



# **ITAAC Hearing Process Schedule and Stakeholder Engagement**

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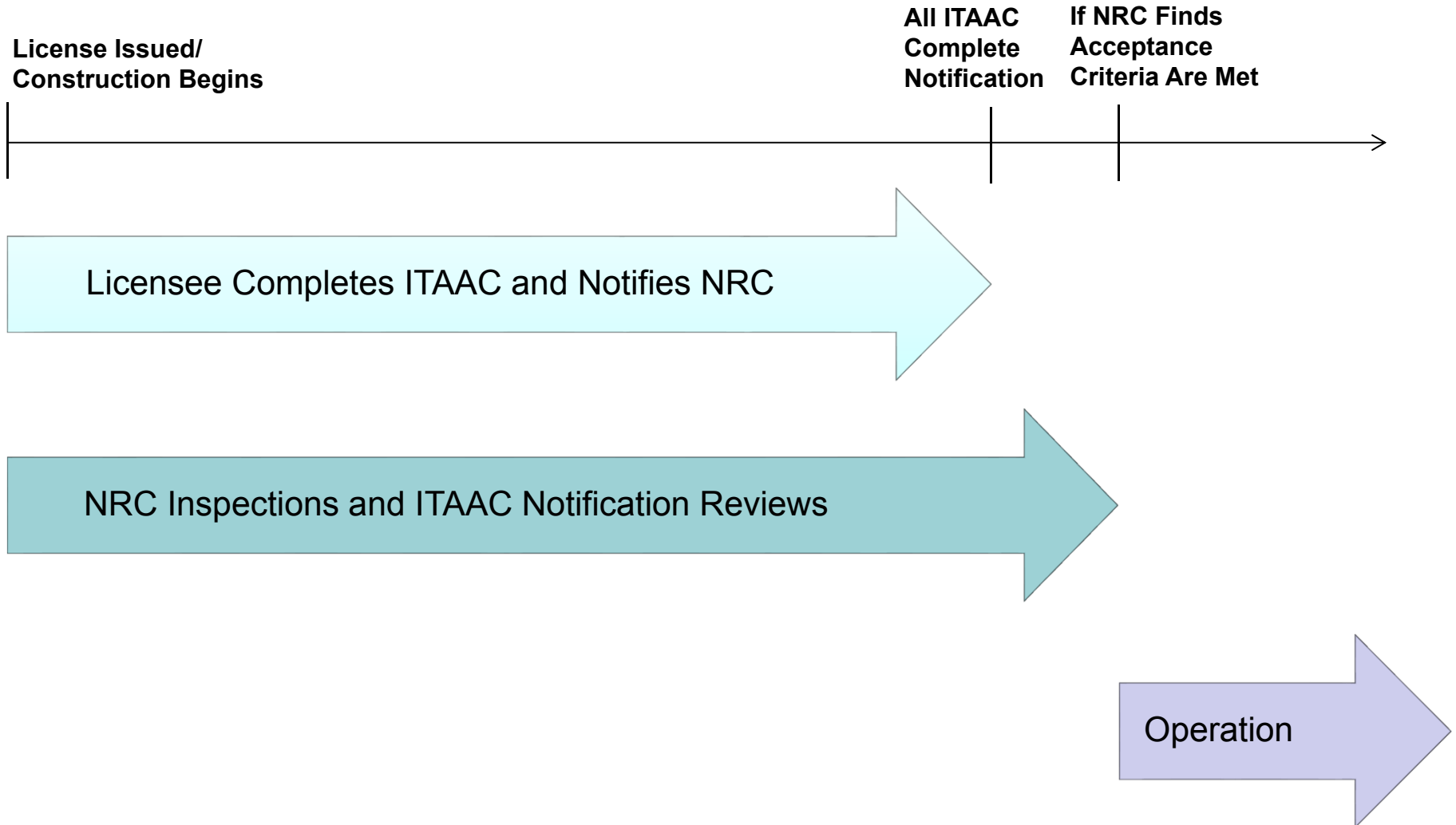
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# **ITAAC Closure and Hearing Process**

# ITAAC Closure Process

- Combined licenses (COLs) include inspections, tests, analyses, and acceptance criteria (ITAAC) to verify that the facility has been constructed and will be operated consistent with NRC safety requirements.
- Before operation may begin, the NRC staff must find that all acceptance criteria in the ITAAC are met (10 CFR 52.103(g)).
- The finding on conformance with the acceptance criteria will occur at the end of the construction period.
- This finding will be based on NRC review of licensee ITAAC notifications and NRC inspections.

