Sample, Item 6

3/19/84 call Shomaker re. FOIA

FOIA 84-148

March 9, 1984

+ 28653

Note to: G. Dick

From: J. Gray

SUBJECT: FUEL CHANGE AMENDMENT FOR GINNA

OELD has been asked to concur in a proposed notice and proposed no significant hazards consideration finding (NSHC) for an amendment to the Ginna license which would authorize the use of a new and different kind of fuel and modify various technical specifications to accommodate the new fuel. I don't believe that there is adequate support or basis for the proposed NSHC finding.

Rather than show that one of the Commission's examples of actions not likely to involve SHC applies to the amendment, it is stated that NSHC is involved because the amendment will not significantly increase the probability or consequences of accidents, significantly decrease a safety margin or create a new accident. While statements are made on pages 2 and 3 of the proposed notice about how the new fuel and core was analyzed and how Westinghouse criteria are satisfied, there is no apparent relationship between these various statements and the criteria for finding HSHC. I believe that you must show how each proposed change to the technical specifications meets the NSHC criteria. For example, demonstrate that the positive moderator temperature coefficient which these changes would authorize would not result in a significant increase in the consequences of accident and would not create the possibility of a new accident not previously considered.

The present notice does not provide a rational basis for concluding that the proposed amendment involves NSHC. Because of that, I am not prepared to concur in it.

J.R. Gray
J.R. Gray

URGENT

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PDR FOIA
BELL84-148 PDR

Sample, Item 6

97TH CONGRESS | HOUSE OF REPRESENTATIVES | REPORT
2d Session | | No. 97-884

50-289-4

AUTHORIZING APPROPRIATIONS FOR THE NUCLEAR REGULATORY COMMISSION

SEPTEMBER 28, 1982.—Ordered to be printed

Mr. UDALL, from the committee of conference, submitted the following

CONFERENCE REPORT - on TOL/Sholl only

[To accompany H.R. 2330]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriation to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, $485,200,000 for fiscal year 1982 and $513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than $80,700,000 for fiscal year 1982 and $77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized each such fiscal year to be used to accelerate the

TEMPORARY OPERATING LICENSES

SEC. 11. Section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) is amended to read as follows:

"SEC. 192. TEMPORARY OPERATING LICENSE.—

"a. In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 182 b.; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

"b. With respect to any petition filed pursuant to subsection a. of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon

"(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

"(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

"(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this Act.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28, United States Code. The requirements of section 189 a. of this Act with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

"c. Any hearing on the application for the final operating license for a facility required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189 a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b.

"d. The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to mini-

mize the need for issuance of temporary operating licenses pursuant to this section.

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.".

OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.".

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

QUALITY ASSURANCE

SEC. 13. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is mon

Public Works Committee, contained a similar provision, but th
provision was deleted during consideration of S. 1207 by the fu
Senate. The conferees have been advised that the NRC and DO
on March 15, 1982, entered into a memorandum of understandi
which sets forth the respective responsibilities of the two agenci
for removal and disposition of the solid nuclear wastes from t
cleanup of TMI-2. Accordingly, the conferees have agreed to om
the House provision. At the same time, however, the confere
intend that the Congress be kept fully apprised by the NRC of a
activities undertaken by the NRC and DOE of a collaborati
nature with respect to the cleanup of TMI-2. Therefore, in lieu
the requirement contained in subsection 10(c) of H.R. 2330, the co
ferees have included in section 10 of the conference agreement
provision directing the NRC, in its annual report to the Congres
to include a separate chapter discussing such activities.

Third, the House bill included a provision (section 14) barring th
NRC from any willful release of radioactive waste water fro
TMI-2 into the Susquehanna River. The Senate amendment d
not contain a similar provision. The conference agreement includ
in subsection 10(d) a modified version of the House provisio
Under section 14 of H.R. 2330, NRC was prohibited from using an
authorized funds to approve any willful release of "radioacti
water resulting from the accident" at TMI-2. The conference agre
ment modifies this language for the purpose of making it clear th
the prohibition does not extend to routine discharges of radioacti
water from the Three Mile Island Unit 1.

