideration by the IAEA Board of Governors, as being in breach of obligations to comply with the applicable safeguards agreement, nor continues to be the subject of Board of Governors decisions calling upon it to take additional steps to comply with its safeguards obligations or to build confidence in the peaceful nature of its nuclear program, nor as to which the IAEA Secretariat has reported that it is unable to implement the applicable safeguards agreement. This criterion would not apply in cases where the IAEA Board of Governors or the United Nations Security Council subsequently decides that adequate assurances exist as to the peaceful purposes of the country's nuclear program and its compliance with the applicable safeguards agreements. For the purposes of this paragraph, "breach" refers only to serious breaches of proliferation concern;</p> <p>(3) Whether the country is adhering to the Nuclear Suppliers Group Guidelines and, where applicable, has reported to the Security Council of the United Nations that it is implementing effective export controls as identified by Security Council Resolution 1540; and</p> <p>(4) Whether the country adheres to international safety conventions relating to nuclear or other radioactive materials or facilities.</p> <p>(d) Unless otherwise prohibited by U.S. law, the Secretary may grant an application for specific authorization for activities related to the enrichment of source material and special nuclear material, provided that:</p> <p>(1) The U.S. Government has received written nonproliferation assurances from the government of the country;</p> <p>(2) That it/they accept(s) the sensitive enrichment equipment and enabling technologies or an operable enrichment facility under conditions that do not permit or enable unauthorized replication of the facilities;</p> <p>(3) That the subject enrichment activity will not result in the production of uranium enriched to greater than 20% in the isotope uranium-235; and</p> <p>(4) That there are in place appropriate security arrangements to</p>	<p>assurances from the government of the destination country concerned. This process is designed to facilitate U.S. conformity to the NSG Guidelines.</p>

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	<p>protect the activity from use or transfer inconsistent with the country's national laws.</p> <p>(e) Approximately 30 calendar days after the Secretary's grant of a specific authorization, a copy of the Secretary's determination may be provided to any person requesting it at DOE's Public Reading Room, unless the applicant submits information demonstrating that public disclosure will cause substantial harm to its competitive position. This provision does not affect any other authority provided by law for the non-disclosure of information.</p>	
<p>§ 810.11 Revocation, suspension, or modification of authorization.</p> <p>The Secretary may revoke, suspend, or modify a general or specific authorization:</p> <p>(a) For any material false statement in an application for specific authorization or in any additional information submitted in its support;</p> <p>(b) For failing to provide a report or for any material false statement in a report submitted pursuant to § 810.13;</p> <p>(c) If any authorized assistance is subsequently determined to be inimical to the interest of the United States or otherwise no longer meets the legal criteria for approval; or</p> <p>(d) Pursuant to section 129 of the Atomic Energy Act.</p>	<p>§ 810.10 Revocation, suspension, or modification of authorization.</p> <p>The Secretary may revoke, suspend, or modify a general or specific authorization:</p> <p>(a) For any material false statement in an application for specific authorization or in any additional information submitted in its support;</p> <p>(b) For failing to provide a report or for any material false statement in a report submitted pursuant to § 810.12;</p> <p>(c) If any authorization governed by this part is subsequently determined by the Secretary to be inimical to the interest of the United States or otherwise no longer meets the legal criteria for approval; or</p> <p>(d) Pursuant to section 129 of the Atomic Energy Act.</p>	
<p>§ 810.12 Information required in an application for specific authorization.</p> <p>Each application shall contain:</p> <p>(a) The name, address, and citizenship of the applicant, and complete disclosure of all real parties in interest; if the applicant is a corporation or other legal entity, where it is incorporated or organized, the location of its principal office, and the degree of any control or ownership by any foreign person or entity;</p>	<p>§ 810.11 Information required in an application for specific authorization.</p> <p>(a) An application letter must include the following information:</p> <p>(1) The name, address, and citizenship of the applicant, and complete disclosure of all real parties in interest; if the applicant is a corporation or other legal entity, where it is incorporated or organized; the location of its principal office; and the degree of any control or ownership by any foreign individual, corporation, partnership, firm, association, trust, estate, public or private institution or government agency;</p>	<p>Substantially revised. See Notice of Final Rulemaking for full description.</p>

