

GAO Questions/Responses

1. What methods does your agency use to ensure that you have identified all relevant transactions under foreign investment laws that your agency carries out?

All applications for production and utilization facility licenses under sections 103 and 104 of the Atomic Energy Act are reviewed against the NRC Standard Review Plan for foreign ownership and control issues that may arise. On occasion, transactions that may have foreign ownership or control implications, but which do not involve applications for licenses, may be revealed in the media and thus be the subject of requests by the NRC for information. However, the NRC's statutory mandate is to act only if it "knows or has reason to believe" there is a foreign ownership or control issue that is problematical. Thus, the NRC does not perform regular affirmative searches for all possible transactions that could have foreign ownership or control implications.

2. Does your agency apply similar methods to ensure that relevant transactions are reported, across all types of transactions and/or types of investors? If not, do your processes differ based on any risk-assessment of the type of transaction or investor?

The type of transaction or type of investor does not impact the NRC's methods or processes as described in Response 1 above.

3. How many tiers of ownership does your agency evaluate when reviewing foreign transactions?

Foreign ownership and control issues are reviewed on a case by case basis using the SRP. There is no established threshold regarding tiers of ownership required by the review. However, as a general matter, the NRC will examine tiers of ownership up through the ultimate controlling legal entity, whether or not such entity has direct or indirect control of an NRC licensee.

4. Does your agency make use of other data sources (other government transactions data from the SEC, BEA, or others) to verify the accuracy of the reported ownership? If so, what data sources do you use?

Yes, the NRC often makes use of other data sources. For example, during the review process, NRC staff may obtain a copy of all current SEC schedules 13D and 13G, which are required to be filed by owners of more than 5% of registered class of stock with the Securities and Exchange Commission, the security issuer (applicant) and the exchange on which the issuer's securities are traded.

5. Does your agency track past transactions that were approved to cross-reference with transactions currently under review? If so, how long do you keep the past applications?

Yes. All applications for the issuance or transfer of control of production or utilization licenses are docketed and maintained in the NRC's official records indefinitely.

6. How does your agency keep track of changes in ownership for assets in your sector? Are there routine ownership review? How would your agency be alerted if there were a significant change in ownership for a company in your sector?

In general, changes in ownership of nuclear power plants and other licensed facilities must receive prior written approval by the NRC. Applications for approval are docketed and reviewed as they are received. NRC Administrative Letter 96-02 ("Licensee Responsibilities Related to Financial Qualifications") and a regulatory issue summary (RIS) issued on February 1, 2000, outline licensee responsibilities to officially inform the NRC of significant changes with respect to ownership or control of a licensee or parent company, including those relating to foreign ownership or control.

7. How many enforcement actions has your agency taken for violations of ownership disclosure or citizenship requirements in the past 5 years? Against what entities (foreign or domestic) were the actions taken? What were the penalties? Did you coordinate with other US agencies and/or overseas regulators?

The NRC has not taken an enforcement action for violations of ownership disclosure in the past 5 years. The NRC considers the citizenship of corporate directors and principal officers in reviewing foreign ownership and control matters, but has not taken any enforcement action in that regard in the past 5 years.

8. How would you rate compliance among entities in your sector with laws pertaining to foreign ownership and control? Please give justification for your response.

Where the NRC has determined to impose certain licensing conditions to negate potential foreign ownership or control, the NRC has never found that such conditions have ever been violated. On this basis, the NRC believes that compliance has been satisfactory.