The conferees intend the prohibition in subsection 10(d) of th
compromise agreement to be narrowly limited to "accident-genera
ed water." The conference agreement references the definition
this phrase contained in the Commission's Final Programmatic E
vironmental Statement (NUREG-0683, page 1-23). The confere
do not intend this provision to apply, in any fashion, to discharg
of radioactive waste water which do not fall within this definitio
Moreover, the conferees do not intend that the adoption of this pr
vision in any way implies that routine discharges from other co
mercial nuclear power reactors which meet all applicable stan
ards or requirements pose an unacceptable risk to the publ
health, safety, or the environment.

Finally, the conferees recognize that NRC staff studies and ana
yses will continue to evaluate alternative means for the disposit
of the water as a necessary step in the cleanup. Those studies ar
in the view of the conferees, potentially useful to the Commissi
as it endeavors to fulfill NRC's responsibility to protect the publ
health and safety.

SECTION 11—TEMPORARY OPERATING LICENSES

Both the House bill and the Senate amendment granted t
Commission new limited authority to issue temporary (or "inte
im") operating licenses for nuclear power reactors if certain con
tions were fulfilled.

Section 12 of H.R. 2330 gave the Commission authority to iss
temporary operating licenses (TOLs) for nuclear generating st
tions in advance of the conduct and completion of hearings

quired under section 189 and 192 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2242). The House provision invoked the existing authority and procedural requirements of section 192 of the Atomic Energy Act, and thus did not directly amend existing law.

Section 201 of S. 1207 amended section 192 of the Atomic Energy Act of 1954, and explicity amended existing procedures under section 192 for the issuance of a temporary operating license.

The House bill required that a TOL first be limited to no more than five percent of a power reactor's rated full thermal power. The House provision allowed, subsequent to the issuance of a 5% TOL, and contingent upon licensee application and Commission approval, the plant to operate at levels up to and including full power. The Senate amendment incorporated a similar step-by-step TOL (with an initial upper limit of five percent power operations) permitting the possibility of acendency to full power prior to the completion of hearings required under section 189 of the Atomic Energy Act.

The Senate amendment required filing of a State, local, or utility emergency preparedness plan prior to petition by an applicant for an interim operating license. Section 12 of the House bill contained no similar requirement. The House did provide in section 8 of H.R. 2330, however, that the Commission was to determine prior to issuing a TOL that an emergency preparedness plan existed which provided reasonable assurance that public health and safety would not be endangered by a plant operating under a temporary operating license.

S. 1207 required NRC to publish notice of a petition for an interim operating license. Under the Senate amendment, any party was allowed to file supporting or opposing affidavits within 30 days of such notice. By reference to the existing section 192 of the Atomic Energy Act, the House provided that any party could file supporting or opposing affidavits within 14 days of the filing of the petition. The House provision also empowered the NRC to extend this time by 10 days.

H.R. 2330 required the Commission to hold a hearing on the issue of whether or not to grant a temporary operating license. Under the House bill, such hearing, which could be held after the issuance of the TOL, could be consolidated with the final operating license hearing held by NRC pursuant to section 189 of the Atomic Energy Act. S. 1207 did not require a hearing on the issuance of an interim operating license.

The House provision required NRC to find, prior to issuance of a TOL, that the licensee would not retire or dismantle any of its existing generating capacity because of the new capacity provided by the facility to be granted the temporary license. The Senate amendment to section 192 of the Atomic Energy Act did not contain this restriction.

The Senate amendment did require the Commission to make a finding, prior to issuance of an interim operating license, that denial of such license would result in delay in the initial operation of the facility (due to completion of the plant's construction prior to the completion of the section 189 public hearings required under the Atomic Energy Act). The House bill contained no similar requirement.

