



# U.S. Nuclear Regulatory Commission Office of Nuclear Reactor Regulation

## ***NRR OFFICE INSTRUCTION***

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## ***NRO OFFICE INSTRUCTION***

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### **Change Notice**

**Office Instruction No.:** LIC-114 (NRR) / REG-106 (NRO)

**Office Instruction Title:** Title 10 of the *Code of Federal Regulations* (10 CFR) Section 52.103(g) Finding and Communication Process

**Effective Date:** January 22, 2019

**Approved By:** Ho Nieh, NRR                      Frederick D. Brown, NRO

**Date Approved:** January 21, 2019

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**Responsible Organization:** NRR/DIRS

**Summary:** This office instruction (OI) describes the steps and provides templates for Commission memoranda informing the Commission of the status of regulatory activities in the final year of construction for a Part 52 licensed facility and for taking the actions necessary to make the 10 CFR 52.103(g) finding. The staff's finding that the licensee has met all acceptance criteria in the combined license is required prior to operation. In addition, this OI includes a template for issuing an order allowing interim operation pursuant to 10 CFR 52.103(c), if necessary.

**Training:** Select staff in the headquarters and regional organizations that are involved in licensing or construction oversight of a 10 CFR Part 52 facility.

**ADAMS Accession No.:** ML18267A001

Office Instruction: LIC-114 (NRR) / REG-106 (NRO) "Title 10 of the *Code of Federal Regulations* (10 CFR) Section 52.103(g) Finding and Communication Process"  
 Dated: January 21, 2019

**ADAMS Accession No.: ML18267A001**

\*via e-mail

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**OFFICIAL RECORD COPY**

NRR Office Instruction, LIC-114  
NRO Office Instruction, REG-106  
Title 10 of the *Code of Federal Regulations* Section 52.103(g)  
Finding and Communication Process

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**1. POLICY**

The licensee for a Part 52 licensed facility under construction is required to notify the Commission when all Inspections, Tests, Analyses and Acceptance Criteria (ITAAC) are complete. The licensee shall not operate the facility until the Commission makes a finding that all acceptance criteria are met under Title 10 of the *Code of Federal Regulations* (10 CFR), Section 52.103(g). By Commission policy, this finding, referred to as the 52.103(g) finding, has been delegated to the staff.

**2. OBJECTIVE**

This office instruction (OI) describes the steps and provides the templates for informing the Commission of the status of regulatory activities in the final year of construction for a Part 52 licensed facility and for taking the actions necessary to support making the 10 CFR 52.103(g) finding that all acceptance criteria in the combined license are met. In addition, this OI includes a template for issuing an order allowing interim operation pursuant to 10 CFR 52.103(c), if necessary.

**3. BACKGROUND**

In SECY-13-0033, "Allowing Interim Operation Under Title 10 of the *Code of Federal Regulations* Section 52.103," the staff recommended that the Commission delegate to the staff the 10 CFR 52.103(g) finding that the acceptance criteria in the ITAAC are met. In implementing this option, the staff stated it intended to inform the Commission of the staff's determination that all acceptance criteria are met prior to the staff making the finding under 10 CFR 52.103(g). The staff's 10 CFR 52.103(g) finding would be based on the ITAAC-related inspection activities performed during construction and the staff's independent ITAAC closure verification activities, which would be summarized in a basis document to be enclosed with a paper to the Commission. In the staff requirements memorandum for SECY-13-0033, the Commission approved the staff's recommendation.

In SECY-06-0114, "Description of the Construction Inspection Program for Plants Licensed Under 10 CFR Part 52," the staff committed to inform the Commission of the status of operational programs before the anticipated date for loading fuel.