# ITAAC Closure Timeline



# Hearing Opportunity

- The Atomic Energy Act (AEA) provides a hearing opportunity on whether the acceptance criteria have been or will be met.
  - Hearing request limited to conformance with acceptance criteria.
  - No environmental contentions (10 CFR 51.108).
  - A challenge to the ITAAC itself will not give rise to an admissible contention. Challenges to the ITAAC or other safety issues may be raised through other means (petitions under 10 CFR 2.206, 2.802, or 52.103(f)), as discussed in SECY-17-0007 and the SRM.
- Federal Register Notice of Intended Operation will announce this hearing opportunity.

## Hearing Opportunity (cont.)

- ITAAC hearing requests:
  - must be submitted within 60 days of the Notice of Intended Operation
  - must demonstrate standing and include an admissible contention.
- AEA § 189 requires ITAAC hearing requests to include a “prima facie” showing:
  - “A [hearing request] shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.”

## If hearing request granted...

- AEA § 189: NRC shall “to the maximum possible extent” issue a decision on the hearing issues by the later of (a) 180 days after the Notice of Intended Operation, or (b) scheduled fuel load.
- AEA § 189: The NRC may use formal or informal procedures of its choosing.
- 10 CFR 2.310(j): Procedures for an ITAAC hearing will be designated by the Commission in each proceeding.
- The NRC published ITAAC Hearing Procedures on July 1, 2016 (81 FR 43266). These procedures (1) define schedule expectations for the proceeding, and (2) provide templates for case-specific procedural orders.

# ITAAC Hearing Procedures

- Based on existing hearing rules, as modified to support the accelerated ITAAC hearing schedule.
  - Testimony and position statements will be prepared immediately after a hearing request is granted.
  - Strict deadline for the decision after any hearing.
  - Motions for extension of time must show unavoidable and extreme circumstances.
  - Regulatory deadlines were shortened.
  - Eliminated summary disposition motions, contested motions to dismiss, and written motions in limine and motions to strike.
  - Limited interlocutory appeals and motions for reconsideration.



# Interim Operation

- AEA § 189: *If a hearing request is granted, the Commission shall determine whether to allow interim operation.*
- Interim operation is intended to prevent the ITAAC hearing from unnecessarily delaying plant operation.
- Interim operation shall be allowed if:
  - The Commission determines that there is reasonable assurance of adequate protection of the public health and safety during interim operation, AND
  - The NRC staff makes the 52.103(g) finding that all acceptance criteria are met.

# Hearing Schedule

- Hearing schedule depends on when the Notice of Intended Operation is published.
  - AEA § 189 requires the Notice to be published at least 180 days before scheduled fuel load (SFL).
  - Commission goal to publish the Notice at least 210 days before SFL.
  - Per the ITAAC Hearing Procedures, early submission of uncompleted ITAAC notifications (UINs) could allow the Notice to be published even earlier (up to 285 days before SFL) if certain conditions are satisfied (discussed next slide).
  - If the Notice of Intended Operation is published earlier, the hearing schedule dates would be moved up accordingly.
- Publishing the Notice earlier creates schedule margin.

## **Early Publication of Notice of Intended Operation**

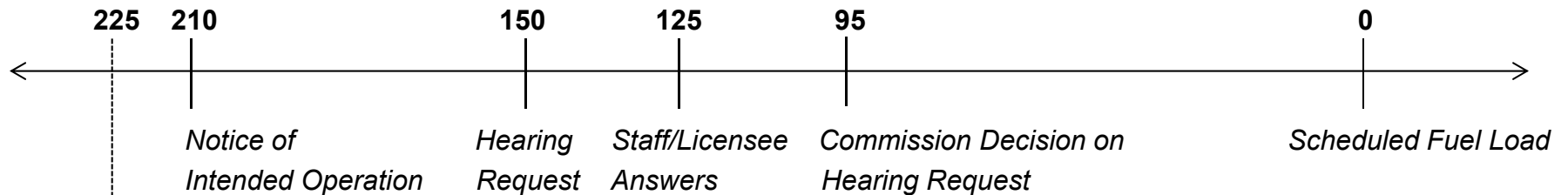
Per ITAAC Hearing procedures, NRC will try to publish Notice 15 days after UINs are submitted for all uncompleted ITAAC, if additional practical steps are taken:

- NRC informally apprised of SFL far enough in advance to support early publication of the Notice.
  - Vogtle license condition requires periodic updates on SFL.
- “NRC will not publish the notice of intended operation until the licensee has submitted a 10 CFR 52.103(a) fuel load schedule.”
- UINs will need to specify coverage period (e.g., cover ITAAC completed later than 300 days before SFL).
- “Any ITAAC completed before the specified coverage period will not be the subject of [a UIN] but will be the subject of an [ICN].”
  - Intent is that if an ITAAC is not covered by a UIN, it is covered by an ICN.