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<p>(b) A complete description of the proposed activity, including its approximate monetary value, the name and location of any facility or project involved, the name and address of the person or legal entity for which the activity is to be performed, and a detailed description of any specific project to which the activity relates;</p> <p>(c) Any information the applicant may wish to provide concerning the factors listed in § 810.10(b); and</p> <p>(d) Designation of any information considered proprietary whose public disclosure would cause substantial harm to the competitive position of the applicant.</p>	<p>(2) The country or entity to receive the assistance or technology; the name and location of any facility or project involved; and the name and address of the person for which or whom the activity is to be performed;</p> <p>(3) A description of the assistance or technology to be provided, including a complete description of the proposed activity, its approximate monetary value, and a detailed description of any specific project to which the activity relates as specified in §§ 810.9(b)(7), (8), and (9); and</p> <p>(4) The designation of any information that if publicly disclosed would cause substantial harm to the competitive position of the applicant.</p> <p>(b) Except as provided in § 810.6(b), an applicant seeking to employ a citizen or national of a country not listed in the Appendix in a position that could result in the transfer of technology subject to § 810.2, or seeking to employ any foreign national in the United States or in a foreign country that could result in the export of assistance or transfer of technology subject to § 810.7 must request a specific authorization. The applicant must provide, with respect to each foreign national to whom access to technology will be granted, the following:</p> <p>(1) A description of the technology that would be made available to the foreign national;</p> <p>(2) The purpose of the proposed transfer, a description of the applicant's technology control program, and any Nuclear Regulatory Commission standards applicable to the employer's grant of access to the technology;</p> <p>(3) A copy of any confidentiality agreement to safeguard the technology from unauthorized use or disclosure between the applicant and the foreign national;</p> <p>(4) Background information about the foreign national, including the individual's citizenship, all countries where the individual has resided for more than six months, the training or educational background of the individual, all work experience, any other known affiliations with persons engaged in activities subject to this part, and any current immigration or visa status in the United States; and</p> <p>(5) A statement signed by the foreign national that he/she will comply with the regulations under this part; will not disclose the applicant's technology without DOE's prior written authorization; and will not, at any time during or after his/her employment with the applicant, use the applicant's technology for any nuclear explosive device, for research on or</p>	

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	<p>development of any nuclear explosive device, or in furtherance of any military purpose.</p> <p>(c) An applicant for a specific authorization related to the enrichment of fissile material must submit information that demonstrates that the proposed transfer will avoid, so far as practicable, the transfer of enabling design or manufacturing technology associated with such items; and that the applicant will share with the recipient only information required for the regulatory purposes of the recipient country or to ensure the safe installation and operation of a resulting enrichment facility, without divulging enabling technology.</p>	
<p>§ 810.13 Reports.</p> <p>(a) Any person who has received a specific authorization shall within 30 days after beginning the authorized activity provide to the Department of Energy a report containing the following information:</p> <ol style="list-style-type: none"> (1) The name, address, and citizenship of the person submitting the report; (2) The name, address, and citizenship of the person or entity for which the activity is being performed; (3) A description of the activity, the date it began, its location, status, and anticipated date of completion; and (4) A copy of the Department of Energy's letter authorizing the activity. <p>(b) Any person carrying out a specifically authorized activity shall inform DOE when the activity is completed or if it is terminated before completion.</p> <p>(c) Any person granted a specific authorization shall inform DOE when it is known that the proposed activity will not be undertaken and the granted authorization will not be used.</p> <p>(d) Any person, within 30 days after beginning any generally authorized activity under § 810.7(b), (c), or (h), shall provide to the Department of Energy:</p> <ol style="list-style-type: none"> (1) The name, address, and citizenship of the person submitting the report; (2) The name, address, and citizenship of the person or entity for which the activity is being performed; and (3) A description of the activity, the date it began, its location, status, and anticipated date of completion. (4) An assurance that the U.S. vendor has an agreement with the 	<p>§ 810.12 Reports.</p> <p>(a) Each person who has received a specific authorization shall, within 30 calendar days after beginning the authorized activity, provide to DOE a written report containing the following information:</p> <ol style="list-style-type: none"> (1) The name, address, and citizenship of the person submitting the report; (2) The name, address, and citizenship of the person for whom or which the activity is being performed; (3) A description of the activity, the date it began, its location, status, and anticipated date of completion; and (4) A copy of the DOE letter authorizing the activity. <p>(b) Each person carrying out a specifically authorized activity shall inform DOE, in writing within 30 calendar days, of completion of the activity or of its termination before completion.</p> <p>(c) Each person granted a specific authorization shall inform DOE, in writing within 30 calendar days, when it is known that the proposed activity will not be undertaken and the granted authorization will not be used.</p> <p>(d) DOE may require reports to include such additional information that may be required by applicable U.S. law, regulation, or policy with respect to the specific nuclear activity or country for which specific authorization is required.</p> <p>(e) Each person, within 30 calendar days after beginning any generally authorized activity under § 810.6, shall provide to DOE:</p> <ol style="list-style-type: none"> (1) The name, address, and citizenship of the person submitting the report; (2) The name, address, and citizenship of the person for whom or 	<p>The 1986 version of § 810.13 is renumbered as § 810.12 in the final rule and changes reporting obligations. An addition in § 810.12(d) of the final rule requires companies to submit reports to DOE concerning activities requiring specific authorization, to include information required by U.S. law concerning specific civil nuclear activities in or exports to destinations for which a specific authorization is required. Under § 810.12(e)(4) of the final rule the reference to reporting on materials and equipment transferred under a general authorization is retained to ensure, among other things, that any technical data that is transferred as part of dual-use equipment is reported. In this final rule, paragraph (g) describes the reporting requirements of U.S. employers with respect to their deemed export and deemed re-export employees.</p>

