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# Pre-Operational ITAAC Hearing Process for New Reactors

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## Summary

When the NRC issues a combined license under 10 CFR Part 52, the agency authorizes the construction and conditional operation of a new reactor. These licenses include a comprehensive list of inspections, tests, analyses and acceptance criteria (ITAAC) to verify the reactor has been properly constructed and will be operated safely. The NRC must find that all of the acceptance criteria in the ITAAC are met before operation may begin. A company building a reactor must notify the NRC of its intended fuel loading date. Between 210 and 285 days before that date, the NRC will publish a notice providing a very narrow opportunity for the public to ask for a hearing on whether the acceptance criteria in the ITAAC have been or will be met.


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## Completing ITAAC

The NRC's review of combined license applications ensures that the applicant has proposed sufficient ITAAC to verify proper construction and safe operation of the reactor. The ITAAC include the standards to be met in the form of acceptance criteria. During construction, the company holding the license must complete all the ITAAC to meet the requirements for initial operation. The company also notifies the NRC as the items are completed, including how they meet the relevant requirements. The NRC inspects the ITAAC-related construction activities and reviews the notifications of ITAAC completion. All of this information is publicly available through the agency's electronic document database, ADAMS. This information is also available on the NRC webpage for each new reactor under [construction](#).


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## ITAAC Hearings

### ITAAC Hearings – Basic Requirements

- The Atomic Energy Act of 1954, as amended (AEA), states the public may request a hearing on whether the acceptance criteria in the ITAAC have been or will be met.
- The NRC will publish a Notice of Intended Operation in the *Federal Register* to announce the public's opportunity to request a hearing, between 210 and 285 days before the scheduled date for initial loading of fuel into the reactor.
- The AEA requires the public to request a hearing within 60 days of the notice, showing standing and offering an admissible argument, or contention, against intended operation.
- The AEA also requires a hearing request to make a *prima facie* showing that (1) one or more acceptance criteria have not been or will not be met, and (2) failing to meet the criteria would prevent the NRC from having reasonable assurance that public health and safety will be adequately protected.
  - Before the Notice of Intended Operation is published, the licensee must submit notifications describing how it will complete any outstanding ITAAC. This supports the public's opportunity to make the required *prima facie* showing.
  - The hearing request is limited to ITAAC, and no environmental contentions are permitted.
  - The Commissioners will determine whether to grant the hearing request.
- If the Commissioners grant a hearing request, the AEA allows the Commission to decide whether to use formal or informal hearing procedures.
- The AEA requires the NRC, "to the maximum possible extent," to render a decision on the issues raised by the hearing request by scheduled initial

fuel load.

- The AEA provides for interim operation if a hearing continues beyond the fuel load date.
- Interim operation can occur if the NRC staff finds that all acceptance criteria are met, and the Commission finds that there is reasonable assurance of adequate protection of the public health and safety during the interim period.



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## ITAAC Hearing Procedures

On July 1, 2016, the NRC published detailed procedures for ITAAC hearings (81 FR 43266), including:

- The Commission will issue case-specific orders with hearing procedures.
- The procedures modify existing hearing rules to support the accelerated ITAAC hearing schedule.
- The parties will prepare testimony and position statements immediately after a hearing request is granted.
- The Commission will establish a strict deadline for the decision after a hearing.
- Motions for extension of time must show unavoidable and extreme circumstances.
- Shortened filing deadlines.
- The procedures' goal is to complete the hearing within 210 days. This time period includes the following:
  - The public has 60 days to file hearing requests.
  - The licensee and the NRC staff have 25 days to answer a hearing request.
  - The Commission intends to decide whether to grant the hearing request within 30 days after the answers are filed.
  - If the hearing request is granted, there will be a hearing phase lasting from about 70 to 94 days. In this period, the following activities will occur:
    - Document disclosures
    - Pre-filed testimony
    - The oral hearing
    - Findings of fact and conclusions of law (if needed)
    - Presiding officer decision.

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