

**Guidance to the Revised
Part 810 Regulation:
Assistance to Foreign Atomic Energy
Activities**

**Department of Energy
National Nuclear Security Administration
Office of Nonproliferation and Arms Control**

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INTRODUCTION

The Department of Energy (DOE) has statutory responsibility for authorizing the transfer of unclassified nuclear technology and assistance to foreign atomic energy activities within the United States or abroad. In accordance with § 57 b.(2) of the Atomic Energy Act of 1954 (AEA), persons may engage, directly or indirectly, in the production or development of special nuclear material outside the United States only upon authorization by the Secretary of Energy, with the concurrence of the Department of State (DOS) and after consulting with the Departments of Defense (DoD) and Commerce (DOC), and the Nuclear Regulatory Commission (NRC).¹ This requirement, as implemented by DOE, applies to technology transfers and assistance related to certain nuclear fuel-cycle activities, commercial nuclear power plants, and research and test reactors. Covered transfers may include the transfer of physical documents or electronic media, electronic transfers or the transfer of knowledge and expertise.

Part 810 of Title 10, Code of Federal Regulations (Part 810) implements AEA § 57 b.(2), pursuant to which the Secretary has granted a general authorization for certain categories of activities which the Secretary has found to be non-inimical to the interest of the United States – including assistance or transfers of technology to the “generally authorized destinations” listed in Appendix A to Part 810. Other activities within the scope of Part 810 -- including transfers of technology or provision of assistance to destinations not listed in Appendix A (“specifically authorized” destinations) – require a case-by-case specific authorization from the Secretary. A specific authorization is also required for any assistance involving sensitive nuclear technologies (enrichment, reprocessing, plutonium fuel, and heavy water production, regardless of the destination’s status under the regulation. Whether a destination is determined to be generally or specifically authorized depends on a number of factors including the existence of a bilateral “123 Agreement” with the United States, the country’s nonproliferation credentials, and the significance and scope of its nuclear trade relationship with the United States.

On February 7, 2015 DOE issued its final rule revising Part 810, the first comprehensive update of the regulation since 1986. The regulation has been modernized to: (1) articulate clearly the activities and technologies that are within the scope of Part 810; (2) provide expanded general authorizations for operational safety activities, the separation of medical isotopes from spent nuclear fuel, and for transfers to foreign nationals working at NRC-licensed facilities and granted Unescorted Access in accordance with NRC regulations; and (3) provide an affirmative list of destinations that are generally authorized to receive transfers of non-sensitive nuclear technology. The Federal Register published the final rule on February 23, 2015. The rule was in effect as of March 25, 2015.

WHO SHOULD USE THIS GUIDANCE DOCUMENT

- Anyone interested in transferring nuclear technology to a foreign person or entity.

¹ Pursuant to section 57 b.(1) of the AEA, such activities may alternatively be specifically authorized under an agreement for cooperation for peaceful uses of nuclear energy pursuant to section 123 of the AEA, or under a subsequent arrangement pursuant to section 131 of the AEA.

- Anyone that has a current specific authorization to transfer nuclear technical information or assistance to a foreign national or foreign entity.
- Anyone who employs foreign nationals who require access or have access to Part 810-controlled nuclear technology.
- Anyone who is engaged in an ongoing generally authorized activity that now may no longer be generally authorized.

This guidance is designed to assist in interpreting and complying with the newly revised Part 810 rule. This document explains specific aspects of the regulation and procedures used by the National Nuclear Security Administration (NNSA) staff when administering the regulation.

PURPOSE (§ 810.1)

Part 810 implements § 57 b.(2) of the AEA by controlling the export from the United States of unclassified nuclear technology and assistance. It enables peaceful nuclear trade by identifying certain activities and destinations that can be generally authorized by the Secretary, thereby requiring no further authorization under Part 810. It also controls those activities and destinations that require specific authorization by the Secretary. In addition, the regulation delineates the process for requesting a specific authorization from the Secretary and sets forth the reporting requirements for generally and specifically authorized activities subject to Part 810.

