

OFFICE OF NUCLEAR REACTOR REGULATION

LIC-114, Revision 1	Title 10 of the Code of Federal Regulations (10 CFR) Section 52.103(g) Finding and Communication Process
Volume 100	Licensing Processes
Approved By:	Ho Nieh
Date Approved:	June 12, 2020
Effective Date:	June 15, 2020
Certification Date:	June 15, 2025
Responsible Organization:	VPO
Primary Contact:	Christopher Welch Christopher.Welch@nrc.gov 301-415-7000
Summary: This revision reflects the reunification of NRR and NRO and makes other necessary updates. This issuance incorporates and rescinds the related NRO instruction "NRO-REG-106, "Title 10 of the Code of Federal Regulations (10 CFR) 52.103(g) Finding and Communication Process."	
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 Number:	ML20055E800

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Office Instruction: LIC-114, Revision 1 "Title 10 of the Code of Federal Regulations
(10 CFR) 52.103(g) Finding and Communication Process," Dated: June 12, 2020

ADAMS Accession No: ML20055E800

*via email

NRR-071

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OFFICE	NRR/VPO	N	TechEditor	N	NRR/VPO:BC	N	NRR/VPO:D	N
NAME	CWelch		JDougherty*		VHall		MKing	
DATE	2/10/2020		2/20/2020		3/10/2020		3/10/2020	
OFFICE	OGC	N	R-II:BC	N	DD:DRMA		DD:NRR	
NAME	MASpencer		MBailey		TGorham		HNieh	
DATE	3/3/2020		3/9/2020		4/7/2020		6/12/2020	

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1. **POLICY**

The licensee for a facility under construction under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," 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 10 CFR 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 10 CFR 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," dated April 4, 2013, (ADAMS Accession No. ML12289A928) 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 that it intended to inform the Commission of the staff's determination that all acceptance criteria are met before the staff makes 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 July 19, 2013, staff requirements memorandum for SECY-13-0033 (ADAMS Accession No. ML13200A115), 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," dated May 13, 2006 (ADAMS Accession No. ML060740479), the staff committed to informing 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 U.S. Nuclear Regulatory Commission (NRC) regulations for each 10 CFR 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. Each document is described 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 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 have been performed and all acceptance criteria 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 B through H provide templates for the documents listed above. In addition, if the Commission decides to issue an order allowing interim operation, Appendix H contains a template for this order. 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 ongoing and are routinely managed and tracked. These activities shall be completed and documented to provide the required information to support the necessary findings.

The staff should begin the required activities sufficiently early to meet the implementation schedule discussed in Section 4.1.

4. **BASIC REQUIREMENTS**

4.1 Implementation Schedule

The staff should implement the following schedule to inform the Commission of the status of regulatory activities in the final year of construction for a 10 CFR Part 52 licensed facility and to support issuing the 10 CFR 52.103(g) finding. Figures 1 and 2 provide a suggested timeline; however, the staff may initiate activities earlier at its discretion. Section 4.2 includes specific implementation instructions.

