



## FAQ on Part 810 Authorizations

### What is a Part 810 authorization?

The U.S. Department of Energy (DOE) regulations at 10 CFR Part 810 (Part 810) are one part of the complex and rigorous U.S. export control regime that regulates the transfer of hardware, materials and technology to support the construction and operation of commercial nuclear power plants overseas.

In essence, Part 810 controls the transfer of unclassified nuclear “technology” (technical assistance and technical data) overseas and to foreign nationals anywhere. Part 810 does not authorize the transfer of classified information (for example, “Restricted Data” about nuclear weapons and other military nuclear technologies), or nuclear propulsion technology. Further, Part 810 does not authorize the export of any nuclear equipment or material (e.g., uranium or nuclear fuel). Part 810 does authorize the transfer of technology for the design, construction, operation and maintenance of commercial nuclear reactors and key equipment and components for these reactors.

U.S. companies commonly obtain authorizations under Part 810 as a first step in negotiating to sell products and services to foreign companies for constructing, operating and maintaining civil nuclear power plants. Because Part 810 governs the transfer of nuclear technical data and know-how, U.S. companies frequently secure specific authorizations (akin to an export license) under Part 810 during early stages of discussions with potential customers. The Part 810 authorization enables U.S. companies to hold a meaningful, proprietary discussion of their products and services with the prospective foreign customer, so that they can effectively engage in pre-bid discussions and submit responses to requests for information and proposals.

Approval of a Part 810 authorization does not mean that a commercial sale will occur.

### What is the process for authorizing activities under Part 810?

Section 57 b.(2) of the Atomic Energy Act (AEA) assigns responsibility to the Secretary of Energy for authorizing U.S. companies to provide nuclear technology (technical data or assistance) to foreign entities. The AEA requires that the Secretary of Energy determine that any transfer is “not inimical to the interests of the United States.” The Secretary of Energy does not make this determination alone—Part 810 specific authorization applications undergo a rigorous legal, technical and programmatic review within the DOE. Further, the AEA requires the DOE to obtain the concurrence of the U.S. Department of State and to consult with the U.S. Departments of Defense and Commerce, and the U.S. Nuclear Regulatory Commission. The interagency process also includes input from the U.S. intelligence agencies.

Transfer of nuclear technology to any country that does not have in force an Agreement for Peaceful Nuclear Cooperation with the United States (known as a “123 agreement”, because it is authorized by Section 123 of the AEA) are subject to the rigorous pre-approval process outlined above, known as “specific authorization.” Part

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810 also provides for a “general authorization” for transfers of commercial nuclear reactor technology to certain countries; however, countries that do not have a 123 agreement with the United States are ineligible for this general authorization.

For more information on Part 810, see the [DOE factsheet on 10 CFR Part 810](#) and the [DOE Guidance to the Revised Part 810 Regulation](#).

### **How does a Part 810 authorization relate to other U.S. trade controls and 123 agreements?**

As noted above, Part 810 only regulates the transfer of technology but not physical equipment, components or nuclear material. The export of hardware items such as nuclear reactors, equipment specially designed for nuclear reactors, and uranium are controlled by the NRC under its regulations at 10 CFR Part 110 (Part 110). The export of any nuclear reactor, any major reactor component, or “special nuclear material” (enriched uranium or plutonium) to any destination requires a specific license from the NRC under Part 110, which the NRC can only issue if the destination has a 123 agreement in force with the United States.

The negotiation of a 123 agreement with a foreign government typically takes years and involves a number of agencies, including the U.S. Departments of State, Energy, Defense and the NRC. Once negotiated, a 123 agreement must be submitted to Congress together with presidential findings and a detailed nonproliferation assessment and undergo a lengthy period of congressional review.

For more information on 123 agreements, see [Nuclear Cooperation with Other Countries: A Primer](#), by the Congressional Research Service.

### **Why are Part 810 authorizations often kept confidential?**

U.S. companies applying for a Part 810 authorization are typically required by DOE to submit detailed business proprietary information about their business plans, market opportunities and technology. Confidentiality of this information promotes open, honest communication between industry and the U.S. government on matters of nuclear safety and security.

Competitors can learn about company corporate strategies, market opportunities, and engagement plans from the information contained in a Part 810 authorization. Keeping proprietary information in Part 810 authorizations out of the public domain protects U.S. innovation and export opportunities.

In order to serve the public interest in communication with the government and to protect U.S. companies against competitive harms, the Freedom of Information Act (FOIA) recognizes that trade secrets and proprietary information given by industry to the government should be kept safe—so as to not make honest disclosure to the government a commercial liability.

As a result, federal agencies routinely protect proprietary information provided by industry for licensing matters. The DOE provides to companies the option to keep Part 810-specific authorization applications, the specific authorization itself, and related correspondence confidential if they contain such information. Depending on the circumstances, business confidential information covered by Exemption 4 of FOIA can even include the name of the applicant, the subject of the application, and potential customers. This practice is consistent with the requirements of FOIA and the practices of other federal agencies that are subject to FOIA.