This OI identifies those activities that must be performed to make the notifications described above as well as to satisfy the requirements found in NRC regulations for each Part 52 licensed facility under construction. This OI specifies the documents that need to be issued, and the timing of their issuance, to support the staff making the 10 CFR 52.103(g) finding if the staff is able to determine that all acceptance criteria are met. A description of each document is provided below:

- An initial memorandum to the Commission on the status of ITAAC closure, NRC inspection activities for construction and operational programs, and licensing activities.
- A final memorandum notifying the Commission that the staff is prepared to find that the ITAAC acceptance criteria are met. This memorandum will inform the Commission that all ITAAC notification reviews and supporting inspection activities have been completed, and reference the final 10 CFR 52.103(g) Basis Document, discussed below. The memorandum will also inform the Commission of updates to the status of operational program implementation, and of the staff's intent to notify the licensee and publish a *Federal Register* notice (FRN) when the 10 CFR 52.103(g) finding is made.
- A 10 CFR 52.103(g) Basis Document that explains the basis for the staff's determination that the inspections, tests, and analyses (ITA) have been performed and all acceptance criteria (AC) met.
- An FRN for the 10 CFR 52.103(g) finding and commencement of operations. As applicable, this FRN would also announce interim operation of the facility pursuant to 10 CFR 52.103(c).
- A letter informing the licensee of the 10 CFR 52.103(g) finding and, if applicable, an order allowing interim operation of the facility.

Appendices A through F provide templates for the documents listed above. In addition, if the Commission decides to issue an order allowing interim operation, a template for this order is provided in Appendix G. The appended templates combined with the enclosed instructions are provided to support final development of deliverables to communicate with the Commission, the licensee and interested stakeholders and to document the basis for the staff's 10 CFR 52.103(g) finding.

The majority of NRC licensing and oversight activities are of an ongoing nature and are routinely managed and tracked. These activities shall be completed and documented to provide the required information to support the necessary findings.

Staff should commence the required activities sufficiently early to meet the implementation schedule discussed in Section 4.1.

#### **4. BASIC REQUIREMENTS**

##### **4.1 Implementation Schedule**

The following schedule should be implemented by the staff to inform the Commission of the status of regulatory activities in the final year of construction for a Part 52 licensed facility and to support issuing the 10 CFR 52.103(g) finding. A suggested timeline is provided in Figures 1 and 2; however, the staff may initiate activities earlier at their discretion. Specific implementation instructions are included in Section 4.2.

Figure 1: Overall 52.103(g) Finding Timeline

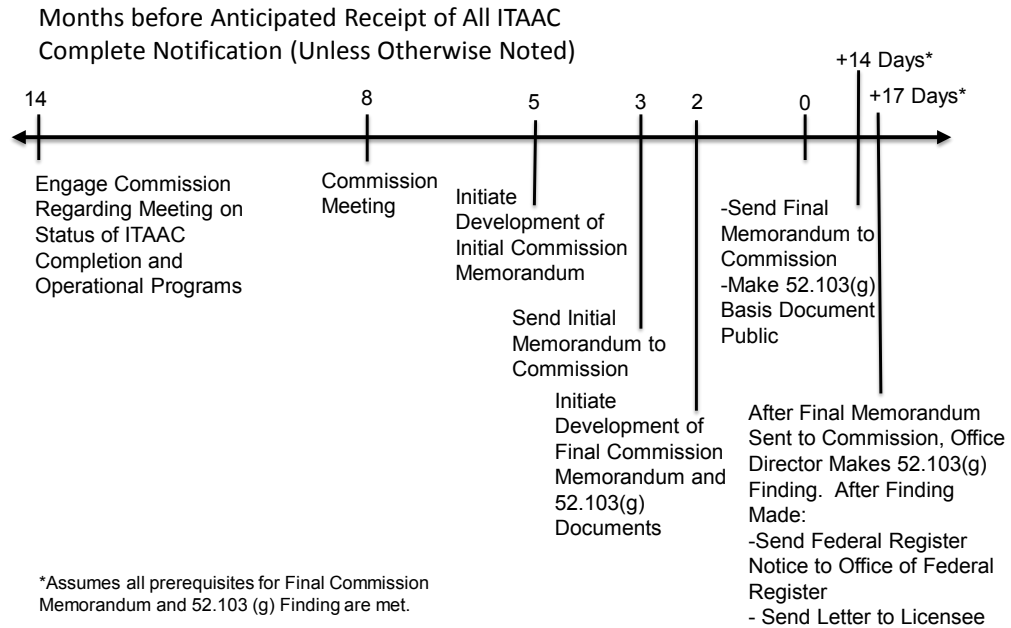
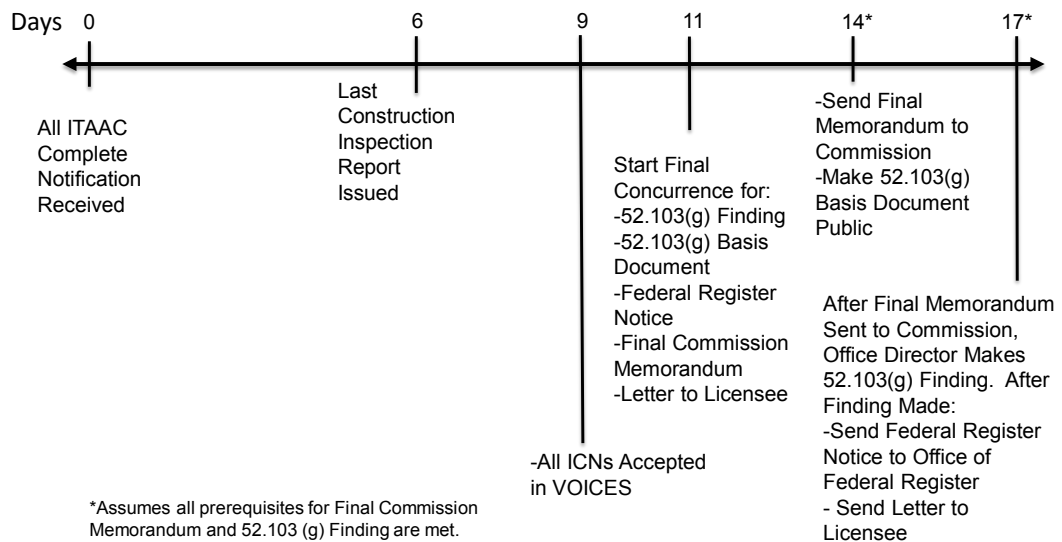