S. 1207 included a provision directing any party to the final operating license proceeding, as well as any member of the Commission's licensing board, to notify the Commission of any information indicating that the licensee was not complying with the terms of the interim operating license. Similarly, the Commission was required to be informed if the terms of the interim license were not adequate. The House bill had no similar requirement.

The Senate amendment directed NRC to adopt administrative changes that would minimize the need for issuance of interim operating licenses. H.R. 2330 had no such directive.

Both the House and Senate intended that the Commission's authority to issue temporary operating licenses should expire at a time certain. The Commission's authority under the House bill ended on September 30, 1983. The expiration date under S. 1207 was December 31, 1983.

Section 11 of the conference agreement amends section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) and grants the Commission authority to issue a temporary operating license for a utilization facility required to be licensed under section 103 or 104 b. of the Act. The agreement specifies that an applicant may petition the Commission for a TOL authorizing fuel loading, reactor testing, and operations at a specific power level to be determined by the Commission. The conferees intend that the applicant cannot undertake any such activities until final favorable action by the Commission on the TOL application. The conference agreement also specifies that the initial petition for a TOL, and any temporary license issued by the Commission pursuant to the initial petition, must be limited to power levels not to exceed 5 percent of rated full thermal power.

Under the conference agreement, which is substantially similar to section 201 of the Senate amendment, the conferees intend that any TOL, whether for initial operation at 5 percent of full power or for operation at a higher power level, would be issued or amended only upon a vote of the Commission itself. The conferees intend that the authority to issue or amend such licenses, or to make findings required by subsection b, may not be delegated to the NRC staff.

The conferees believe that the circumstances which gave rise to the need for section 11 of the conference agreement, (including primarily the temporary reassignment of NRC staff from licensing review work to post-Three Mile Island safety reevaluations) were unique and will not recur in the foreseeable future. As the Commission itself noted in its March 18, 1981 letter submitting proposed legislation to authorize the issuance of temporary low-power operating licenses, such legislation represents an "extraordinary and temporary cure for an extraordinary and temporary situation." In addition, the conferees expect the Commission to use this period to continue to review its operating license and case management procedures, and to make such changes as may be needed to increase their overall efficiency without restricting the rights of the public to raise and have resolved the legitimate safety and environmental issues which accompany the construction and licensing of nuclear powerplants.

The conferees caution that in no way should the conference agreement be interpreted as a determination by Congress that any particular facility is presumptively ready to operate, or has a valid legal claim to begin operations once construction is completed. Under the agreement, a TOL cannot be issued before all significant safety issues specific to the facility in question have been resolved to the Commission's satisfaction. Paragraphs (1) and (2) of subsection b of the conference agreement are intended to assure that, based upon all the information available to the Commission, the Commission is able to find that the facility would meet all requirements of law (other than the conduct or completion of any required hearing) necessary for the issuance of the final operating license.

Subsection 11(d) of the conference agreement directs the Commission to adopt such administrative remedies as it deems appropriate to minimize the need for issuance of temporary operating licenses. This subsection reflects the conferees' expectation that a TOL should be a last resort remedy, to be employed only when no other alternative is available. This subsection envisions that the NRC will adopt such remedies pursuant to its current statutory authority, and is not intended to confer any additional authority upon the NRC beyond that it now possesses. In addition, the conferees expect that any administrative remedies adopted to minimize the need for issuance of TOL's shall not themselves infringe upon the right of any party to a full and fair hearing under the Atomic Energy Act. The conferees intend that the Commission shall notify the Congressional committees listed in subsection 11(b) of the conference agreement of all administrative remedies that it proposes to adopt in accordance with subsection 11(d).

SECTION 12—OPERATING LICENSE AMENDMENT HEARINGS (THE "SHOLLY" PROVISION)

The House and Senate each granted the Commission new authority to approve and make immediately effective certain amendments to licenses for nuclear power reactors, upon a determination by the Commission that the amendment involved no significant hazards consideration.