Figure 1: Overall 10 CFR 52.103(g) Finding Timeline

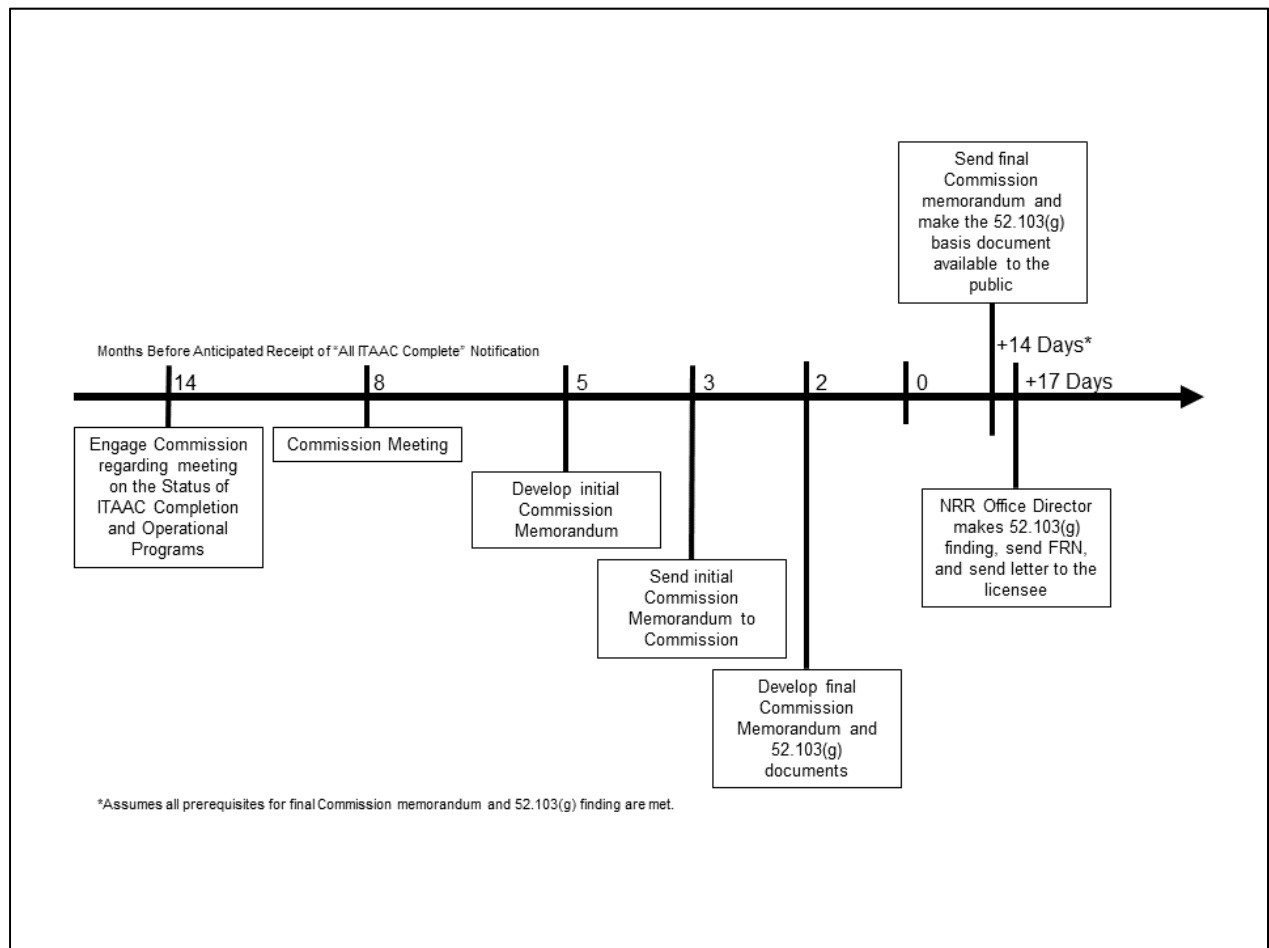
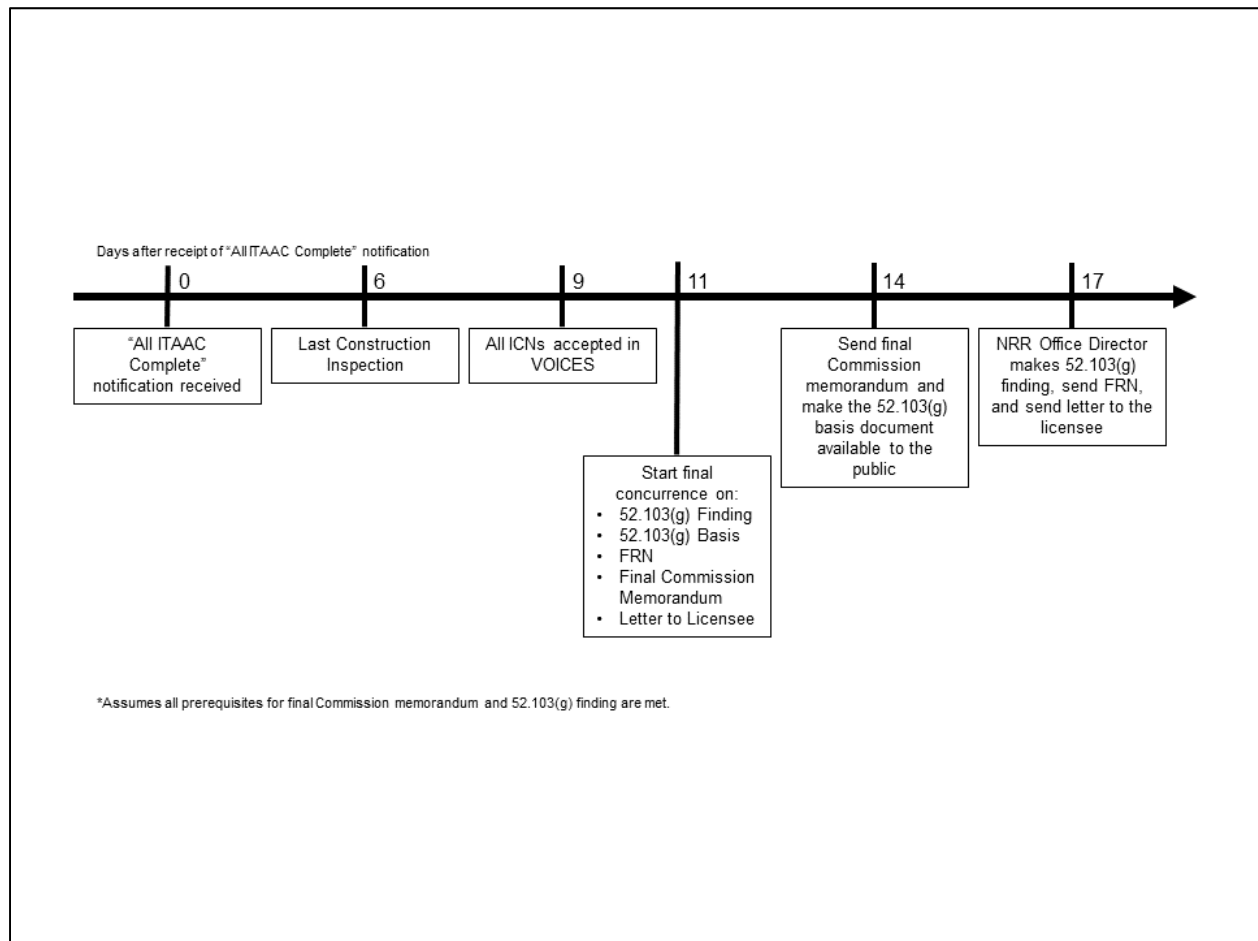


