



**Consumers  
Power  
Company**

Terence J Sullivan  
Manager, Safety & Licensing  
Midland Project

General Offices: 1945 West Parnall Road, Jackson, Michigan 49201 • (517) 788-2972

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DOCKET NUMBER

PROPOSED RULE

PR-2,50

(14)

(45 FR 34279)

Secretary  
United States Nuclear Regulatory Commission  
Washington, DC 20555

Attention: Docket and Service Branch

Re: Comments: Possible Amendments to Immediate Effectiveness Rule



Gentlemen:

On May 22, 1980, the NRC published in the Federal Register (45 FR 34279) alternatives to the so-called "immediate effectiveness rule." The Commission announced that it contemplates adoption of one of the proposed alternatives to the present rule, contained in 10 CFR 2.764.

Consumers is chiefly concerned with delays in operating license proceedings which result from the application of present 10 CFR 2 Appendix B Standards. While the present staff proposal does not speak to this issue, there exists no justification for the continued application of Appendix B to OL proceedings. All studies, staff reports, and consultant reports in this area, as well as the incidents which precipitated staff studies, involved construction permit proceedings. Since the staff's proposal on construction permit proceedings would necessarily involve the abrogation of Appendix B, we request that this abrogation apply to both construction permit and operating license proceedings.

Further, unlike most of the proposals, the existing version of 10 CFR 2.764 has provision for immediate effectiveness of OL board decisions. Our legal counsel informs us that the rule in 2.764 had only minimum impact in OL proceedings, since under normal circumstances the OL board does not have the authority to authorize the issuance of an operating license.

Nevertheless, none of the proposed versions of 10 CFR 2.764, with the exception of the existing version, have provision for OL board decisions. If this omission

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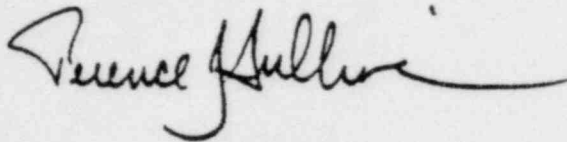
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was merely done in recognition of the fact noted above that OL boards normally have no power to issue an OL, then we request that the staff make specific reference to that reason in its future submittals on this subject. If the omission was a conscious effort to retain Appendix B procedures as to OL board decisions, then we strongly object both to the substance of such a step and to the lack of any staff comment on it. The present record would not justify continued application of Appendix B to OL proceedings because of extended staff consideration of the TMI accident, the issuance of the Action Plan, and the Commission policy statement as to the sufficiency of proposed remedies.

Although these comments are filed late, we request that they be given due consideration. Thank you for your attention.

Sincerely,



CC: JWCook/SHHowell  
GSKeeley  
JLBacon  
JEBrunner  
DPHoffman  
CJMaynard