

Phased Implementation Examples

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Purpose

- Review Previous Rulemaking Implementations
- Inform Future Rulemaking Challenges

Scope

- 10 CFR 50.46 Initial Rulemaking Implementation
- Recent Rulemaking Implementation Strategies

50.46 and Appendix K

Initial Rulemaking Implementation

- Final Rule issued on January 4, 1974 (39 FR 1002).
 - Rule effective on February 4, 1974.
 - Current Licensees were required to submit an evaluation, along with proposed changes in Technical Specifications or license amendments as necessary, within six months of rule effectiveness.

50.46 and Appendix K

Initial Rulemaking Implementation

- Implementation for current licensees included in rule language, 10 CFR 50.46(a)(2)(ii).
 - Single, short duration implementation with wording for extension requirements.
- Extension and exemption criteria stated in the rule, 50.46(a)(2)(iii) and (vi).
- Implementation sections removed on September 16, 1988 through separate rulemaking. (53 FR 36004)

Recent Rule Implementation, Example 1

Industry Phased Approach

- NRC-2008-0122, Enhancements to Emergency Preparedness Regulations. (76 FR 72560)
 - Individual compliance dates for specific sections of the revised rule.
 - Coordinated using implementation feedback provided by the industry.
 - Example on next slide.

EP RULE IMPLEMENTATION MATRIX

#	EP RULE TOPIC	FINAL RULE CITATION	PROPOSED RULE IMPLEMENTATION PERIOD	REQUESTED IMPLEMENTATION PERIOD	DRAFT FINAL RULE IMPLEMENTATION PERIOD ¹	IMPLEMENTATION PERIOD CHANGE (Final vs. Proposed)
1	Amended Emergency Plan Change Process	10 CFR 50.54(q)	30 days after date of final rule publication in <i>Federal Register</i>	12 months	30 days after date of final rule publication in <i>Federal Register</i>	No change
2	Evacuation Time Estimate Updating	10 CFR Part 50, Appendix E, Section IV.3	6 months after date of final rule publication in <i>Federal Register</i>	12 months	Within 365 days of the later of the date of availability of decennial census data from the U.S. Census Bureau or effective date* of final rule	+6 months
3	Licensee Coordination with Offsite Response Organizations	10 CFR Part 50, Appendix E, Section IV.A.7	6 months after date of final rule publication in <i>Federal Register</i>	24 months	365 days after date of final rule publication in <i>Federal Register</i>	+6 months
4	On-Shift Multiple Responsibilities	10 CFR Part 50, Appendix E, Section IV.A.9	6 months after date of final rule publication in <i>Federal Register</i>	36 months	180 days ² after date of final rule publication in <i>Federal Register</i>	No net change
5	Emergency Action Levels for Hostile Action	10 CFR Part 50, Appendix E, Section IV.B.1	6 months after date of final rule publication in <i>Federal Register</i>	36 months	180 days after date of final rule publication in <i>Federal Register</i>	No net change
6	Emergency Declaration Timeliness	10 CFR Part 50, Appendix E, Section IV.C.2	6 months after date of final rule publication in <i>Federal Register</i>	12 months	180 days after date of final rule publication in <i>Federal Register</i>	No net change
7	Alert and Notification System Backup Means	10 CFR Part 50, Appendix E, Section IV.D.3	1 st biennial exercise more than 1 year after effective date* of final rule	36 months	1 st biennial exercise more than 395 days after date of final rule publication in <i>Federal Register</i>	No net change

Recent Rule Implementation, Example 2

Industry Phased Approach

- NRC-2002-0002, Fitness For Duty Programs. (73 FR 16966)
 - Implementation of the rule, except for Subparts I and K, allowed to be deferred for 11 months based on individual submittal and approval.
 - Separate Implementation date for Subpart I, Managing Fatigue.
 - Subpart K (FFD for Construction) compliance required upon final rule issuance.

Recent Rule Implementation, Example 3

Site Specific Phased Approach

- NRC-2008-0019, Power Reactor Security Requirements. (74 FR 13926)
 - Single compliance date one year from final rule effective date for 10 CFR 73.55 (Physical Security).
 - Scheduler Exemption required for change in compliance date.
 - Individual site implementation plans required for 10 CFR 73.54 compliance (Cyber Security).
 - Submittal of plan pursuant to 10 CFR 50.90 (License Amendment Request) required within 180 days from final rule effective date.
 - Plan submittal required through an undesignated paragraph at the beginning of 10 CFR 73.54.

Recent Rule Implementation, Example 3

Site Specific Phased Approach

- Site specific submittals for Cyber Security implementation
 - Allowed for individual compliance dates for specific requirements based on safety significance and licensee ability to complete actions.
 - Plan template developed by NEI (NEI 08-09, Rev. 6) provided consistency for industry structure and NRC reviews.
 - Approved Plan referenced in new License Condition.
 - More safety significant items completed and assessed by NRC prior to final compliance date.
 - Site specific compliance dates not stated directly in rule.
 - Minimal rule language required to direct implementation.
 - Compliance date changes for milestones, or tracks, does not require additional rule changes.

Implementation Recommendation

- Removal of site specific rule language
 - Site placement for tracked implementation can be handled outside of rulemaking.
 - Changes to implementation tracks can be handled without rulemaking or exemption requests.
 - Allows for industry feedback for placement into a track.
 - Site specific implementation schedules.
 - Allows for the completion and review of early milestones prior to final compliance.
 - Allows for phased approach to specific rule sections.

Summary

- Specific compliance dates not aligned with industry ability to complete activities may result in excessive need for exemption requests or enforcement discretion.
- Implementation does not necessarily require extensive site specific rule language.