Figure 2: 52.103(g) Finding Timeline  
Activities After Receipt of All ITAAC Complete Notification



#### 4.1.1 Commission Meeting

Approximately 8 months before the anticipated receipt of the all ITAAC complete notification (required by 10 CFR 52.99(c)(4)), the Commission, at its discretion, may hold a meeting on the status of ITAAC completion, as well as inspection and licensing activities. Scheduling and planning for this activity should start approximately 14 months prior to the anticipated receipt of the all ITAAC complete notification.

#### 4.1.2 Initial Commission Memorandum (Appendix A)

Approximately 3 months before the anticipated receipt of the all ITAAC complete notification, the staff should send the initial memorandum to the Commission. Preparation of this memorandum should be initiated approximately 5 months prior to the anticipated receipt of the all ITAAC complete notification.

#### 4.1.3 Final Commission Memorandum (Appendix C)

Within 14 calendar days of receiving the licensee's all ITAAC complete notification, providing that all conditions have been met, the staff should submit the final memorandum to the Commission. This activity, including the referenced documents supporting the memorandum, should start approximately 2 months prior to the anticipated receipt of the all ITAAC complete notification.

#### 4.1.4 Public Availability of 10 CFR 52.103(g) Basis Document (Appendix B)

The 10 CFR 52.103(g) Basis Document should be available to the public when the final memorandum is sent to the Commission.

#### 4.1.5 Issue 10 CFR 52.103(g) Finding (Appendices D, E, F, and G):

Three calendar days following submittal of the final memorandum to the Commission, except as indicated in Section 4.2.4, the staff intends to 1) make the 10 CFR 52.103(g) finding, 2) issue an order allowing interim operation (if applicable), 3) transmit the FRN to the Office of the Federal Register, and 4) send a letter to the licensee providing notification of the staff's finding. This activity should begin at the same time that work on the Final Memorandum begins and should be part of the Final Memorandum concurrence package.