SCOPE (§ 810.2)

The Part 810 regulation applies to transfers of technology or provision of assistance involving activities within the scope of the regulation conducted either in the United States or abroad by “persons” (as defined in § 810.3) subject to U.S. jurisdiction or by licensees, contractors or subsidiaries under the direction, supervision, responsibility or control of such persons.

The Scope of Part 810 has been substantially revised to clarify the types of activities that are covered by the rule.

Part 810 applies, but is not limited, to transfers of “technology” (defined in § 810.3 to include “technical data” or “assistance,” such as consulting, training, transferring nuclear technology, or the use of computer codes) involving the following activities:

- Chemical conversion and purification of uranium, thorium, plutonium, and neptunium;
- Nuclear fuel fabrication, including preparation of fuel elements, fuel assemblies and cladding thereof;
- 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;
- “Development,” “production” or “use” (as those terms are defined in § 810.3) of nuclear reactors, 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 (i.e. the so-called “nuclear island”); but not the Balance of Plant (BOP) which are part of all commercial power plants; nuclear, oil, gas, or coal;

- Development, production or use of accelerator-driven subcritical assembly systems that are especially designed or intended for plutonium or uranium-233 production;
- Hydrogen isotope separation and heavy water production;
- Reprocessing of irradiated nuclear fuel or targets containing “special nuclear material” (SNM) (defined in § 810.3 to mean plutonium, uranium-233 or uranium enriched above 0.711 percent by weight in the isotope uranium-235); and
- The transfer of technology for the development, production or use of equipment or material especially designed or prepared for any of the above listed activities.

Part 810 does not apply to the following activities:

- Exports licensed by NRC, DOS, or DOC;
- Transfer of “publicly available information”, “publicly available technology”, or the results of “fundamental research” (as those terms are defined in § 810.3);
- Uranium and thorium mining and milling;
- Nuclear fusion reactors;
- Production or extraction of radiopharmaceutical isotopes when the process does not involve SNM; and
- 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.

AGENCY JURISDICTIONS

Part 810 does not apply to exports licensed by DOC, DOS, or NRC. In some cases, an export license from one of these agencies may include a license to provide certain technology ancillary to the component or material being exported.

DE MINIMIS THRESHOLDS AND AMERICANIZATION OF FOREIGN TECHNOLOGY

Any technology that falls within the scope of Part 810 is controlled under Part 810 and is not subject to a specific percentage threshold before the controls are applied. A mechanistic approach is not appropriate for Part 810 coverage determinations for authorization of activities such as cooperative enrichment enterprises and other technology transfers by collaborative enterprises. DOE will make coverage determinations based on the specific facts of the proposed activity, including but not limited to technology to be transferred, the significance of the technology to the production of special nuclear material, end user destination, and end use duration of the activity such as single transfer or an ongoing activity, rather than by a mechanistic rule because the facts of each case are unique and not readily susceptible to characterization under a *de minimis* threshold.

DEFINITIONS (§ 810.3)

The following are some of the key definitions included in Part 810. Examples provided with these definitions are illustrative only and are not exhaustive.

Fundamental research 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 for industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.

Examples:

- University research under a government grant, the results of which are planned to be published as a series of papers and as public theses by participating graduate students. This work is fundamental research exempt from Part 810 coverage under § 810.2(c)(2).
- University research under an agreement with a corporation, the results of which the university will be allowed to publish in papers and as public theses. This work is fundamental research exempt from Part 810 coverage under § 810.2(c)(2).
- University research under an agreement with a corporation, the results of which the university will not be allowed to publish until after the corporation has reviewed the results and redacted information it desires to hold as a trade secret. This work is not fundamental research and accordingly is subject to Part 810.

Person means (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.