Figure 2: Timeline for 10 CFR 52.103(g) Finding
(Activities After Receipt of "All ITAAC Complete" Notification)



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 before the anticipated receipt of the “All ITAAC Complete” notification.

4.1.2 Initial Commission Memorandum (Appendix B)

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 before the anticipated receipt of the “All ITAAC Complete” notification.

4.1.3 Final Commission Memorandum (Appendix D)

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 before the anticipated receipt of the “All ITAAC Complete” notification.

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

The 10 CFR 52.103(g) Basis Document shall 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 E, F, G, and H):

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 notifying the licensee 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:

<i>Lead Organization:</i>	Licensing Organization
<i>Support Organizations:</i>	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 before the anticipated receipt of the “All ITAAC Complete” notification, so 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 activity 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 before the anticipated receipt of the “All ITAAC Complete” notification, the memorandum should be sent to the Commission. (Appendix B to this OI presents a template for the memorandum.) The organization responsible for licensing should have the overall responsibility for preparing the memorandum. The organizations responsible for regional construction inspection, ITAAC, and licensing shall provide 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 in ITAAC closure identified by the licensee or the NRC.

4.2.2.b Status of Inspection Activities

Responsible Organization: Region Construction Inspection Organization

The purpose of 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 the 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 B template. The status of the licensee’s operational programs should be provided in the table format identified in the Appendix B template.

4.2.2.c Status of Licensing Activities

Responsible Organization: Licensing Organization

The purpose of this activity is to provide the 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 state this. The format for this information is included in the Appendix B 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 of preparing a final memorandum to inform the Commission of (1) the staff's determination that all acceptance criteria within Appendix C to 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 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 before 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 this event, the management team will communicate to the Commission the reason for the delay.

