§ 810.6 Authorization requirement.

Section 57b of the Atomic Energy Act in pertinent part provides that:

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: Provided, 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.

§ 810.7 Generally authorized activities.

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:

(a) Furnishing public information as defined in § 810.3;

(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;

(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.

(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;

(e) Participation in exchange programs approved by the Department of State in consultation with the Department of Energy;

(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;

(g) Participation in open meetings as defined in § 810.3 that are sponsored by educational, scientific, or technical organizations or institutions;

(h) Otherwise engaging directly or indirectly in the production of SNM 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).

§ 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*
Cape Verde*
Central African Republic*
Chad*
China, People’s Republic of
Comoros*
Congo* (Zaire)
(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;

(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.

§ 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 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