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<p>recipient ensuring that any subsequent transfer of materials, equipment, or technology transferred under general authorization to a country listed in § 810.8(a) will only take place if the vendor obtains DOE approval.</p> <p>(e) Persons engaging in generally authorized activities as employees of persons required to report are not themselves required to report.</p> <p>(f) Persons engaging in activities generally authorized under § 810.7(a), (d), (e), (f), and (g) are not subject to reporting requirements under this section.</p> <p>(g) All reports should be sent to: U.S. Department of Energy, National Nuclear Security Administration, Washington, DC 20585, Attention: Director, Nuclear Transfer and Supplier Policy Division, NN-43, Office of Arms Control and Nonproliferation.</p> <p>[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39639, July 16, 1993; 65 FR 16128, Mar. 27, 2000]</p>	<p>which the activity is being performed;</p> <p>(3) A description of the activity, the date it began, its location, status, and anticipated date of completion; and</p> <p>(4) A written assurance that the applicant has an agreement with the recipient ensuring that any subsequent transfer of materials, equipment, or technology transferred under general authorization under circumstances in which the conditions in § 810.6 would not be met will take place only if the applicant obtains DOE's prior written approval.</p> <p>(f) Individuals engaging in generally authorized activities as employees of persons required to report are not themselves required to submit the reports described in paragraph (e) of this section.</p> <p>(g) Persons engaging in generally authorized activities under § 810.6(b) are required to notify DOE that a citizen or national of a country not listed in the Appendix to this part has been granted access to information subject to § 810.2 in accordance with Nuclear Regulatory Commission access requirements. The report should contain the information required in § 810.11(b).</p> <p>(h) All reports should be sent to: U.S. Department of Energy, National Nuclear Security Administration, Washington, DC 20585, Attention: Senior Policy Advisor, Office of Nonproliferation and Arms Control (NPAC).</p>	
<p>§ 810.14 Additional information.</p> <p>The Department of Energy may at any time require a person engaging in any generally or specifically authorized activity to submit additional information.</p>	<p>§ 810.13 Additional information.</p> <p>DOE may at any time require a person engaging in any generally or specifically authorized activity to submit additional information.</p>	<p>The 1986 version of § 810.14 is renumbered in the final rule as § 810.13, "Additional information." The section is otherwise unchanged.</p>
<p>No equivalent</p>	<p>§ 810.14 Special provisions regarding Ukraine.</p> <p>(a) Pre-activity Notification Requirements - Any person beginning any generally authorized activity involving Ukraine shall provide to DOE at least ten days prior to beginning that activity a report containing the following information:</p> <p>(1) The name, address, and citizenship of the person submitting the notification;</p> <p>(2) The name, address, and citizenship of the person for which the activity is to be performed;</p> <p>(3) A description of the activity, the date it is proposed to begin, its location, status, and anticipated date of completion; and</p>	<p>In the final rule, a new § 810.14 has been added to describe specific reporting requirements with respect to Ukraine. While the SNOPR contained a proposal to move Ukraine to the general authorization list, that proposal was made prior to the current geopolitical situation in that country. In light of those circumstances, DOE is finalizing its SNOPR proposal with the inclusion of advance</p>

