



AA61-2 PDR  
UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

JUL 28 1982

MEMORANDUM FOR: William J. Olmstead, OELD  
FROM: William C. Parler  
SUBJECT: CONFERENCE AGREEMENT ON "SHOLLY" AND  
"TEMPORARY OPERATING LANGUAGE" AUTHORITY  
(H.R. 2330)

There is attached the language on these subjects on which I understand the conferees have agreed.

Please note that the "Sholly" language calls for implementing regulations to be promulgated "during the ninety-day period following the effective day of this paragraph".

I do not know when H.R. 2330 will finally be reported by the conferees. This could happen in August, sometimes before the next scheduled (Labor Day) recess. As you know, once the conference report is filed, passage in each body usually occurs promptly thereafter.

*Bill*  
Bill Parler

Attachment:  
As stated

8604170385 860327  
PDR PR  
2 45FR20491 PDR

[July 15, 1982 Agreements]

[Showing Proposals As Offered at July 15 Meeting with  
Deletions Agreed to by Conferees Indicated by Canceled Type  
and New Material Agreed to by Conferees Indicated by  
Underlined Type]

1                             TEMPORARY OPERATING LICENSES

2       SEC. 11. Section 192 of the Atomic Energy Act of 1954  
3     (42 U.S.C. 2242) is amended to read as follows:

4       "SEC. 192. TEMPORARY OPERATING LICENSE.--

5       " a. In any proceeding upon an application for an  
6     operating license for a utilization facility required to be  
7     licensed under section 103 or 104 b. of this Act, in which a  
8     hearing is otherwise required pursuant to section 189 a.,  
9     the applicant may petition the Commission for a temporary  
10    operating license for such facility authorizing fuel  
11    loading, testing, and operation at a specific power level to  
12    be determined by the Commission, pending final action by the  
13    Commission on the application. The initial petition for a  
14    temporary operating license for each such facility, and any  
15    temporary operating license issued for such facility based  
16    upon the initial petition, shall be limited to power levels  
17    not to exceed 5 percent of rated full thermal power.  
18    Following issuance by the Commission of the temporary

1 operating license for each such facility, the licensee may  
2 file petitions with the Commission to amend the license to  
3 allow facility operation in staged increases at specific  
4 power levels, to be determined by the Commission, exceeding  
5 5 percent of rated full thermal power. The initial petition  
6 for a temporary operating license for each such facility may  
7 be filed at any time after the filing of: (1) the report of  
8 the Advisory Committee on Reactor Safeguards required by  
9 section 182 b.; (2) the filing of the initial Safety  
10 Evaluation Report by the Nuclear Regulatory Commission staff  
11 and the Nuclear Regulatory Commission staff's first  
12 supplement to the report prepared in response to the report  
13 of the Advisory Committee on Reactor Safeguards for the  
14 Facility; (3) the Nuclear Regulatory Commission staff's  
15 final detailed statement on the environmental impact of the  
16 facility prepared pursuant to section 102(2)(C) of the  
17 National Environmental Policy Act of 1969 (42 U.S.C.  
18 4332(2)(C)); and (4) a State, local, or utility emergency  
19 preparedness plan for the facility. Petitions for the  
20 issuance of a temporary operating license, or for an  
21 amendment to such a license allowing operation at a specific  
22 power level greater than that authorized in the initial  
23 temporary operating license, shall be accompanied by an  
24 affidavit or affidavits setting forth the specific facts  
25 upon which the petitioner relies to justify issuance of the

1 temporary operating license or the amendment thereto. The  
2 Commission shall publish notice of each such petition in the  
3 Federal Register and in such trade or news publications as  
4 the Commission deems appropriate to give reasonable notice  
5 to persons who might have a potential interest in the grant  
6 of such temporary operating license or amendment thereto.

7 Any person may file affidavits or statements in support of,  
8 or in opposition to, the petition within thirty days after  
9 the publication of such notice in the Federal Register.

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

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

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

1 operation; and

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

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

1 apply to the issuance or amendment of a temporary operating  
2 license under this section.

3       c. Any hearing on the application for the final  
4 operating license for a facility required pursuant to  
5 section 189 a. shall be concluded as promptly as  
6 practicable. The Commission shall suspend the temporary  
7 operating license if it finds that the applicant is not  
8 prosecuting the application for the final operating license  
9 with due diligence. Issuance of a temporary operating  
10 license under subsection b. of this section shall be without  
11 prejudice to the right of any party to raise any issue in a  
12 hearing required pursuant to section 189 a.; and failure to  
13 assert any ground for denial or limitation of a temporary  
14 operating license shall not bar the assertion of such ground  
15 in connection with the issuance of a subsequent final  
16 operating license. Any party to a hearing required pursuant  
17 to section 189 a. on the final operating license for a  
18 facility for which a temporary operating license has been  
19 issued under subsection b., and any member of the Atomic  
20 Safety and Licensing Board conducting such hearing, shall  
21 promptly notify the Commission of any information indicating  
22 that the terms and conditions of the temporary operating  
23 license are not being met, or that such terms and conditions  
24 are not sufficient to comply with the provisions of  
25 paragraph (2) of subsection b.

1       'd. The Commission is authorized and directed to adopt  
2 such administrative remedies as the Commission deems  
3 appropriate to minimize the need for issuance of temporary  
4 operating licenses pursuant to this section.

5       'e. The authority to issue new temporary operating  
6 licenses under this section shall expire on December 31,  
7 1983.''

-----  
[ 'SHOLLY' ]

8                       OPERATING LICENSE AMENDMENT HEARINGS

9       SEC. 12. (a) Section 189 a. of the Atomic Energy Act of  
10 1954 (42 U.S.C. 2239(a)) is amended--

11               (1) by inserting '(1)' after the subsection  
12 designation; and

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

15       ''(2)(A) The Commission may issue and make immediately  
16 effective any amendment to an operating license, upon a  
17 determination by the Commission that such amendment involves  
18 no significant hazards consideration, notwithstanding the  
19 pendency before the Commission of a request for a hearing  
20 from any person. Such amendment may be issued and made  
21 immediately effective in advance of the holding and  
22 completion of any required hearing. In determining under  
23 this section whether such amendment involves no significant

1 hazards consideration, the Commission shall consult with the  
2 State in which the facility involved is located. In all  
3 other respects such amendment shall meet the requirements of  
4 this Act.

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

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



1 with the State in which the facility involved is located.''.  
2

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

8 QUALITY ASSURANCE

9 SEC. 13. (a) The Nuclear Regulatory Commission is  
10 authorized and directed to implement and accelerate the  
11 resident inspector program so as to assure the assignemnt of  
12 at least one resident inspector by the end of fiscal year  
13 1982 at each site at which a commercial nuclear powerplant  
14 is under construction and construction is more than 15  
15 percent complete. At each such site at which construction is  
16 not more than 15 percent complete, the Commission shall  
17 provide that such inspection personnel as the Commissions  
18 deems appropriate shall be physically present at the site at  
19 such times following issuance of the construction permit as  
20 may be necessary in the judgement of the Commission  
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23 ~~the-Commission)-and-for-which-a-construction-permit-is-~~  
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25 (b) The Commission shall conduct a study of existing and

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