Section 11 of the House established this new Commission authority in a provision that did not amend existing law. The Senate amendment granted the Commission permanent authority by amending the Atomic Energy Act of 1954.

Under H.R. 2330, the Commission's new authority was limited to amendments to nuclear power reactor licenses. The authority under S. 1207 was broader, and extended to amendments to licenses for all facilities licensed under the Atomic Energy Act.

The House specified that NRC could approve and make immediately effective a license amendment only after notification of the State in which the facility was located. Also, the House required the Commission "when practicable" to consult with the State before issuance of an amendment. The Senate required the Commission to consult with the State in which the facility was located when determining whether or not an amendment involved a significant hazards consideration. The Senate also directed NRC to [illegible] within 90 days criteria for providing prior notice and

public comment on such determinations and procedures for consul
tation with the affected State.

Section 11 of the House bill directed NRC to publish periodicall
(at least every 30 days) notice of amendments issued or proposed t
be issued using the immediate effectiveness authority; the nuclea
power reactor concerned; and, a brief description of the amend
ment. The Senate, in its report accompanying S. 1207, directed th
NRC to submit a monthly report to Congress on the exercise of it
authority under this provision.

The House bill directed the NRC to promulgate standard
(within 90 days of enactment) for determining whether or not a
amendment to a license involved no significant hazards considera
tion. The Senate amendment explicitly preconditioned the Commi
sion's authority to issue and make immediately effective licens
amendments involving no significant hazards consideration on pr
mulgation by NRC of standards for making the "no significant ha
ards" determination.

The conferees adopted a compromise provision (section 12 of th
conference agreement) which amends section 189a. of the Atom
Energy Act of 1954 (42 U.S.C. 2239(a)). Under the conference agre
ment, the NRC may issue and make immediately effective a no si
nificant hazards consideration amendment to a facility operating
cense before holding a hearing upon request of an interested part
The Commission may take such action only after (in all but eme
gency situations), (1) consulting with the State in which the facili
is located, and (2) providing the public with notice of the propose
action and a reasonable opportunity for comment.

The conference agreement maintains the requirement of the cu
rent section 189a. of the Atomic Energy Act that a hearing on t
license amendment be held upon the request of any person who
interest may be affected. The agreement simply authorizes t
Commission, in those cases where the amendment involved pos
no significant hazards consideration, to issue the license amen
ment and allow it to take effect before this hearing is held or co
pleted. The conferees intend that the Commission will use this a
thority carefully, applying it only to those license amendmen
which pose no significant hazards consideration.

The conferees also expect the Commission, in promulgating t
regulations required by the new subsection (2)(C)(i) of section 18
of the Atomic Energy Act, to establish standards that to the exte
practicable draw a clear distinction between license amendme
that involve a significant hazards consideration and those ame
ments that involve no such consideration. These standards sho
not require the NRC staff to prejudge the merits of the issu
raised by a proposed license amendment. Rather, they should o
require the staff to identify those issues and determine whet
they involve significant health, safety or environmental consid
ations. These standards should be capable of being applied w
ease and certainly, and should ensure that the NRC staff does
resolve doubtful or borderline cases with a finding of no signific
hazards consideration.

The conferees intend that in determining whether a proposed
cense amendment involves no significant hazards considerati
the Commission should be especially sensitive to the issue posed

license amendments that have irreversible consequences (such as those permitting an increase in the amount of effluents or radiation emitted from a facility or allowing a facility to operate for a period of time without full safety protections). In those cases, issuing the order in advance of a hearing would, as a practical matter, foreclose the public's right to have its views considered. In addition, the licensing board would often be unable to order any substantial relief as a result of an after-the-fact hearing. Accordingly, the conferees intend the Commission be sensitive to those license amendments which involve such irreversible consequences.