# ITAAC Hearing Timelines

(If Notice Published 210 Days Before SFL)

## Days before Scheduled Fuel Load



Track 1 – 89 (+/-5) days\*  
 Written direct/rebuttal testimony, oral hearing, initial decision

Track 2 – 75 (+/-5) days\*  
 Written direct testimony, oral hearing, initial decision

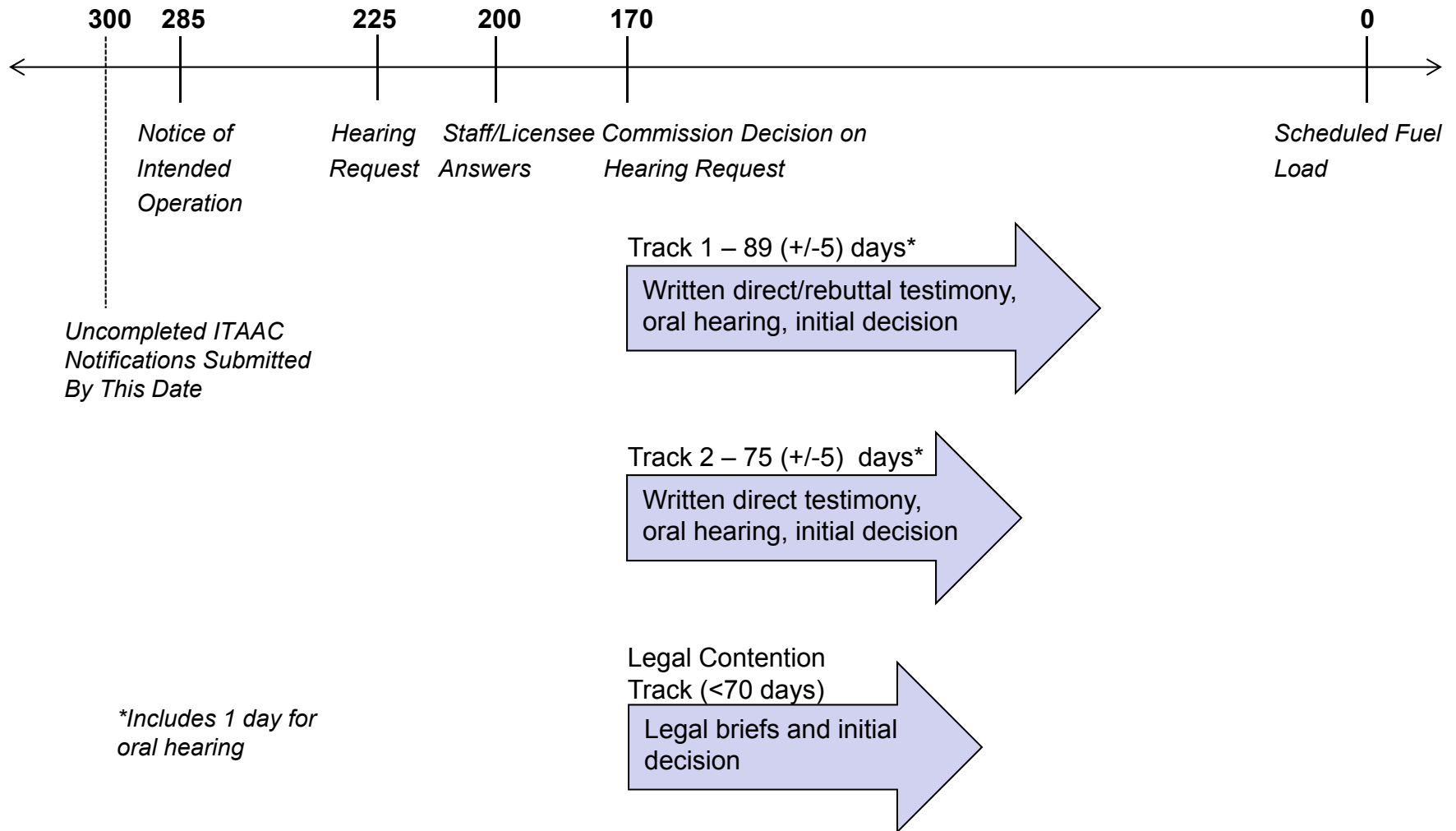
Legal Contention Track (<70 days)  
 Legal briefs and initial decision

