



U.S. NRC

UNITED STATES NUCLEAR REGULATORY COMMISSION

Protecting People and the Environment

Distinguishing Among Various Types of “Dates” in Regulations

Public Meeting

May 7, 2015



Purpose and Outline

Purpose: Provide an overview of the various kinds of dates used in regulations

Outline:

- Effective Date
- Compliance Date
- Dates in Applicability Provisions
- Implementation Date(s)



Effective Date

- *Effective Date* of the regulation denotes when the regulation will be treated by the Office of the Federal Register (OFR) as part of the Code of Federal Regulations (CFR).
- Effective Date is denoted in the **DATES** caption of a *Federal Register* Notice (FRN) of final rulemaking



Effective Date

(example)

Example

DATES: This regulation is **effective on May 1, 2018.**

Effective Date is Set Forth in the *DATES* caption

28112

Federal Register / Vol. 74, No. 112 / Friday, June 12, 2009 / Rules and Regulations

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

RIN 3150-A119

[NRC-2007-0009]

Consideration of Aircraft Impacts for New Nuclear Power Reactors

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is amending its regulations to require applicants for new nuclear power reactors to perform a design-specific assessment of the effects of the impact of a large, commercial aircraft. The applicant is required to use realistic analyses to identify and incorporate design features and functional capabilities to show, with reduced use of operator actions, that either the reactor core remains cooled or the

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DATES: The effective date is July 13, 2009.

I. Introduction

The Commission believes that it is prudent for nuclear power plant designers to take into account the potential effects of the impact of a large, commercial aircraft. The Commission has determined that the impact of a large, commercial aircraft is a beyond-design-basis event, and the NRC's requirements that apply to the design, construction, testing, operation, and maintenance of design features and functional capabilities for design basis events will not apply to design features or functional capabilities selected by the applicant solely to meet the requirements of this final rule (aircraft impact rule). The NRC's approach to aircraft impacts is consistent with its previous approach to beyond-design-basis events. The objective of this rule is to require nuclear power plant¹ designers to perform a rigorous assessment of the design to identify design features and functional capabilities that could provide additional inherent protection to withstand the effects of an aircraft

(From 69 FR 2182 (January 14, 2004))



Compliance Date

- Compliance Date of a regulation is the date by which all entities subject to the regulation must comply with the regulation (*according to the terms of the language of the regulation*).
- The Compliance Date is the same as the Effective Date unless a separate Compliance Date is denoted in the **DATES** caption of a *Federal Register Notice (FRN)* of final rulemaking (*or the language of the regulation contains Implementation Date(s), see later slides*):



Compliance Date *(example)*

Example

DATES: This regulation is effective on May 1, 2018. **Compliance with this regulation is not required until May 1, 2020.**

Example: Effective Date and Delayed Compliance Date in the DATES Caption

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its environmental protection regulations by updating the Commission's 1996 findings on the environmental effect of renewing the operating license of a nuclear power plant. The final rule redefines the number and scope of the environmental impact issues that must be addressed by the NRC during license renewal environmental reviews. This final rule also incorporates lessons learned and knowledge gained from license renewal environmental reviews conducted by the NRC since 1996.

DATES: This rule is effective on July 22, 2013. However, compliance is not required until June 20, 2014.

- The OFR will not ordinarily approve of complex schemes involving different compliance dates in the DATES caption for different sets of entities
- *NOTE:* The OFR may accept “provisional” effective dates, whereby a final rule is published but does not go into effect until a subsequent

(from 78 FR at 37282, first column) notice is published in the *Federal Register*



Dates in Applicability Provisions

- *Applicability* denotes what entities are subject to the regulation. Oftentimes, applicability is expressed relative to a date:
- **Example**
 - **10 CFR § 74.100 Protection Against Vampires**

(a) This regulation applies to all holders of licenses authorizing the possession of special nuclear materials, and all applicants for such licenses which are submitted **after May 1, 2020**.



Implementation Date: General

- *Implementation Date* is the date by which compliance with the regulation, or specific requirements within a regulation, must be accomplished.
- It is specified in the actual words of a regulation, usually in a paragraph with the heading, **Implementation**.
- *Implementation Date* may or may not be an actual “date.”
 - The Implementation date could be expressed in terms of a time period/interval, or a condition precedent.



Implementation Date: General *(continued)*

- If the regulation contains multiple requirements, each of which has a separate date by which compliance must be achieved, then there must be multiple *Implementation Dates*.
- Each requirement with its own *Compliance Date* must be given its own *Implementation Date*
- *Implementation Date* is used only if:
 - the *Compliance Date* is not the same as the *Effective Date* (as set forth in the **DATES** caption of the FRN for the final regulation), and
 - the **DATES** caption does not expressly denote a *Compliance Date*



Implementation Date: General *(example)*

10 CFR § 74.100 Protection Against Vampires

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(c) Implementation.

(1) Each entity holding a license on the date of effectiveness of this rule must install all detection and repelling hardware necessary to meet the performance requirements in this regulation **by no later than May 1, 2021.**

(2) Each applicant for the initial special nuclear materials license must comply with the requirements of this section by **no later than 30 days after issuance of the special nuclear material license.**



Implementation Date: Notice or certification of compliance to NRC

- If compliance with a substantive requirement in a regulation will *not* be associated with an application and NRC approval, then it may be useful for the regulation to require the regulated entity to notify or certify that compliance with that requirement has been achieved.
- The notification or certification requirement must be specified in its own *Implementation Date*.



Implementation Date: Notice or certification of compliance to NRC (example)

10 CFR § 74.100 Protection Against Vampires

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(c) Implementation.

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(3) Each entity holding a license on the date of effectiveness of this rule must notify the NRC in writing that it has implemented changes to access procedures to comply with the performance requirements of this section by **May 1, 2020.**



Implementation Date: Submission of application/request

- If compliance with a substantive requirement in a regulation necessarily must entail NRC review and approval under existing NRC requirements, or if the NRC decides that such review and approval is necessary, then the regulation should require the regulated entity to submit an application for NRC review and approval.
- An date for submission of the application should be specified in its own *Implementation Date*.



Implementation Date: Submission of application/request *(example)*

10 CFR § 74.100 Protection Against Vampires

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(c) Implementation.

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(4) Each entity holding a license on the date of effectiveness of this rule must submit a license amendment describing the detection and repelling hardware necessary to meet the performance requirements of this section by **May 1, 2020.**



Implementation Date: NRC action

- If a regulation requires both: (i) compliance with substantive requirements in the regulation by a specific date; and (ii) an application for approval of features or matters needed to comply with those substantive requirements, then the NRC’s approval is in the critical path for compliance.
- Under such circumstances, the regulation should – to protect the licensee’s valid interests – specify a limit for the NRC to take action or render a decision on the licensee application.
- There are several alternative ways to implement such a limit, e.g., a “negative consent” approach.



Implementation Date: NRC action (*example*)

10 CFR § 74.100 Protection Against Vampires

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(c) Implementation.

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(5) If the NRC does not act within **180 days of the submission of an application submitted under paragraph (c)(4) of this section, then the application is deemed to be approved by the NRC.**