

AA61-2 PDR

cc: VStello
JRoe
~~Switzer~~
GCunningham
HDenton

AFFIRMATION

RESPONSE SHEET

Handwritten notes:
7/1 R WO
1/2 Ec
③ T Dorian

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-85-209A - FINAL REGULATIONS ON NO SIGNIFICANT HAZARDS CONSIDERATION (THE "SHOLLY AMENDMENT")

APPROVED _____ DISAPPROVED x _____ ABSTAIN _____
NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS: See attached

Entered on "AS" YES NO

8604160156 860327
PDR PR
2 45FR20491 PDR

Signature of Samuel J. Chilk

SIGNATURE

1-10-86

DATE

SECRETARIAT NOTE: PLEASE ALSO RESPOND TO AND/OR COMMENT ON OGC/OPE MEMORANDUM IF ONE HAS BEEN ISSUED ON THIS PAPER.

Secy 85-209A Sholly Final Rule

I disapprove the final rule for a number of reasons:

(1) I believe that Congress did not intend that the Sholly provision be used to approve reracking amendments, or amendments for other types of expansion of spent fuel storage, prior to the completion of any requested hearing.

(2) The FR notice does not clearly state that the issue to be decided in the staff's significant hazards consideration determination is whether the amendment presents any significant new or unreviewed safety issues for consideration.

(3) The staff has added to the list of examples of amendments "not likely to involve a significant hazards consideration" a section on repairs. See pages 37-38 of the FR notice. This section appears to codify the staff's no significant hazards consideration analysis of the TMI-1 steam generator repair. I did not agree with that analysis then, and I do not agree with it now.

(4) I do not agree with the discussion at pp. 34-35 of the issue of the cumulative effects of successive changes.

(5) I also have several other minor problems with the FR notice:

(a) Page 63, technical specifications - I don't think we should seem to endorse the proposed rule in this FR notice when the proposed rule has not yet been approved by the Commission.

(b) Page 91, backfit analysis - I agree with OGC's comment that the FR notice does not seem to be in accord with the backfit rule.

(c) Pages 64-65, license fees - I agree with OGC's comment and proposed substitute language.

(d) Page 99, reviewability of determination - I agree with OGC's comment and suggested substitute language.

(6) I do not think the Commission should seek legislative change to section 189 as suggested in the Secy paper.