Examples of persons:

- John Q. Smith, a U.S. citizen.
- XYZ corporation, a privately owned company incorporated in Delaware, that employs a number of U.S. citizens and/or foreign nationals (as defined in § 810.3).
- A wholly-owned subsidiary of a U.S. corporation incorporated in a foreign country.

Publicly available information means information in any form that is generally accessible, without restriction, to the public.

Examples:

- Information given freely in marketing brochures, proposals, published in magazines, books and presentations given in an open forum is considered publicly available information.
- Information that is only available directly from the seller and cannot be shared without permission is not publicly available information.
- Information provided in a bid proposal could include financial information and other information which is commercially sensitive. However, the transfer of such proprietary financial or commercially sensitive information is generally not controlled under Part 810.
- If a seller's proposal or statement of work describes nuclear technology in sufficient detail so that the seller requires the buyer to sign a non-disclosure agreement, the proposal may be subject to Part 810 requirements. The seller may request technical assistance from NNSA staff or a formal interpretation by the DOE General Counsel concerning the applicability of Part 810 to the transaction pursuant to § 810.5 of the rule.
- While a seller's proposal or statement of work may not be subject to Part 810, the proposal may, if executed, subsequently involve transfers subject to Part 810. The seller may request technical assistance or a formal interpretation of the applicability of Part 810 to the transaction pursuant to § 810.5 of the rule.

Publicly available technology 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.

Example:

An academic paper regarding nuclear power reactor operation prior to actual publication is exempt from Part 810 coverage under § 810.2(c)(2) as long as the information has been appropriately authorized for public release and there is clear intent to publish all results.

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

Example:

Technology for "use" of nuclear equipment or components includes operating manuals; operating or installation instructions as to how to use, install, repair or maintain a nuclear reactor component or part thereof; or information or training as to how to perform a nuclear service or consulting work on a nuclear power reactor, or components thereof.

POINT OF CONTACT (§ 810.4)

Applications, questions, or requests should be addressed to: U.S. Department of Energy, Attention: Senior Policy Advisor, National Nuclear Security Administration/Office of

Nonproliferation and Arms Control (NA-24), Washington, DC 20585, Telephone (202) 586-1007

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

Correspondence may be submitted electronically via email to Part810@nnsa.doe.gov.

INTERPRETATIONS (§ 810.5)

Persons may request technical assistance (sometimes called an RFD) from the NNSA Office of Nonproliferation and Arms Control on whether a proposed activity falls within the scope of Part 810, 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 Part 810 regulations other than a written interpretation by DOE's General Counsel is binding upon DOE.

A response to a request for technical assistance or a formal written interpretation under § 810.5 normally will be made within 30 calendar days. If additional time is needed for a response, DOE will provide an interim response explaining the reason for the delay.

The NNSA Office of Nonproliferation and Arms Control may periodically publish redacted versions of general or specific authorizations that may be of general interest, excluding applicants' proprietary data and other information protected by law from public disclosure.

GENERAL AUTHORIZATION (§ 810.6)

The Secretary has generally authorized transfers of unclassified nuclear technology to destinations included on the "generally authorized destinations" list at Appendix A to Part 810.

Therefore, if the proposed activity involves the transfer of technical data or assistance relating to the nuclear activities listed in § 810.2(b) as described above and the destination is listed in Appendix A, then the proposed export to that destination is generally authorized, subject to the limitations and reporting requirements specified in §§ 810.7, 810.8 and 810.12.

Retransfers of technology transferred under a general authorization at § 810.6 remain the responsibility of the U.S. exporter. For example, if a U.S. exporter receives a request from Company X located in Canada to transfer technology for a CANDU reactor, the U.S. exporter will need to ascertain if the end user is a Canadian CANDU civilian nuclear power plant or if Company X intends to re-export the technology to a third country. If the final end user is in a third country that is not a generally authorized destination under Appendix A to Part 810, then the U.S. exporter must obtain a specific authorization for the re-export before the initial transfer can take place. DOE evaluates such transfers as if the U.S. exporter were transferring the technology directly to the final end user in the third country/retransfer destination. The U.S. exporter must know and disclose the ultimate recipient and end use of the nuclear technology.