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	<p>(4) A written assurance that the person that is to perform the activity has an agreement with the recipient that any subsequent transfer of technology or information transferred under general authorization will not be transferred to a country that is not listed in the Appendix to this part without the prior written approval of DOE.</p> <p>(b) Post-activity Reporting Requirements – Every person completing a generally authorized activity in Ukraine shall provide to DOE within ten days following the original transfer of technology or information written confirmation that such transfer was completed in accordance with the description of the activity provided as required by subsection (a) above.</p>	<p>notification requirements prior to beginning any generally authorized activity in Ukraine. A written report within 10 days following the original transfer of material, equipment or technology is also required for all activities in Ukraine subject to part 810. A more detailed explanation of the reason for this addition is in Section IV.B.2.</p>
<p>§ 810.15 Violations.</p> <p>(a) The Atomic Energy Act provides that:</p> <p>(1) Permanent or temporary injunctions or restraining orders may be granted to prevent any person from violating any provision of the Atomic Energy Act or its implementing regulations.</p> <p>(2) Any person convicted of violating or conspiring or attempting to violate any provision of section 57 of the Atomic Energy Act may be fined up to \$10,000 or imprisoned up to 10 years, or both. If the offense is committed with intent to injure the United States or to aid any foreign nation, the penalty could be up to life imprisonment and a \$20,000 fine.</p> <p>(b) Title 18 of the United States Code, section 1001, provides that persons convicted of willfully falsifying, concealing, or covering up a material fact or making false, fictitious or fraudulent statements or representations may be fined up to \$10,000 or imprisoned up to five years, or both.</p>	<p>§ 810.15 Violations.</p> <p>(a) The Atomic Energy Act provides that:</p> <p>(1) In accordance with section 232 of the AEA, permanent or temporary injunctions, restraining or other orders may be granted to prevent a violation of any provision of the Atomic Energy Act or any regulation or order issued thereunder.</p> <p>(2) In accordance with section 222 of the AEA, whoever willfully violates, attempts to violate, or conspires to violate any provision of section 57 of the Atomic Energy Act may be fined up to \$10,000 or imprisoned up to 10 years, or both. If the offense is committed with intent to injure the United States or to aid any foreign nation, the penalty could be up to life imprisonment or a \$20,000 fine, or both.</p> <p>(b) In accordance with Title 18 of the United States Code, section 1001, whoever knowingly and willfully falsifies, conceals, or covers up a material fact or makes or uses false, fictitious or fraudulent statements or representations shall be fined under that title or imprisoned up to five or eight years depending on the crime, or both.</p>	<p>Section 810.15 “Violations” retains the same section number in the final rule as it has in the 1986 version of the rule, although it was proposed to be renumbered in both the NOPR and the SNOPI. Section 810.15 in the final rule contains a number of revisions that bring the wording into alignment with the applicable statutory language.</p>
<p>§ 810.16 Effective date and savings clause.</p> <p>Except for actions that may be taken by DOE pursuant to § 810.11, the regulations in this part do not affect the validity or terms of any specific authorizations granted under regulations in effect before April 26, 2000 (and contained in the 10 CFR, part 500 to end, edition revised as of January 1, 2000) or generally authorized activities under those regulations for which the contracts, purchase orders, or licensing arrangements were already in effect. Persons engaging in activities that were generally</p>	<p>§ 810.16 Effective date and savings clause.</p> <p>The regulations in this part are effective March 25, 2015.</p> <p>Except for actions that may be taken by DOE pursuant to § 810.10, the regulations in this part do not affect the validity or terms of any specific authorizations granted under regulations in effect March 25, 2015 or generally authorized activities under those regulations for which the contracts, purchase orders, or licensing arrangements were already in effect. Persons engaging in activities that were generally authorized under regulations in effect before March 25, 2015, but that require specific</p>	<p>Section 810.16, “Effective date and savings clause”, which was proposed to be renumbered in the NOPR and the SNOPI, retains the same section number in the final rule as it has in the 1986 version of the rule. The only change to the language, as proposed in the SNOPI, is an</p>

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<p>authorized under regulations in effect before April 26, 2000, but that require specific authorization under the regulations in this part, must request specific authorization by July 25, 2000 but may continue their activities until DOE acts on the request.</p> <p>[65 FR 16128, Mar. 27, 2000]</p>	<p>authorization under the regulations in this part, must request specific authorization by August 24, 2015 and may continue their activities until DOE acts on the request.</p>	<p>extension of the date persons must come into compliance with the rule from 90 to 180 days.</p>
<p>No Equivalent</p>	<p>APPENDIX A TO PART 810 -- Generally Authorized Destinations</p> <p>Argentina</p> <p>Australia</p> <p>Austria</p> <p>Belgium</p> <p>Brazil</p> <p>Bulgaria</p> <p>Canada</p> <p>Chile (For all activities related to INFCIRC/834 only)</p> <p>Colombia</p> <p>Croatia</p> <p>Cyprus</p> <p>Czech Republic</p> <p>Denmark</p> <p>Egypt</p> <p>Estonia</p> <p>Finland</p> <p>France</p> <p>Germany</p> <p>Greece</p> <p>Hungary</p> <p>Indonesia</p> <p>International Atomic Energy Agency</p> <p>Ireland</p> <p>Italy</p> <p>Japan</p> <p>Kazakhstan</p> <p>Korea, Republic of</p>	

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	Latvia Lithuania Luxembourg Malta Mexico (For all activities related to INFCIRC/203 Parts 1 and 2 and INFCIRC/825 only) Morocco Netherlands Norway Poland Portugal Romania Slovakia Slovenia South Africa Spain Sweden Switzerland Taiwan Turkey Ukraine (Refer to § 810.14 for specific information and requirements) United Arab Emirates United Kingdom Vietnam	