

AA61-2 PDR

Rec 2/13/81  
1056

NOTATION VOTE

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER GILINSKY

SUBJECT: SECY-81-12 - THE SHOLLY DECISION -- LEGISLATIVE OPTIONS

APPROVED \_\_\_\_\_ DISAPPROVED xx ABSTAIN \_\_\_\_\_  
NOT PARTICIPATING \_\_\_\_\_ REQUEST DISCUSSION \_\_\_\_\_

COMMENTS:

See attached comments

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V6.

SIGNATURE

9 Feb 81

DATE

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

The term "no significant hazards consideration" should be replaced. In the past we've held that a license amendment involves no significant hazards consideration if the action which the licensee proposes to take will not, in itself, increase the risk. This is the wrong way of determining whether a license amendment merits a pre-effectiveness hearing. A pre-effectiveness hearing should be available whenever there is a safety question whose importance exceeds some threshold, without regard to whether the proposed action will add to the risk. Where no such question is presented, only a post-effectiveness hearing should be offered. We could, of course, effect this change by modifying our interpretation of "no significant hazards consideration". However, the term is awkward and, since we are asking that section 189 be amended in any event, we might as well clarify it in this regard.

I would suggest that where a license amendment involves a sufficiently important health or safety question, notice should be given of the opportunity for a pre-effectiveness hearing. If a hearing is requested, the parties should be given the option of asking for an informal, as opposed to an adjudicatory, hearing.

If a license amendment does not involve a sufficiently important health or safety question, notice should be given of the opportunity for a post-effectiveness hearing. Again, the parties should be given the option of an informal hearing. The effective date of the license amendment should not be linked to the timing of the notice.

I agree that section 189 should be amended to make it clear that the Commission can issue immediately effective license amendments or orders where the Commission determines that such amendments or orders are necessary to protect the public health and safety or the common defense and security. I would also agree that section 189 should make it clear that a Commission finding that a license condition has been satisfied does not constitute a license amendment.