Note that the transfer of controlled nuclear technology to a "foreign national" (as defined in § 810.3), whether within or outside of the United States, is deemed to be an export of such technology to that foreign national's country of citizenship. As a result, whether such a

transfer is generally authorized or requires specific authorization will depend on the nature and purpose of the transfer as well as the general authorization status of the recipient's country of citizenship under Appendix A to Part 810.

Part 810 includes a new general authorization provision at § 810.6 (b) that allows a foreign national of a country not listed in Appendix A and working at an NRC-licensed facility to be generally authorized to access Part 810-controlled technology if: 1) the foreign national is lawfully employed or contracted to work for a U.S. employer in the United States; 2) the foreign national has executed 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 U.S. employer authorizing access to the technology complies with the reporting requirements in § 810.12(g). All four criteria must be met in order for this general authorization to apply.

The term "operational safety" has been redefined in Part 810 to broaden the scope of assistance and technology that is generally authorized under § 810.6(c). U.S. companies are generally authorized to provide operational safety information and assistance to existing safeguarded nuclear reactors in foreign countries so they can meet specific national or international safety standards or requirements for operational safety. In addition, furnishing operational safety information and assistance in the context of important benchmarking activities at plants in the United States by international entities or individuals, such as those conducted by the Institute of Nuclear Power Operations, and NRC-sponsored and -approved activities, is generally authorized. These types of general authorization under § 810.6(c) require advance notification to and approval by DOE. For activities under §§ 810.6(c) (1) and (c)(2), "Fast Track" activities, an e-mail should be sent to Part810-OperationalSafety@nnsa.doe.gov.

Other generally authorized activities include § 810.6(d) exchange programs approved by the DOS in consultation with DOE. Sections 810.6(e) and (f) authorize certain cooperative activities with the International Atomic Energy Agency (IAEA), namely, 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", and those carried out by full-time employees of the IAEA, or by individuals whose employment or work is sponsored or approved by the DOS or DOE. Finally, a new provision at § 810.6(g) authorizes the transfer of technology for the extraction of Molybdenum-99 for medical use from irradiated nuclear material, subject to certain conditions.

All generally authorized activities are subject to the limitations specified in §§ 810.7 and 810.8 and the reporting requirements specified in § 810.12.

SPECIFIC AUTHORIZATION (§ 810.7)

A specific authorization is an authorization granted by the Secretary in response to a request by a person to engage in activities within the scope of Part 810 for which a general authorization under § 810.6 does not apply. As described in § 810.7, activities requiring specific authorization include transfers of controlled nuclear technology that are not generally authorized under § 810.6, as well as transfers of sensitive nuclear technology or assistance to such activities in any form. Filing a request for specific authorization does not itself permit the proposed activity to

take place; a specific authorization signed by the Secretary remains necessary.

Examples: Compliance with Changes to Specific Authorization Requirements

- A company has an existing specific authorization for an activity taking place in a destination that is now a generally authorized destination listed in Appendix A.

The existing activity now generally authorized, subject to the limitations specified in §§ 810.7 and 810.8, and your existing specific authorization is no longer required. A final report on your specific authorization activities in accordance with § 810.12(b) should be issued to close out this specific authorization and then report any new transfer or assistance activities in accordance with the generally authorized reporting requirements in § 810.12(e).

- A person transferred commercial nuclear technology to a company in a formerly generally authorized country; e.g., Thailand, a formerly generally authorized country that is not listed in Appendix A to Part 810.

