

**DRAFT PROPOSED ITAAC
MAINTENANCE RULE TEXT
5/13/2010**

§ 52.99 Inspection during construction; ITAAC schedules and notifications; NRC notices.

(a) *Licensee schedule for completing inspections, tests or analyses.* The licensee shall submit to the NRC, no later than one (1) year after issuance of the combined license or at the start of construction as defined in 10 CFR 50.10(a), whichever is later, its schedule for completing the inspections, tests, or analyses in the ITAAC. The licensee shall submit updates to the ITAAC schedules every six (6) months thereafter and, within one (1) year of its scheduled date for initial loading of fuel, the licensee shall submit updates to the ITAAC schedule every thirty (30) days until the final notification is provided to the NRC under paragraph (c)(1) of this section.

(b) *Licensee and applicant conduct of activities subject to ITAAC.* With respect to activities subject to an ITAAC, an applicant for a combined license may proceed at its own risk with design and procurement activities, and a licensee may proceed at its own risk with design, procurement, construction, and pre-operational activities, even though the NRC may not have found that any one of the prescribed acceptance criteria is met.

(c) *Licensee notifications and documentation.*

(1) *ITAAC closure notification.* The licensee shall notify the NRC that prescribed inspections, tests, and analyses have been performed and that the prescribed acceptance criteria are met. The notification must contain sufficient information to demonstrate that the prescribed inspections, tests, and analyses have been performed and that the prescribed acceptance criteria are met.

(2) *Uncompleted ITAAC notification.* If the licensee has not provided, by the date 225 days before the scheduled date for initial loading of fuel, the notification required by paragraph (c)(1) of this section for all ITAAC, then the licensee shall notify the NRC that the prescribed inspections, tests, or analyses for all uncompleted ITAAC will be performed and that the prescribed acceptance criteria will be met prior to operation. The notification must be provided no later than the date 225 days before the scheduled date for initial loading of fuel, and must provide sufficient information to demonstrate that the prescribed inspections, tests, or analyses will be performed and the prescribed acceptance criteria for the uncompleted ITAAC will be met, including, but not limited to, a description of the specific procedures and analytical methods to be used for performing the prescribed inspections, tests, and analyses and determining that the prescribed acceptance criteria are met.

(3) *ITAAC post-closure notifications.* The requirements in this paragraph apply, with respect to each ITAAC, after the licensee makes an ITAAC closure notification under paragraph (c)(1) of this section.

(i) *New information on ITAAC closure.* The licensee shall notify the NRC of new information materially altering the basis for determining that a prescribed inspection, test or

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analysis was performed as required or finding that a prescribed acceptance criterion is met. The notification shall be by email to hoo.hoc@nrc.gov, which is the preferred method of notification, by facsimile to the NRC Operations Center at (301) 816–5151, or by telephone at (301) 816–5100 within 7 days following licensee determination that the new information materially alters the basis for determining that a prescribed inspection, test or analysis was performed as required or finding that a prescribed acceptance criterion is met. Verification that the e-mail or facsimile has been received should be made by calling the NRC Operations Center.

(ii) *Supplemental ITAAC closure notification.* The licensee shall notify the NRC of its resolution of issues reported under paragraph (c)(3)(i) of this section. The notification must contain sufficient information to demonstrate that, notwithstanding the new information, the prescribed inspections, tests, analyses have been performed as required, and the prescribed acceptance criteria are met. The notification must be made no later than 30 days after licensee resolution of the issue.

(4) *ITAAC closure documentation.* The licensee shall maintain records of the bases for determining whether a notification under paragraph (c)(3)(i) of this section is required and the bases for all notifications made under paragraph (c) of this section. The licensees shall retain these records for a period of three years after the date the Commission makes the finding under § 52.103(g).

(d) *Licensee determination of non-compliance with ITAAC.*

(1) In the event that an activity is subject to an ITAAC derived from a referenced standard design certification and the licensee has not demonstrated that the prescribed acceptance criteria are met, the licensee may take corrective actions to successfully complete that ITAAC or request an exemption from the standard design certification ITAAC, as applicable. A request for an exemption must also be accompanied by a request for a license amendment under § 52.98(f).

(2) In the event that an activity is subject to an ITAAC not derived from a referenced standard design certification and the licensee has not demonstrated that the prescribed acceptance criteria are met, the licensee may take corrective actions to successfully complete that ITAAC or request a license amendment under § 52.98(f).

(e) *NRC inspection, publication of notices, and availability of licensee notifications.* The NRC shall ensure that the prescribed inspections, tests, and analyses in the ITAAC are performed.

(1) At appropriate intervals until the last date for submission of requests for hearing under § 52.103(a), the NRC shall publish notices in the *Federal Register* of the NRC staff's determination of the successful completion of inspections, tests, and analyses. If such a notice is published and the licensee notifies the NRC in accordance with paragraph (c)(3)(i) of this section before the last date of submission of requests for hearing, then the NRC will, until the last date for submission of requests for hearing under § 52.103(a), publish notices in the

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Federal Register of the licensee's submission of a notification under paragraph (c)(3)(i) and any NRC staff determination that the acceptance criteria for the affected ITAAC are met.

(2) The NRC shall make publicly available the licensee notifications under paragraphs (c) and (f) of this section. No later than the date of publication of the notice of intended operation required by § 52.103(a), the NRC shall make publicly available the licensee notifications under paragraphs (c)(1), (c)(2), and (c)(3).

(f) *All ITAAC Complete notification.*

(1) The licensee shall notify the NRC that all ITAAC are complete.

(2) If, after making the notification required under paragraph (f)(1) of this section, the licensee identifies new information for which a notification may be required under paragraph (c)(3)(i) of this section, then the licensee must notify the NRC of its identification. The notification shall be to the NRC Operations Center in the same manner as notifications made under paragraph (c)(3)(i) of this section. The licensee must submit any notifications required under paragraph (c)(3) of this section and resubmit the notification required by paragraph (f)(1) of this section, if necessary.

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