

Department of Energy

§ 810.8

(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).

[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39639, July 26, 1993; 65 FR 16127, Mar. 27, 2000]

§ 810.8 Activities requiring specific authorization.

Unless generally authorized by § 810.7, a person requires specific authorization by the Secretary of Energy before:

(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.

Afghanistan
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*
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

(b) Providing sensitive nuclear technology for an activity in any foreign country.

(c) Engaging in or providing assistance or training in any of the following activities with respect to any foreign country.

(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;

(2) Constructing, fabricating, operating, or maintaining such reactors, accelerator-driven subcritical assembly systems, or facilities;

(3) Designing, constructing, fabricating, operating or maintaining components especially designed, modified or adapted for use in such reactors, accelerator-driven subcritical assembly systems, or facilities;

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(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.

[65 FR 16127, Mar. 27, 2000; 65 FR 26278, May 5, 2000]

§810.9 Restrictions on general and specific authorization.

A general or specific authorization granted by the Secretary of Energy under these regulations:

(a) Is limited to activities involving only unclassified information and does not permit furnishing Restricted Data or other classified information.

(b) Does not relieve a person from complying with relevant laws or the regulations of other Government agencies applicable to exports;

(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.

§810.10 Grant of specific authorization.

(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.

(b) The Secretary of Energy will approve an application for specific authorization if he determines, 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, that

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the activity will not be inimical to the interest of the United States. In making this determination, the Secretary will take into account:

(1) Whether the United States has an agreement for nuclear cooperation with the nation or group of nations involved;

(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;

(3) Whether the country involved has entered into an agreement with the IAEA for the application of safeguards on all its peaceful nuclear activities;

(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;

(5) Other nonproliferation controls or conditions applicable to the proposed activity;

(6) The relative significance of the proposed activity;

(7) The availability of comparable assistance from other sources;

(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.

(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.

(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.

[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39639, July 26, 1993; 65 FR 16128, Mar. 27, 2000]