*\*Includes 1 day for oral hearing*

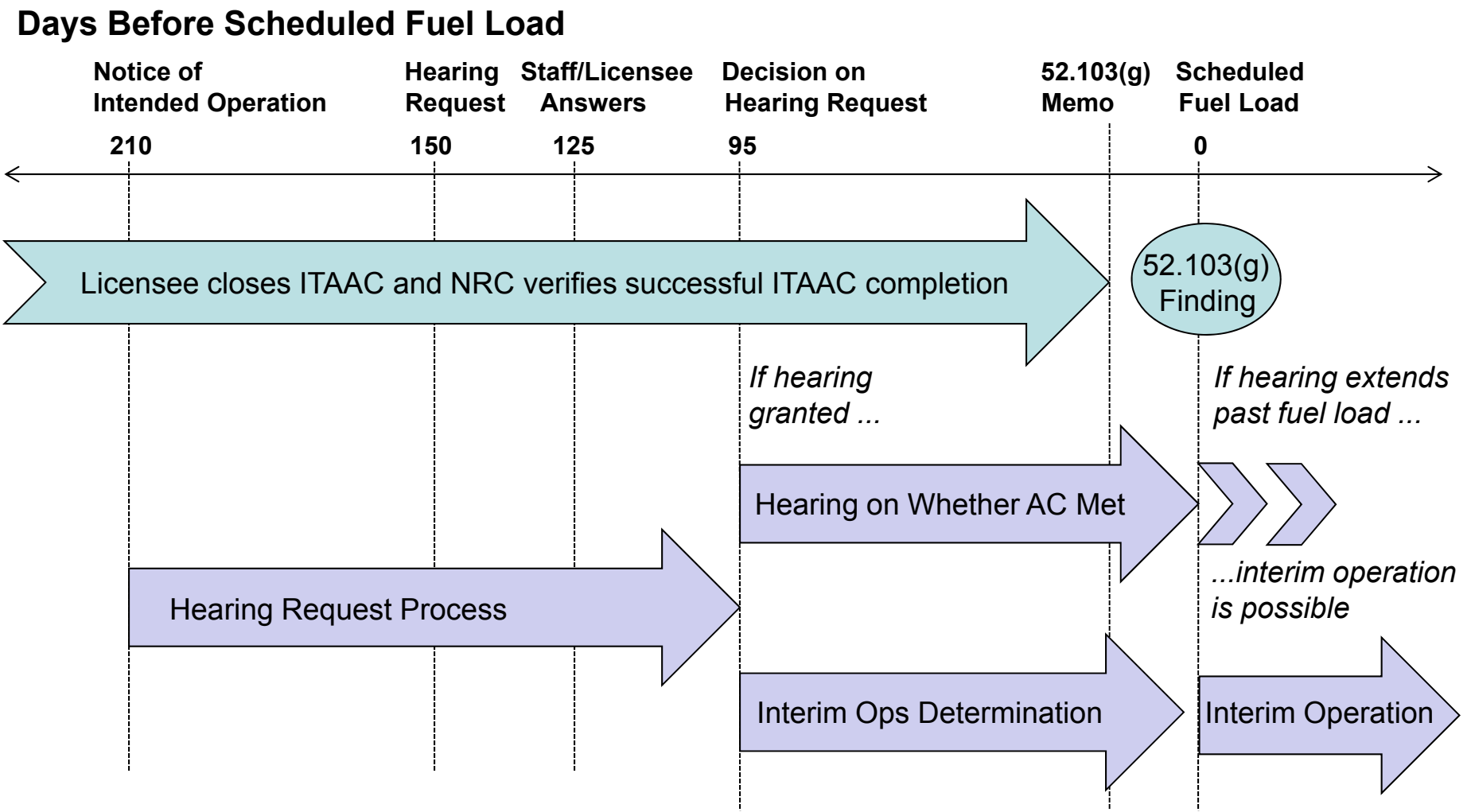
# ITAAC Hearing Timelines

(If Notice Published 285 Days Before SFL)

## Days before Scheduled Fuel Load



# Parallel Paths (ITAAC Closure/Hearing/Interim Operation)



# **Pre-Hearing Stakeholder Interactions**

## Prehearing Public Engagement

- The ITAAC hearing procedures state that the NRC will publish a Federal Register notice announcing a pre-clearance background check opportunity for access to SGI.
  - Pre-clearance process aims to prevent background checks from becoming a barrier to public participation in the hearing process.
  - The notice would be published ~420 days before SFL.
  - Background check forms/fee should be submitted within 20 days.
  - Notice will state that completion of the hearing and the 52.103(g) finding will not be delayed because of background check delays.
  - The need to know the SGI would be evaluated when a specific request for SGI is made.
- NRC plans to hold public meeting(s) on the ITAAC hearing process near the plant site about 390 days before SFL.