All formerly generally authorized and in-progress activities for which the contracts, purchase orders, or licensing arrangements were in effect prior to the effective date of the revised Part 810 rule may continue as authorized under the former rule. A request for a specific authorization to continue the activity should be filed within 180 days of the publication date of the new rule. The request should include copies of previous reports, a description of the activities, and the anticipated duration of the activities. These activities may continue until DOE takes action on the specific authorization request.

- A company has a foreign national employee from a formerly generally authorized country that is not listed in Appendix A or is in the process of hiring a new employee from such a country.

The company will have a period of 180 days following the date of publication of the final rule to submit new requests for specific authorizations for all existing employees (as of March 25, 2015) whose activities must now be specifically authorized. You may continue with an existing activity until DOE takes action on the specific authorization request.

Please note: If for any reason a person believes their activities are covered under another company's specific authorization, it is the person's responsibility to verify applicability of the company's specific authorization before beginning any activity which requires a specific authorization. If in doubt, the NNSA Office of Nonproliferation and Arms Control should be contacted for verification of such coverage by another company's specific authorization before initiating any transfer under another person's authorization.

How the specific authorization approval process works:

The first step is that a completed specific authorization application letter including the information specified in § 810.11 must be sent to the NNSA contact office as specified in § 810.4 for review and processing.

The application letter is logged as received and assigned to an Export Control Action Officer for processing and analysis. The Action Officer reviews the information and docket the application once he or she concludes sufficient information is provided to move the case forward. The Officer then obtains an independent DOE laboratory technical review of the proposed transfer; prepares a technical analysis recommending approval or denial; and obtains DOE/NNSA internal legal and policy approval of the preliminary analysis.

Once the preliminary technical analysis is internally approved, the Officer prepares and transmits the relevant information, together with DOE's recommendation, to DOC, DoD, NRC for consultation and to DOS for concurrence on the proposed transfer activity. The interagency should respond to DOE's request within 30 days. As part of its review and concurrence, DOS obtains written nuclear nonproliferation assurances from the government(s) of the foreign country(ies) involved in the proposed transfer activity. The request for assurances is transmitted by the U.S. embassy in the foreign country to the governmental entity (e.g., Ministry of Foreign Affairs, or nuclear regulatory authority) with responsibility over nuclear imports. Although these requests are transmitted on a timely basis by the U.S. embassy, the timeline for receiving a written response from the foreign government is outside of the control of the U.S. Government and unpredictable.

Once all of the interagency approvals and the foreign government assurances are received, the Officer prepares the final package for approval by DOE/NNSA staff and the Secretary of Energy.

Once signed, the written specific authorization is transmitted to the applicant with a cover letter explaining the terms and any conditions imposed upon the specific authorization.

RESTRICTIONS ON GENERAL AND SPECIFIC AUTHORIZATION (§ 810.8)

This section remains materially unchanged from § 810.9 of the 1986 version of the rule.

GRANT OF SPECIFIC AUTHORIZATION (§ 810.9)

An application for authorization to engage in activities for which specific authorization is required under § 810.7 should be submitted to the NNSA Office of Nonproliferation and Arms Control.

The Secretary, with the concurrence of DOS and after consulting with DoD, DOC, and NRC, will approve an application for specific authorization if the Secretary determines that the proposed activity will not be inimical to the interest of the United States.

Each application for specific authorization is assessed on its own merits, in light of all the known facts and circumstances, to determine whether it would be inimical to the interest of the United States. Therefore, the Secretary grants specific authorizations on a case-by-case basis.

Some of the factors to be considered in deciding whether to grant a specific authorization are listed in § 810.9(b) and include: whether the United States has an agreement for cooperation in force covering exports to the country or entity involved (i.e., a 123 Agreement), whether the country has accepted IAEA safeguards obligations on all nuclear materials used for peaceful purposes and has them in force, and the significance of the assistance or transferred technology relative to the existing nuclear capabilities of the recipient country.

