



OFFICE OF THE
SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

January 30, 1986

IN RESPONSE, PLEASE
REFER TO: M860123C

MEMORANDUM FOR: Victor Stello, Jr.
Acting Executive Director for Operations

FROM: ^{u. B. de} Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/DISCUSSION
AND VOTE, 3:30 P.M., THURSDAY, JANUARY 23,
1986, COMMISSIONERS' CONFERENCE ROOM, D.C.
OFFICE (OPEN TO PUBLIC ATTENDANCE)

I. SECY-85-209A - Final Regulations on No Significant Hazards
Consideration (The "Sholly Amendment")

The Commission by a 4-1 vote approved final regulations implementing the Sholly Amendment providing for requested operating license amendments involving no significant hazards considerations before the conduct of any hearing.

Commissioner Asselstine disapproved the final rule and provided separate views (attached) to be published with the Federal Register Notice.

The Commission also agreed that the Federal Register notice should be modified in accordance with points 2, 3, and 4 of the January 9, 1986 OGC memo (attached).

You should revise the Federal Register Notice as noted, review it for any necessary editorial corrections and return it for signature and publication.

(EDO)

(SECY Suspense: 2/24/86)

The Commission also agreed that if the staff believes legislation changes to Section 189a of the Atomic Energy Act are needed a recommendation should be made to the Commission.

Attachments:

As stated

cc: Chairman Palladino
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech
Commission Staff Offices
PDR - Advance
✓ DCS - 016 Phillips

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PDR 10CFR
PT9.7 PDR

SEPARATE VIEWS OF COMMISSIONER ASSELSTINE

I do not approve the Commission's final regulations implementing the "Sholly Amendment." I have two major concerns about the rule.

First, I believe that Congress did not intend that the Sholly provision be used to approve license amendments to allow the expansion of spent fuel storage, whether by reracking or by other means, prior to the completion of any requested hearing. I set out my reasons for this belief in my separate views on the interim final rule so I will not repeat them here. See, 48 FR 14864.

Second, the statement of considerations does not clearly describe the nature of the staff's determination of whether there are "significant hazards considerations." Failure to clarify this issue in the interim final rule led to much consternation when the Commission considered the repair of the TMI-1 steam generators. The Commission should clearly state that the determination should be whether the proposed amendment presents any new or unreviewed safety issues for consideration; the issue is not whether the staff thinks that ultimately it will be able to conclude that the amendment will present no additional risk to the public.