## 4.2 **Implementation Instructions**

### 4.2.1 Commission Meeting:

*Lead Organization:* Licensing Organization

*Support Organizations:* Headquarters (HQ) ITAAC/Inspection Organization  
Region Construction Inspection Organization

The staff should follow Office of the Executive Director for Operations (OEDO) Procedure 510, Preparing for Commission Meetings, to propose an opportunity for the Commission to hold a meeting on the status of ITAAC completion, as well as inspection and licensing activities. The staff should make the request to schedule

the meeting approximately 14 months prior to the anticipated receipt of the all ITAAC complete notification, such that the meeting can be held approximately 8 months before receipt of the notification.

#### 4.2.2 Initial Commission Memorandum:

*Lead Organization:* Licensing Organization

*Support Organization:* HQ ITAAC Organization, Region Construction Inspection Organization

The purpose of this section is to prepare a memorandum to inform the Commission of the status of: 1) ITAAC completion, 2) inspection activities (including construction and operational programs), 3) licensing activities, and 4) any current challenges.

Approximately 3 months prior to the anticipated receipt of the all ITAAC complete notification, the memorandum should be sent to the Commission. (A template for the memorandum is provided as Appendix A to this OI.) The organization responsible for licensing should have the overall responsibility for preparing the memorandum. The organizations responsible for regional construction inspection, ITAAC, and licensing are responsible for providing inputs to cover their areas of responsibility within the memorandum. The inputs needed for the memorandum are specified below. Once the memorandum is complete, the licensing organization is responsible for promptly routing the memorandum for concurrence and delivery to the OEDO and subsequent transmittal to the Commission.

##### 4.2.2.a Status of ITAAC Closure Activities

*Responsible Organization:* HQ ITAAC Organization

Data in the Verification of ITAAC Closure, Evaluation, and Status (VOICES) database and the ITAAC dashboard metrics should be reviewed and the appropriate information on ITAAC closure status should be included in the memorandum. The staff should include a discussion of any challenges identified by the licensee or NRC regarding ITAAC closure.

##### 4.2.2.b Status of Inspection Activities

*Responsible Organization:* Region Construction Inspection Organization

The purpose for this activity is to provide the current status of: 1) the targeted ITAAC inspections to support ITAAC closure and completion of the baseline ITAAC inspection program, 2) the number of open ITAAC inspection findings, 3) the licensee's operational program implementation and 4) any current challenges. Regional staff should review Construction Inspection Program Information Management System (CIPIMS) and the dashboard for construction inspection program metrics and provide the information for inspection activities (including construction and operational programs) noted in the Appendix A template. The status of the licensee's operational programs should be provided in the table format identified in the Appendix A template.

#### 4.2.2.c Status of Licensing Activities

*Responsible Organization:* Licensing Organization

The purpose of this activity is to provide a status of ongoing and prospective licensing activities and any current or future licensing challenges. If there are no current or prospective licensing activities or challenges, the memorandum should so state. The format for this information is included in the Appendix A template.

#### 4.2.3 Final Commission Memorandum

*Lead Organization:* Licensing Organization

*Support Organization:* HQ ITAAC Organization

Region Construction Inspection Organization

The purpose of this section is to describe the process to prepare a final memorandum to inform the Commission of: 1) the staff's determination that all ITAAC acceptance criteria within Appendix C of the combined license are met, 2) the completion of the staff's ITAAC notification review and supporting inspection activities, 3) the completion and public availability of the 10 CFR 52.103(g) Basis Document 4) the status of operational programs, and 5) the staff's intent to make the 10 CFR 52.103(g) finding (ordinarily in 3 calendar days), notify the licensee, and publish the FRN for the 10 CFR 52.103(g) finding.

The final memorandum and supporting documents should be completed, and the memorandum sent to the Commission within 14 days of receipt of the licensee's all ITAAC complete notification provided that the staff is able to determine that all acceptance criteria are met. The licensing organization will coordinate with OEDO staff to promptly inform the Commission when the all ITAAC complete notification has been received.

To facilitate the timely processing for concurrence on the final documents, the staff should consider routing preliminary drafts of the final Commission Memorandum and 10 CFR 52.103(g) Basis Document to the management team approximately 45 days prior to the anticipated receipt of the licensee's all ITAAC complete notification.