If the proposed activity involves the export of sensitive nuclear technology, the requirements of §§ 127 and 128 of the AEA and of any applicable U.S. international commitments also must be met. In addition to the factors specified in § 810.9(b), the Secretary, in considering such a proposed activity, also will take into account such factors as whether the recipient country has signed, ratified, and is implementing a comprehensive safeguards agreement with the IAEA and has in force an Additional Protocol thereto, has a history of complying with IAEA safeguards obligations, and whether it is adhering to the Nuclear Suppliers Group Guidelines and international nuclear safety conventions.

Unless otherwise prohibited by U.S. law, the Secretary may specifically authorize activities related to the enrichment of source material and special nuclear material, provided that certain conditions are met, including receipt by the U.S. Government of written nonproliferation assurances from the government of the relevant country and the existence of appropriate security arrangements to protect the activity from use or transfer inconsistent with the country's national laws.

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 requestor at DOE's Public Reading Room, exclusive of any proprietary data which the applicant substantiates will cause substantial harm to its competitive position if publicly disclosed.

REVOCAION, SUPSPENSION, OR MODIFICATION OF AUTHORIZATION (§810.10)

This section remains materially unchanged from § 810.11 of the 1986 version of the rule.

APPLYING FOR A SPECIFIC AUTHORIZATION (§ 810.11)

The content of an application for specific authorization remains largely unchanged from the 1986 version of the rule. In order to ensure efficient processing and review of an application for specific authorization, the following information should be included:

- 1) Name, address, phone, email contact information and citizenship of the applicant. If the applicant is a business, the application must reflect the degree of any foreign control or ownership and a detailed description of the applicant's business.
- 2) A detailed description of technology or assistance proposed to export, including the planned end use. DOE needs to know exactly what technology is proposed for transfer so that DOE can adequately review and understand the request.

- 3) The destination(s) of the proposed transfer, including any retransfers to third countries. DOE needs to know the ultimate end user and end use of the proposed export, especially if the transfer involves multiple destinations.
- 4) The date your proposed activity is planned to start and an estimate of when it may end. Technology transfer activities can be long-term, such as a joint venture, or relatively short-term, such as a six-month effort to review a process and issue a report.
- 5) The reason to transfer to, train or assist a foreign company or individual. For example:
 - A joint venture, signed contract, work order, or possible business opportunity for which specific authorization is required before such transfer or assistance can take place.
 - A foreign national to whom a company wants to grant access to nuclear technology in order to increase his/her job responsibilities or positionDOE needs to know the reasons for this transfer or assistance to a foreign individual or entity in order to issue the correct specific authorization and obtain the required foreign government documentation (assurances for technology transferred) or the required business documentation (foreign employee signed individual nonproliferation assurances and non-disclosure agreement) for the employee.
- 6) An estimate of the value of the technology or assistance proposed for transfer as required by § 810.11(a)(3). This should be a best estimate of this value; it could be a contract amount or an estimate of the value of the work over the entire time frame that the proposed activity will occur, whether it is a one-time deliverable or a multi-year transfer activity.

REPORTS (§ 810.12)

All reports should be sent to: U.S. Department of Energy, Attention: Senior Policy Advisor, National Nuclear Security Administration/Office of Nonproliferation and Arms Control (NA-24) 1000 Independence Ave SW, Washington, DC 20585, Telephone (202) 586-1007 or e-mailed to Part810@nnsa.doe.gov.

REPORTING FOR SPECIFIC AUTHORIZATION

Within 30 calendar days after beginning the authorized activity (as well as any additional reporting frequency specified in the authorization), any person who has received a specific authorization must provide a report to NNSA containing the following information:

- The name, address and citizenship of the person submitting the report;
- The name, address and citizenship of the person for whom or which the activity is being performed;
- A description of the activity, the date it began, its location, status and anticipated date of completion; and
- A copy of the DOE letter authorizing the activity.

