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Secretary of the Commission
Attention Docketing and Service Branch
U. S. Nuclear Regulatory Commission
Washington, DC 20555

November 17, 1982

IMMEDIATE EFFECTIVENESS RULE
PROPOSED RULE: 10CFR2
47FR47260, OCTOBER, 25, 1982

DOCKET NUMBER
PROPOSED RULE PR-2
(47 FR 47260) ①

We are pleased to submit our comments on the above-mentioned proposed rule.

In lieu of the proposed modifications to 10CFR2, the reinstatement of the Immediate Effectiveness Rule is preferred and should be implemented by the Commission. The Immediate Effectiveness Rule should be reinstated with applicability to both the construction permit stage and the operating license stage proceedings.

The present rule was adopted in 1979 because the NRC thought that such an action was necessary in response to the TMI-2 accident. A careful study of events and practices leading to and subsequent to TMI-2 shows that there was and is no need "to increase Commission supervision of adjudicatory licensing decisions involving power reactors." The process leading to an ASLB decision affords sufficient opportunity to resolve all contentions made, and during the several years prior to the ASLB action, the NRC will have been reviewing and re-reviewing the issues that are being raised in the adjudicatory process. Thus, it should not be necessary for the NRC to require an additional, in-series, review of any contended issues during either construction permit stage or operating license stage proceedings. Even should a new issue be raised at the ASLB stage, both the Commission and the ASLB have the authority to stay a decision of the ASLB pending further review.

However, we do believe that the proposed rule is a positive step in the right direction.

Commissioner Ahearne contends that, because a licensing proceeding may be controverted, the Commission should be required by procedure to perform an early review. We believe that the fact that a proceeding may be controverted, by itself, should not be a criterion for instituting an additional layer of pre-permit award review. The reviews performed by the staff and the ASLB are sufficient.

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Thus, we reiterate that the NRC should reinstate the Immediate Effectiveness Rule, thus allowing its applicability to both construction permit stage and operating license stage proceedings in the same manner that it was applied prior to 1979.

We appreciate this opportunity to assist in the development of this proposed rule and hope that the above comments will be of use to you in its finalization.

LP Walker for
R. B. Bradbury
Chief Licensing Engineer

DJC:MC