



Graded Approach in Authorization

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- **Licensing example**
- Step 1- Identify the required authorization
 - initial construction and operating licenses for nuclear installations
 - renewed operating licenses
 - license amendments

Authorizations

- **Step 2 - Determine which factors are applicable to the decision**
 - statutory requirements
 - type of facility
 - number of nuclear installations to be regulated
 - Life-cycle stage

Authorizations

- **Step 2 – Ranking factors**
 - Statutory requirements most heavily weighted (by law)
 - Type of facility (risk-related). Fuel cycle facilities represent less risk to public; authorizations delegated.
 - Number of installations being regulated (resources, work load)
 - Life-cycle stage - (type of facility not a factor for initial construction/operating license (Commission approval), but it is for license extension and license amendments).

Authorizations

- **Step 3 - Integrate the applicable factors into the decision-making process**
 - Statutory authority for licensing nuclear facilities in the U.S. originates in the Atomic Energy Act of 1954 (as amended). The Act authorizes the NRC to issue 40-year initial licenses for commercial power reactors.
 - 10 CFR Part 52 - authority for issuing early site permits, design certifications, combined construction and operating licenses for operating nuclear power plants rests with the Commission.

Authorizations

- **Step 3 - Integrate the applicable factors into the decision-making process**
 - **NPPs**
 - License extensions – delegated to Director, Office of Nuclear Reactor Regulation
 - License amendments – delegated to lower level supervisors (Branch Chiefs) based on volume of actions.

Authorizations

- **Step 3 - Integrate the applicable factors into the decision-making process**
 - **Non-power reactors (research reactors)**
 - License extensions - delegated to lower level supervisors due to the reduced risk associated with these facilities.
 - License amendments – delegated to lower level supervisors for same reason.

Authorizations

- **Step 3 - Integrate the applicable factors into the decision-making process**
 - **Fuel cycle facilities**
 - authority to issue, renew, amend and terminate by-product, source and special nuclear material licenses resides at the Division Director level. This level is appropriate based on the reduced risk to the public posed by these facilities.

- **Rulemaking example**
- Step 1- Identify the required authorization
 - Authorization to issue regulations

Authorizations

- **Step 2 - Determine which factors are applicable to the decision**
 - statutory requirements
 - type of rulemaking
 - level of stakeholder involvement
 - resource impact on licensees

Authorizations

- **Step 2 – Ranking factors**
 - Statutory requirements carry the greatest weight.
 - Type of rulemaking is another factor. Certain rules require routine revision because of updating of codes and standards, or establishing annual fees for licensees. These types of rulemakings are repetitive in nature and generally do not require changes in policy; therefore, the Commission may delegate these types of rulemakings to the NRC staff.

- Step 2 – Ranking factors
 - Some types of rulemakings may elicit strong stakeholder interest that may result in the Commission retaining rulemaking authority instead of delegating to staff.
 - The Commission may retain authority for rulemakings that may have a significant impact on resource requirements for licensees.

- **Step 3 - Integrate the applicable factors into the decision-making process**
 - Statutory authority - The Energy Reorganization Act of 1974 allows the Commission to delegate certain regulatory functions to the Directors of Nuclear Reactor Regulation (NRR), and Nuclear Material Safety and Safeguards (NMSS)

Authorizations

- The Commission has exclusive authority to issue rules concerning the following:
 - A significant question of policy;
 - Title 10 of the *Code of Federal Regulations* (10 CFR) Part 7, “Advisory Committees;” and 10 CFR Part 9, Subpart C, “Government in the Sunshine Act Regulations,” concerning matters of policy; and
 - Issuance and revision of policy statements.

Authorizations

- A rule involves a significant question of policy and must be submitted to the Commission for approval and issuance if it (a) represents a major change in existing Commission policy; (b) addresses a major new issue; or (c) would result in a major commitment of resources by a class of licensee.

Authorizations

- Rules delegated to NRR
 - incorporation by reference of American Society of Mechanical Engineers (ASME) *Boiler and Pressure Vessel Code* (BPV Code) and *Operation and Maintenance of Nuclear Power Plants* (OM Code) in 10 CFR 50.55a, “Codes and standards;” revisions to certificate-of-compliance rules; and rules that make corrections or administrative changes.
 - do not raise a significant policy issue or are corrective in nature or result in a rule of a minor, corrective, or nonpolicy nature that does not substantially modify existing precedent

References

- Management Directive 6.3, “Rulemaking Process”
 - <https://www.nrc.gov/docs/ML1816/ML18169A097.pdf>