Any person carrying out a specifically authorized activity must inform DOE, in writing within 30 calendar days, of completion of the activity or of its termination before completion, in order to formally close out the authorization. In addition, any person granted a specific

authorization must 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.

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 activity or country for which specific authorization is required.

REPORTING FOR GENERALLY AUTHORIZED ACTIVITY

Each person, within 30 calendar days after beginning any generally authorized activity under §§ 810.6 (a), (d), (e), (f) or (g), must provide to DOE:

- The name, address and citizenship of the person submitting the report;
- The name, address and citizenship of the person for whom or which the activity is being performed;
- A description of the activity, the date it began, its location, status, and anticipated date of completion; and,
- 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.

Individuals engaging in generally authorized activities as employees of persons required to report under § 810.12 are not themselves required to submit the reports described above.

Persons engaging in generally authorized activities under § 810.6(b) are required to notify DOE that a citizen of a country not listed in Appendix A to Part 810 has been granted access to information in accordance with NRC access requirements. The report should contain the information required in § 810.11(b).

ADDITIONAL INFORMATION (§ 810.13)

This section remains materially unchanged from § 810.14 of the 1986 version of the rule.

SPECIAL PROVISIONS FOR UKRAINE (§ 810.14)

Ukraine has been designated a generally authorized destination under the revised Part 810 rule; but in light of the geopolitical situation in Ukraine, DOE has included advance notification and reporting requirements with respect to generally authorized activities involving Ukraine. Transfers of nuclear technology and assistance to areas that are not under control of the Government of Ukraine could present a proliferation risk, and a case-by-case non-inimicality determination is needed for transfers to those areas.

PRE-ACTIVITY NOTIFICATION REQUIREMENTS

Any person beginning any generally authorized activity involving Ukraine must submit to DOE at least ten days prior to beginning that activity a report containing the following information:

1. The name, address, and citizenship of the person submitting the report;
2. The name, address, and citizenship of the person for which the activity is to be performed;
3. A description of the activity, the date it is proposed to begin, its location, status, and anticipated date of completion; and
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 Part 810 without the prior written approval of DOE.

Pre-activity notification regarding activity in Ukraine should be delivered by e-mail to Part810-Ukraine@nnsa.doe.gov.

POST-ACTIVITY REPORTING REQUIREMENTS

Every person completing a generally authorized activity in Ukraine must submit to DOE within ten days following the original transfer of material, equipment or technology written confirmation that such transfer was completed in accordance with the description of the activity provided as required by the pre-activity report provided under § 810.14(a).

Post-activity reporting should be delivered by e-mail to Part810@nnsa.doe.gov.

PENDING REQUESTS FOR SPECIFIC AUTHORIZATION

Currently pending requests for specific authorization involving Ukraine may be withdrawn following the effective date of the revised Part 810 regulation, but any generally authorized activities involving Ukraine are subject to the notification requirements specified above.

VIOLATIONS (§ 810.15)

For violations of the Part 810 regulation, the AEA provides that:

- (1) In accordance with section 232 of the AEA, permanent or temporary injunctions, restraining or other orders may be granted to prevent any person from violating any provision of the AEA or any regulation or other order issued thereunder.
- (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 AEA 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.

Additionally, 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.

EFFECTIVE DATE AND SAVINGS CLAUSE (§ 810.16)

The revised Part 810 regulation is effective as of March 25, 2015.

Except for actions that may be taken by DOE pursuant to § 810.10, the revised Part 810 regulation does not affect the validity or terms of any specific authorizations granted under regulations in effect before 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 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.

Any pending specific authorization request for a destination that is now generally authorized in the final Part 810 rule, namely, Croatia, Kazakhstan, Ukraine, United Arab Emirates, and Vietnam, should be withdrawn starting on the effective date of the rule.

Finally, companies that have made unreported generally authorized transfers should provide the information required by § 810.11 for each transfer to any foreign national who continues to have access to Part 810-controlled technology by August 24, 2015.