The conferees note that the purpose of requiring prior notice and an opportunity for public comment before a license amendment may take effect, as provided in subsection (2)(C)(ii) for all but emergency situations, is to allow at least a minimum level of citizen input into the threshold question of whether the proposed license amendment involves significant health or safety issues. While this subsection of the conference agreement preserves for the Commission substantial flexibility to tailor the notice and comment procedures to the exigency of the need for the license amendment, the conferees expect the content, placement and timing of the notice to be reasonably calculated to allow residents of the area surrounding the facility an adequate opportunity to formulate and submit reasoned comments.

The requirement in subsection 2(c)(ii) that the Commission promulgate criteria for providing or dispensing with prior notice and public comment on a proposed determination that a license amendment involves no significant hazards consideration reflects the conferees' intent that, wherever practicable, the Commission should publish prior notice of, and provide for prior public comment on, such a proposed determination.

In the context of subsection (2)(C)(ii), the conferees understand; the term "emergency situations" to encompass only those rare cases in which immediate action is necessary to prevent the shutdown or derating of an operating commercial reactor. (The Commission already has the authority to respond to emergencies involving imminent threats to the public health or safety by issuing immediately effective orders pursuant to the Atomic Energy Act or the Administrative Procedure Act. And the licensee itself has authority to take whatever action is necessary to respond to emergencies involving imminent threat to the public health and safety.) The Commission's regulations should insure that the "Emergency situations" exception under section 12 of the conference agreement will not apply if the licensee has failed to apply for the license amendment in a timely fashion. In other words, the licensee should not be able to take advantage of the emergency provision by creating the emergency itself. To prevent abuses of this provision, the conferees expect the Commission to independently assess the licensee's reasons for failure to file an application sufficiently in advance of the threatened closure or derating of the facility.

Subsection 2(C)(iii) of the conference agreement requires the Commission to promulgate procedures for consulting with a State in which the relevant facility is located on a determination that an amendment to the facility license involves no significant hazards consideration. The conferees expect that the procedures for State consultation will include the following elements:

(1) The State would be notified of a licensee's request for an amendment;

(2) The State would be advised of the NRC's evaluation of the amendment request;

(3) The NRC's proposed determination on whether the license amendment involves no significant hazards consideration would be discussed with the State and the NRC's reasons for making that determination would be explained to the State;

(4) The NRC would listen to and consider any comments provided by the State official designated to consult with the NRC; and

(5) The NRC would make a good faith attempt to consult with the State prior to issuing the license amendment.

At the same time, however, the procedures for State consultation would not:

(1) Give the State a right to veto the proposed NRC determination;

(2) Give the State a right to a hearing on the NRC determination before the amendment became effective;

(3) Give the State the right to insist upon a postponement of the NRC determination or issuance of the amendment; or,

(4) Alter present provisions of law that reserve to the NRC exclusive responsibility for setting and enforcing radiological health and safety requirements for nuclear power plants.

In requiring the NRC to exercise good faith in consulting with a state in determining whether a license amendment involves no significant hazards consideration, the conferees recognize that a very limited number of truly exceptional cases may arise when the NRC, despite its good faith efforts, cannot contact a responsible State official for purposes of prior consultation. Inability to consult with a responsible state official following good faith attempts should not prevent the NRC from making effective a license amendment involving no significant hazards consideration, if the NRC deems it necessary to avoid the shut-down or derating of a power plant.

SECTION 13—QUALITY ASSURANCE

Section 304 of the Senate amendment required NRC to accelerate its resident inspector program so that by the end of fiscal year 1982 at least one resident inspector would be at each power reactor site where construction is more than fifteen percent (15%) complete. The Senate also directed NRC to study options for improving quality assurance at reactors under construction, and to undertake a pilot program at a minimum of three sites to evaluate alternative approaches to quality assurance. Finally, S. 1207 directed NRC to report to Congress on the results of this program with 18 months.

The House bill contained no similar provision.

The conferees adopted a provision similar to section 304 of the Senate amendment.

Subsection 304(a) of S. 1207 required that by the end of 1982 an NRC resident inspector would be assigned to each site where a