Once the memorandum is complete, the licensing organization is responsible for prompt routing of the Final Memorandum for concurrence and delivery to OEDO and subsequent transmittal to the Commission. Appendix D contains a template for this memorandum.

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.b Verification of Completion of the Baseline ITAAC Inspection Program

Verify completion of the baseline ITAAC inspection program in accordance with IMC-2506, "Construction Reactor Oversight Process General Guidance and Basis Document." 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 C.)

4.2.3.b.1 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 in Appendix D.

4.2.3.b.2 Verification of Review of ITAAC Notifications

Responsible Organization: HQ ITAAC Organization

The staff will verify that (1) the VOICES database, which is used to track ITAAC closure, is in agreement with the most recent amendment to Appendix C to the combined license, (2) an ITAAC closure notification (ICN) was submitted and accepted for each active ITAAC entry, (3) the staff accepted each ITAAC post-closure notification (IPCN), and (4) the staff received the licensee's "All ITAAC Complete" notification. The staff should resolve any identified discrepancies.

4.2.3.b.3 Verification of VOICES Information

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

- VOICES entries exist for each ITAAC index number in Appendix C to 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.
- VOICES contains, when required, an accepted IPCN for the active ITAAC entry and the associated Verification and Evaluation Form.

4.2.3.b.4 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 the Agencywide Documents Access and Management System (ADAMS), and enter the requested ITAAC closure information in the appropriate locations in the template in Appendix C.

4.2.3.b.5 "All ITAAC Complete" Notification

Enter the date and ADAMS accession number of the licensee's "All ITAAC Complete" notification in the required locations in the template in Appendix C.

4.2.3.b.6 Inspection Information

Enter the inspection information, based on the inputs provided by the region construction inspection organization for the activities identified above in step 4.2.3.a, in the appropriate template locations in Appendices C and D.

4.2.3.b.7 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 that all acceptance criteria in Appendix C to the combined license are met. Enter the ADAMS accession number in the appropriate location in the template in Appendices D, E, and F. 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.8 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:

- Appendix E - Template for 10 CFR 52.103(g) FRN
- Appendix F - Template for 10 CFR 52.103(g) Letter to Licensee
- Appendix G - Template for 10 CFR 52.103(g) Finding

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 10 CFR 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.

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; Appendix H presents a template for such an order. 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 depend on the facts. Thus, the Appendix H 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, the Commission would also make the decision to discontinue interim operation.

5. RESPONSIBILITIES AND AUTHORITIES

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

6. PERFORMANCE MEASURES

None

7. PRIMARY CONTACTS

Chris Welch
301-415-7000
Christopher.Welch@nrc.gov

8. RESPONSIBLE ORGANIZATION

VPO

9. EFFECTIVE DATE

June 15, 2020

10. CERTIFICATION DATE

June 15, 2025

11. **REFERENCES**

- LIC-210, "Prioritization of Inspections, Tests, Analyses, and Acceptance (ITAAC) for Inspection," ML20057D521
- LIC-211, "Inspections, Tests, Analyses, and Acceptance Criteria Closure Verification Process (ICVP)," ML20057D914
- Inspection Manual Chapter, IMC 2504, "Construction Inspection Program: Inspection of Construction and Operational Programs," ML19056A212
- Inspection Manual Chapter, IMC 2505, "Periodic Assessment of Construction Inspection Program Results," ML16253A097
- Inspection Manual Chapter, IMC 2506, "Construction Reactor Oversight Process General Guidance and Basis Document," ML20029E947
- OEDO Procedure 0510, "Preparing for Commission Meetings," ML11164A206

Enclosure:

Appendix A - Change History

Appendices:

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

Appendix A - Change History
Office Instruction LIC-114
Title 10 of the Code of Federal Regulations (10 CFR) Section 52.103(g) Finding and
Communication Process

LIC-114 – Change History – Page 1 of 1			
Date	Description of Changes	Method Used to Announce & Distribute	Training
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	All staff (as requested)
06/12/2020	This revision reflects the reunification of NRR and NRO and makes other necessary updates. This issuance incorporates and rescinds the related NRO instruction "NRO-REG-106, "Title 10 of the Code of Federal Regulations (10 CFR) 52.103(g) Finding and Communication Process."	E-mail to all NRR Staff	None