

TENNESSEE VALLEY AUTHORITY  
KNOXVILLE, TENNESSEE 37902

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PROPOSED RULE

PR-2 (4)  
(46 FR 20215)

Mr. Samuel J. Chilk  
Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Mr. Chilk:

We appreciate the opportunity to comment on the NRC's proposed changes to its rules of procedure aimed at shortening licensing reviews. Specifically, we concur with the Commission's proposal to restore, at least in part, the immediate effectiveness rule by modifying Appendix B to 10 C.F.R. pt. 2 (1980).

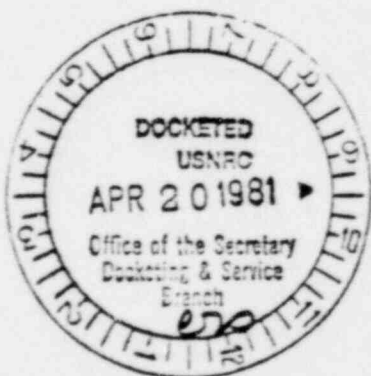
The courts and other administrative agencies have long functioned successfully with the rule that a party seeking to stay the effectiveness of a decision pending appeal must make a strong showing that (1) it is likely to prevail on the merits, (2) its interests would be irreparably injured unless a stay were granted, (3) the injury to other parties would be minimal during the stay, and (4) a stay is in the public interest. It would not be automatically presumed in NRC proceedings, as under present procedure, that the licensing board's decision is incorrect. This is especially true in contested proceedings where the parties who are seeking to have a license denied are fully aware of the issues by their participation and are capable of showing an adequate basis, if one exists, on which a stay can be granted. Full reinstatement of the rule would avoid several months of unnecessary and costly delay.

While either option proposed would significantly reduce delays, Option B, which provides for immediate effectiveness of operating licenses, is preferable. In either situation, there will be adequate time for opposing parties to prepare, file, and have considered a request for a stay prior to any action being taken.

This proposal by the Commission should materially assist the Nation in reducing unnecessary and costly delays in nuclear licensing.

Sincerely yours,

*Herbert S. Sanger, Jr.*  
Herbert S. Sanger, Jr.  
General Counsel



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