

## Department of Energy

- (1) Plutonium,
- (2) Uranium-233, or
- (3) Uranium enriched above 0.711 percent by weight in the isotope uranium-235.

*Specific authorization* means an authorization granted by the Secretary under section 57b.(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.

*Technical data* 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.

*Technology* 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).

*Use* means operation, installation (including on-site installation), maintenance (checking), repair, overhaul, or refurbishing.

*United States*, when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

### §810.4 Communications.

(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) 586-1007.

(b) Communications also may be delivered to DOE's headquarters at 1000 Independence Avenue SW., Washington, DC 20585. All clearly marked proprietary information will be given the maximum protection allowed by law.

(c) Communications may also be delivered by email to: *Part810@nnsa.doe.gov*. For "fast track" activities described in §§810.6(c)(1) and (c)(2) emails should be sent to: *Part810-OperationalSafety@nnsa.doe.gov*. Notifi-

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cations regarding activity in the Ukraine should be delivered by email to: *Part810-Ukraine@nnsa.doe.gov*.

### §810.5 Interpretations.

(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.

(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.

(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.

### §810.6 Generally authorized activities.

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:

(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;

(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:

(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

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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).

(c) Activities at any safeguarded or NRC-licensed facility to:

(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 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

(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.

(d) Participation in exchange programs approved by the Department of State in consultation with DOE;

(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;

(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

(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).

### §810.7 Activities requiring specific authorization.

Any person requires a specific authorization by the Secretary before:

(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;

(b) Providing or transferring sensitive nuclear technology to any foreign country or entity; or

(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. lawful permanent residents or protected individuals under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)):

(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 ( $^2\text{H}$ ) from protium ( $^1\text{H}$ );

(4) Development, production or use of a production accelerator-driven subcritical assembly system;

(5) Development, production or use of a production reactor; or