Deficiencies in ITAAC notifications or emergent issues requiring ITAAC-related inspections may delay the issuance of the final Commission memorandum if these issues are not resolved within 14 days after receiving the all ITAAC complete notification. In the event such a condition occurs, the management team will communicate to the Commission the reason for the delay.

Once the memorandum is complete, the licensing organization is responsible for promptly routing the final memorandum for concurrence and delivery to OEDO and subsequent transmittal to the Commission. A template for this memorandum is provided in Appendix C.



#### 4.2.3.a Verification of Completed Inspection Activities

*Responsible Organization:* Region Construction Inspection Organization

The following shall be verified: 1) the baseline ITAAC inspection program has been completed, and 2) all ITAAC findings have been closed. An updated status of the operational program inspections should be provided.

##### 4.2.3.a.1 Verification of Completion of the Baseline ITAAC Inspection Program

Verify completion of the baseline ITAAC inspection program in accordance with IMC-2506. This information should include verifying completion of any supplemental or reactive inspections related to ITAAC and closure of all ITAAC findings. (The inspection information should be provided in a form consistent with the template in Appendix B.)

##### 4.2.3.a.2 Update Implementation of Licensee Operational Programs

Update the status of the licensee's operational program implementation. The status should be provided using the table format provided in Appendix C.

#### 4.2.3.b Verification of Review of ICNs

*Responsible Organization:* HQ ITAAC Organization

The staff will verify that: 1) the VOICES data base, which is used to track ITAAC closure, is in agreement with the most recent amendment to Appendix C of the combined license, 2) an ICN was submitted and accepted for each active ITAAC entry, 3) each ITAAC post-closure notification (IPCN) was accepted by the staff, and 4) the staff received the licensee's all ITAAC complete notification. The staff should take the necessary actions to resolve any identified discrepancies.

##### 4.2.3.b.1 Verification of VOICES Information

Compare Appendix C of the current combined license against the database in VOICES and verify the following:

- VOICES entries exist for each ITAAC index number in Appendix C of the current combined license
- VOICES identifies each index number that is an active ITAAC entry
- VOICES identifies each index number that is a deleted ITAAC entry
- VOICES contains an accepted ICN for each active ITAAC entry and the associated verification and evaluation form (VEF)
- VOICES contains, when required, an accepted IPCN for the active ITAAC entry and the associated VEF

##### 4.2.3.b.2 Final ITAAC Status Report

Following the VOICES database verification, print a pdf file of the final ITAAC Status Report. Post the report on the NRC's public Web site for the plant, enter a

copy into ADAMS, and enter the requested ITAAC closure information into the appropriate locations in the template in Appendix B.

#### 4.2.3.b.3 All ITAAC Complete Notification

Enter the date and ADAMS accession number of the licensee's all ITAAC complete notification into the required locations within the template in Appendix B.

#### 4.2.3.b.4 Inspection Information

Enter the inspection information, based on the inputs provided by the region construction inspection organization for the activities identified above in step a, into the appropriate template locations in Appendices B and C.

#### 4.2.3.b.5 Posting Completed Basis Document

Post the completed 10 CFR 52.103(g) Basis Document on the NRC's public Web site and enter a copy into ADAMS following confirmation that the baseline ITAAC inspection program has been completed, that all ITAAC findings have been closed, and all acceptance criteria within Appendix C of the combined license are met. Enter the ADAMS accession number into the appropriate location within the template in Appendix C, D, and E. The 10 CFR 52.103(g) Basis Document should be available to the public when the final memorandum is sent to the Commission.

#### 4.2.3.b.6 Routing Memorandum to the Commission

Once the memorandum is complete, the licensing organization is responsible for promptly routing the memorandum for concurrence and delivery to the Commission.

