

GAO Highlights

Highlights of [GAO-15-124](#), a report to congressional requesters

Why GAO Did This Study

Encouraging U.S. exports of civilian nuclear products, services, and technology while ensuring they are not used for foreign nuclear weapons programs is a fundamental goal of U.S. policy. Exports of U.S. civilian nuclear technology, assistance, and services are regulated by DOE through 10 C.F.R. Part 810. Depending on the importing country and technology, exports can be generally authorized, with no application required, or specifically authorized, in which case the exporter must submit an application to DOE. The Departments of Commerce, Defense, and State, as well as the Nuclear Regulatory Commission, also review the applications, which must finally be approved by the Secretary of Energy.

GAO was asked to examine the Part 810 process. This report examines (1) Part 810 processing times over the last 6 years compared with DOE's targets; (2) the extent to which Part 810's scope is clear and DOE can reasonably assure consistent interpretation; and (3) the extent to which DOE enforces Part 810. GAO analyzed all 89 specific authorizations granted from 2008-2013 and interviewed key agency officials and U.S. nuclear industry representatives.

What GAO Recommends

GAO recommends that the Secretary of Energy take several actions to improve the Part 810 process, such as determine whether DOE has legal authority to impose civil penalties, and establish realistic and achievable targets for each stage of the Part 810 process, as well as the overall process. DOE agreed with the recommendations.

View [GAO-15-124](#). For more information, contact David C. Trimble at (202) 512-3841 or trimbled@gao.gov or Thomas Melito at (202) 512-9601 or melitot@gao.gov.

October 2014

NUCLEAR COMMERCE

Additional Actions Needed to Improve DOE's Export Control Process

What GAO Found

The Department of Energy (DOE) has consistently missed its 30-day targets for the initial and interagency stages of the Part 810 review process (see table). From 2008 through 2013, DOE missed the target for the initial review stage for 80 of 89 applications processed, and interagency review times missed DOE's 30-day target for 85 applications. DOE has not established a target for the entire final review stage, which had the longest median review times, or for the overall process. DOE has acknowledged exporter concerns that processing times for specific authorizations can impose business risks, and DOE officials have proposed initiatives to reduce processing times.

	Initial review stage	Interagency review stage	Final review stage
Target review time	30 days	30 days	None
Median Review time	71 days	105 days	125 days
Longest review time	1,035 days	810 days	921 days
Shortest review time	0 days ^a	12 days	14 days
Reviews exceeding 30 days	80 of 89	85 of 89	86 of 89

Source: GAO analysis of Department of Energy information. | GAO-15-124

^aThe 0-day initial review was for an amended application whose initial review was completed the same date the amended application was submitted.

The scope of Part 810 is unclear, and DOE's inquiry process does not reasonably assure that the regulation is consistently interpreted. For example, it is unclear what marketing activities are covered by Part 810. DOE has not provided written guidance to clarify the regulation's scope, instead directing exporters to inquire with DOE officials. DOE officials said that they do not document all such inquiries or their responses. Without such documentation, DOE can neither reasonably assure that its responses are consistent, nor can it analyze the inquiries to identify parts of the regulation that may need clarification. DOE is taking some steps to clarify Part 810 by defining or refining some key terms. However, DOE's revisions do not address all terms that exporters have identified as unclear, and the time frame of DOE's revisions is unknown.

DOE has taken limited actions to enforce Part 810. DOE's primary method for monitoring compliance with Part 810 is reading reports from exporters, but according to DOE officials, they conduct in-depth analysis on less than 10 percent of reports and do not have a risk-based procedure for selecting reports to analyze. Also, because DOE does not provide guidance for companies to self-identify and self-report possible violations, DOE is missing an opportunity to leverage exporters' role in monitoring their own compliance. DOE has not yet determined whether it has the legal authority to impose civil penalties for violations of Part 810. According to DOE officials, DOE has never taken a formal action for a violation of Part 810, such as revoking an authorization or referring a potential violation to the Department of Justice (DOJ). Furthermore, DOJ officials reported that they are not aware of any prosecutions related to Part 810 violations from 2008-2013, the time frame GAO reviewed.