

SAFETY ABSTRACT

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Triodyne Inc. (Est. 1969)

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Wilmette, IL 60091-2101
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Vehicle Laboratory

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Photographic Laboratory

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Morton Grove, IL 60053
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FIRE AND EXPLOSION:

Triodyne Fire & Explosion Engineers, Inc. (Est. 1987)

2907 Butterfield Road
Suite 120
Oak Brook, IL 60521-1176
(708) 573-7707
FAX: (708) 573-7731

Officers/Directors

John A. Campbell
Reed B. Varley
Ralph L. Barnett
S. Carl Uzgiris

Chicago Office

John A. Campbell
Scott M. Howell
Thomas H. Miller
Kim R. Mniszewski

Miami Office

1110 Brickell Avenue
Suite 430
Miami, FL 33131-3135
(305) 374-4009
FAX: (305) 374-4011
Reed B. Varley
Sheila Faith-Barry

**Triodyne Inc.**

Consulting Engineers and Scientists

5950 West Touhy Avenue Niles, IL 60714-4610 (708) 677-4730

FAX: (708) 647-2047

e-mail: triodyne@nslsilus.org

Active versus Retroactive Regulations

by Gary M. Hutter, Ph.D., P.E.¹

WHEN SHOULD A SAFETY STANDARD OR REGULATION BE MADE ACTIVE OR RETROACTIVE AND WHAT ITEMS SHOULD BE CONSIDERED?

CRITERIA FOR SETTING EFFECTIVE DATES

1. The seriousness of the associated injury or work related health effect
2. The availability of special elements in implementing the regulation
3. The effectiveness of a device (new or existing) or alternatives
4. The perception and acceptance of the regulation
5. The enforceability of the regulation
6. The number of units affected
7. The expense of retrofitting existing units
8. The life expectancy of the affected product
9. The possible self-retroactive nature of the device
10. The problems of uniformity and user expectation

ABSTRACT

All regulations and standards have implementation dates. The implementation date is the point in time when a regulation or standard is intended to be enforced. There has been much discussion about how these dates should be established and whether or not a manufacturer should make product changes before the implementation date. Numerous litigation claims, for example, would require that certain non-mandatory safety devices be standard equipment before a new regulation's stated implementation date.

A review of the criteria used by standards setting organizations and regulatory agencies indicates that there is no universal policy on this issue. The figure above lists criteria usually considered. They include such practical items as availability of hardware and product life expectancy to such human factors concerns as user expectations. The complete text of this published paper discusses these issues and offers examples which provide a rationale for establishing implementation dates for regulations and standards.

¹ Senior Mechanical and Safety Engineer, Triodyne Inc., Niles, IL.

The complete paper has been published in *Standards Engineering*, vol. 37, no. 6 STEN BJ 37 (6) 121-144 a journal of the Standards Engineering Society. For more information or a complimentary copy, please call Gary Hutter, Ph.D. at (708) 677-4730.

ENVIRONMENTAL ENGINEERING:

Triodyne Environmental Engineering, Inc. (Est. 1989)

5950 West Touhy Avenue
Niles, IL 60714-4610
(708) 647-6748
FAX: (708) 647-2047

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S. Carl Uzgiris

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Triodyne Recreation Engineering Inc. (Est. 1994)

5950 West Touhy Avenue
Niles, IL 60714-4610
(708) 647-9882
FAX: (708) 647-0785

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S. Carl Uzgiris

SAFETY RESEARCH:

Institute for Advanced Safety Studies (Est. 1984)

5950 West Touhy Avenue
Niles, IL 60714-4610
(708) 647-1101

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Theodore Liber

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Alliance Tool & Mfg. Inc. (Est. 1945)

91 East Wilcox Street
Maywood, IL 60153-2397
(312) 261-1712
FAX: (708) 345-4004

Officers

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Ralph L. Barnett

General Manager

Ramesh Gandhi

Plant Manager

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Founders/Consultants

Joseph Gansacz
Albert Kanikula

CONSTRUCTION:

Triodyne-Wangler Construction Company Inc. (Est. 1993)

5950 West Touhy Avenue
Niles, IL 60714-4610
(708) 677-4730
FAX: (708) 647-2047

Officers/Directors/Managers

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William A. Wangler
Joseph Wangler
Ralph L. Barnett
S. Carl Uzgiris

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