#### 4.2.4 Issue the 10 CFR 52.103(g) Finding

*Lead Organization:* Licensing Organization

The licensing organization should complete the remaining documents using the templates identified below, obtain the necessary concurrences, and issue the documents after the final Commission Memorandum has been provided to the Commission. These activities should be completed 3 calendar days after submitting the final Commission Memorandum. However, as explained in the ITAAC hearing procedures (81 FR 43284), the 10 CFR 52.103(g) finding will not be made if there is an admitted ITAAC contention, there is no decision from the presiding officer for the hearing, and the Commission has not issued a positive interim operation determination. In this circumstance, the 52.103(g) finding will not be made unless and until there is an affirmative hearing decision in favor of the licensee or a positive interim operation determination.

- Appendix D - Template for 10 CFR 52.103(g) *Federal Register* Notice
- Appendix E - Template for 10 CFR 52.103(g) Letter to Licensee
- Appendix F - Template for 10 CFR 52.103(g) Finding

If an ITAAC hearing is ongoing and the Commission has made a positive determination on interim operation, then the licensing organization should prepare an order allowing interim operation; a template for such an order is provided in Appendix G. Interim operation allows operation pending the completion of an ITAAC hearing. As discussed in the ITAAC hearing procedures (81 FR 43279), the effect that the decision after a hearing has on interim operation would be fact-dependent. Thus, the Appendix G template does not specify the circumstances in which interim operation would be discontinued. Consequently, if interim operation is allowed, the NRC will need to take affirmative action to discontinue interim operation once it is appropriate to do so. Because 10 CFR 52.103(c) provides that the Commission will make the interim operation determination acting as the presiding officer, a decision to discontinue interim operation would also be made by the Commission.

5. **RESPONSIBILITIES AND AUTHORITIES**

The responsible organizations for implementing this OI are detailed in Section 4.2 of this OI.

6. **PERFORMANCE MEASURES**

None

7. **PRIMARY CONTACTS**

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8. **RESPONSIBLE ORGANIZATIONS**

NRR/DIRS and NRO

9. **EFFECTIVE DATE**

January 22, 2019

**10. REFERENCES**

- NRO Office Instruction, NRO-REG-102, “Prioritization of Inspections, Tests, Analyses, and Acceptance (ITAAC) for Inspection”
- NRO Office Instruction, NRO-REG-103, “Inspections, Tests, Analyses, and Acceptance Criteria Closure Verification Process”
- Inspection Manual Chapter, IMC 2504, “Construction Inspection Program – Inspection of Construction and Operational Programs”
- Inspection Manual Chapter, IMC 2505, “Periodic Assessment of Construction Inspection Program Results”
- Inspection Manual Chapter, IMC 2506, “Construction Reactor Oversight Process General Guidance and Basis Document”
- OEDO Procedure – 0510, “Preparing for Commission Meetings”

Enclosure: Change History

## Appendices

- Appendix A – [Template for Initial Commission Memorandum](#)
- Appendix B – [Template for 10 CFR 52.103\(g\) Basis Document](#)
- Appendix C – [Template for Final Commission Memorandum](#)
- Appendix D – [Template for 10 CFR 52.103\(g\) Federal Register Notice](#)
- Appendix E – [Template for 10 CFR 52.103\(g\) Letter to Licensee](#)
- Appendix F – [Template for 10 CFR 52.103\(g\) Finding](#)
- Appendix G – [Template for Interim Operation Order](#)

**Change History**  
**Office Instruction LIC-114 (NRR) / REG-106 (NRO)**  
**Title 10 of the Code of Federal Regulations (10 CFR) 52.103(g)**  
**Finding and Communication Process**

<b>LIC-114 (NRR) / REG-106 (NRO) - Change History</b>			
<b>Date</b>	<b>Description of Changes</b>	<b>Method Used to Announce &amp; Distribute</b>	<b>Training</b>
01/21/2019	This office instruction (OI) describes the steps and provides templates for Commission memoranda informing the Commission of the status of regulatory activities in the final year of construction for a Part 52 licensed facility and for taking the actions necessary to make the 10 CFR 52.103(g) finding. The staff's finding that the licensee has met all acceptance criteria in the combined license is required prior to operation. In addition, this OI includes a template for issuing an order allowing interim operation pursuant to 10 CFR 52.103(c), if necessary.	E-mail to all NRR staff	Select staff in the headquarters and regional organizations that are involved in licensing or construction oversight of a 10 CFR Part 52 facility.