## **Prehearing Licensee Engagement**

~465 days before SFL, the NRC plans to engage with the licensee on its detailed ITAAC notification schedule to support NRC schedule and resource planning.

- Includes discussing whether licensee will submit UINs early and take other steps to support early issuance of Notice of Intended Operation.
- Staff would like periodic schedule updates to support the NRC processing and reviewing the submissions.
- If the licensee plans to submit a large number of ITAAC notifications at one time, the staff will encourage the licensee to submit them in a way that expedites processing.
- Staff expects continued informal engagement with licensee on the ITAAC submission schedule, particularly as the date for publishing the Notice of Intended Operation approaches.



# Summary

# Summary of Public Engagement With NRC

- **Pre-clearance SGI Background Check**
  - Notice published ~420 days before SFL (forms and fee should be submitted 20 days thereafter)
- **Public Meeting(s) on ITAAC Hearing Process**
  - Meeting(s) near plant site held ~390 days before SFL
- **Hearing Request**
  - Notice of Intended Operation published between 285 and 210 days before SFL (hearing requests due 60 days thereafter)
- **If Hearing Request Granted...**
  - Litigate contentions before presiding officer
  - Streamlined procedures
  - Compressed schedule (initial decision should be issued within 94 days of the decision to grant the hearing request)

## Summary of Licensee Engagement With NRC

- Engagement with NRC on ITAAC Notification Schedule
  - Begins ~465 days before SFL
- Answer to Hearing Request
  - Due 25 days after hearing request (between 200 and 125 days before SFL)
- If Hearing Request Granted...
  - Litigate contentions before presiding officer
  - Streamlined procedures
  - Compressed schedule (initial decision should be issued within 94 days of the decision to grant the hearing request)

## ITAAC Hearing Process – Timeline of Events

### *Events Leading Up to the Decision on the Hearing Request*

<b>Days Before SFL</b>	<b>Event</b>
~465	Staff Engages with Licensee on ITAAC Notification Schedule
~420	NRC Publishes Pre-Clearance SGI Background Check Federal Register Notice (FRN)
~400 (20 days after FRN)	Pre-Clearance Background Check Forms and Fee Should Be Submitted
~390	Public Meeting(s) on Upcoming ITAAC Proceeding
285 to 210	NRC Publishes Notice of Intended Operation (NIO)
275 to 200 (10 days after NIO)	Due Date for Requests for Access to SUNSI and/or SGI
225 to 150 (60 days after NIO)	Hearing Requests Due
200 to 125 (25 days after hearing request)	Licensee and Staff File Answers to Hearing Request
170 to 95 (30 days after answers)	Commission Decision on Hearing Request

### *If Hearing Request Is Granted and Track 1 Procedures Used*

<b>Days After Hearing Request Granted</b>	<b>Event</b>
7	Prehearing Conference
10	Scheduling Order
15	Disclosures of Documents Relevant to Admitted Contentions Identification of Witnesses NRC Staff Informs the Presiding Officer and Parties of Whether the Staff Will Participate as a Party
30 (+/- 5)	Pre-filed Initial Testimony
44 (+/- 5)	Pre-filed Rebuttal Testimony
51 (+/- 5)	Proposed Questions for the Presiding Officer to Ask of the Other Parties' Witnesses Motions for Cross-Examination/Cross-Examination Plans
56 (+/- 5)	Answers to Motions for Cross-Examination
59 (+/- 5)	Oral Hearing
66 (+/- 5)	Joint Transcript Corrections
74 (+/- 5)	Proposed Findings of Fact and Conclusions of Law (if needed)
<b>89 (+/- 5)</b>	<b>Presiding Officer's Initial Decision (86 days to 1 day before SFL, depending on, e.g., when NIO is published). Absent good cause, initial decision that AC have been met is immediately effective.</b>
114 (+/- 5)	Petition for Review of Initial Decision
139 (+/- 5)	Answer to Petition for Review