

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

<b>MD 8.11</b>	<b>REVIEW PROCESS FOR 10 CFR 2.206 PETITIONS</b>	<b>DT-19-01</b>
<i>Volume 8:</i>	Licensee Oversight Programs	
<i>Approved By:</i>	Margaret M. Doane, Executive Director for Operations	
<i>Date Approved:</i>	March 1, 2019	
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<i>Issuing Office:</i>	Office of Nuclear Reactor Regulation Division of Operating Reactor Licensing	
<i>Contact Name:</i>	Perry Buckberg	
<b>EXECUTIVE SUMMARY</b> <p>Management Directive (MD) 8.11, “Review Process for 10 CFR 2.206 Petitions,” is being revised to—</p> <ul style="list-style-type: none"><li>• Clarify the initial screening and acceptance criteria for evaluating petitions,</li><li>• Clarify guidance regarding coordination and referral of allegations,</li><li>• Clarify and update roles and organizational responsibilities,</li><li>• Clarify and add guidance regarding referrals from adjudicatory boards and the Commission,</li><li>• Clarify guidance on public meeting and teleconference interactions,</li><li>• Clarify guidance for a streamlined director’s decision in certain cases,</li><li>• Correct the addressee of the periodic 2.206 status report from the Commission to the Director of the Office of Nuclear Reactor Regulation,</li><li>• Revise the process to accelerate the PRB initial assessment prior to meeting with the petitioner,</li><li>• Add a timeliness goal for issuing the acknowledgment or closure letter,</li><li>• Add criteria for holding a petition in abeyance,</li><li>• Clarify that the PRB chairperson is the final decision maker for the PRB,</li><li>• Add guidance on requests to impose requirements outside of NRC jurisdiction,</li><li>• Add the Office of International Programs to the offices responsible for petitions, and</li><li>• Relocate detailed procedural staff guidance to “<a href="#">Desktop Guide: Review Process for 10 CFR 2.206 Petitions</a>,” to clarify and facilitate future updates, as needed.</li></ul>		

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For updates or revisions to policies contained in this MD that were issued after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

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### I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to provide any person with the means to request that the NRC institute a proceeding pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.202, "Orders," to modify, suspend, or revoke a license, or for other action as may be proper (hereinafter referred to in this directive as to take enforcement-related action). This policy is codified in 10 CFR 2.206, "Requests for Action Under This Subpart." The NRC may grant a request for action, in whole or in part, take other action that satisfies the concerns raised by the requester, or deny the request. Requests

that raise health and safety and other concerns without requesting enforcement-related action will be reviewed by means other than the 10 CFR 2.206 process.

## **II. OBJECTIVES**

- Ensure public health and safety through the prompt and thorough evaluation of any potential problem addressed by a petition filed under 10 CFR 2.206.
- Provide for appropriate participation by a petitioner in the NRC's decisionmaking activities related to a 10 CFR 2.206 petition.
- Ensure effective communication with the petitioner and other stakeholders on the status of a petition, including providing relevant documents and notification of interactions between NRC staff and a licensee or certificate holder relevant to the petition.

## **III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**

### **A. Executive Director for Operations (EDO)**

Receives and assigns action for all petitions filed under 10 CFR 2.206.

### **B. Office of the General Counsel (OGC)**

1. Provide legal advice to the Commission, EDO, office directors, and staff on matters related to the 10 CFR 2.206 process.
2. Provide legal counsel on matters related to the 10 CFR 2.206 petition process, upon specific request from the staff in a special case or where a petition raises legal issues. Reviews written correspondence between the staff and the petitioner(s) such as letters and staff decisions (e.g., proposed and final director's decisions).

### **C. Director, Office of Enforcement (OE)**

1. Provides enforcement and allegation program advice to the Commission, EDO, office directors, and staff on matters related to the 10 CFR 2.206 process
2. Provides enforcement and allegation program advice on a 10 CFR 2.206 petition submittal and, upon specific request from the staff, reviews written correspondence between the staff and the petitioner(s) such as letters and staff decisions (e.g., proposed and final director's decisions).

### **D. Director, Office of Investigations (OI) and Inspector General (IG)**

1. The Office of Investigations (OI) provides advice on a 10 CFR 2.206 petition submittal upon specific request from the staff in a special case or where a petition raises any allegation of wrongdoing by a licensee or certificate holder, applicant for a licensee or certificate, their contractor, or their vendor.

2. The Office of the Inspector General (OIG) addresses suspected wrongdoing by NRC employees and contractors such as mismanagement of agency programs that could adversely impact matters related to public health and safety.
3. Any mention outside the NRC of an ongoing OI or OIG investigation requires the approval of the Director of OI or the IG, respectively.

**E. Director, Office of Nuclear Reactor Regulation (NRR)**

1. Responsible for the development and implementation of agencywide policy and procedures regarding the processing of 10 CFR 2.206 petitions.
2. For assigned petitions, see additional roles and responsibilities in Section III.F of this directive.

**F. Directors, Office of Nuclear Reactor Regulation (NRR), Office of New Reactors (NRO), Office of Nuclear Material Safety and Safeguards (NMSS), and Office of International Programs (OIP)**

1. Responsible for an assigned petition. Because 10 CFR 2.206 petitions request enforcement-related action against entities licensed or otherwise regulated by the NRC, petitions are assigned to the Office of Nuclear Reactor Regulation (NRR), Office of New Reactors (NRO), Office of Nuclear Material Safety and Safeguards (NMSS), and Office of International Programs (OIP).
2. Designate an office 2.206 petition coordinator.
3. Approve or deny staff decisions to take immediate action on issues raised in a 2.206 petition.
4. Concur on closure letters and letters transmitting proposed director's decisions for comment.
5. Sign acknowledgment letters and associated *Federal Register* notices of receipt.
6. Sign director's decisions.
7. For each petition, establish a process to appoint or re-delegate to the appropriate staff the following:
  - (a) Provide up-to-date information on all assigned petitions.
  - (b) Designate the organization and staff responsible for an assigned petition, including,
    - (i) A petition review board (PRB) chairperson;
    - (ii) Petition manager; and
    - (iii) The signature authority, typically a senior executive service (SES) manager, for letters transmitting proposed director's decisions for comments.

- (c) Request OGC involvement, where appropriate, through the Assistant General Counsel for Materials Litigation and Enforcement.
  - (d) Request OE involvement, where appropriate.
8. Promptly notify—
- (a) OI when a petition contains any allegation of wrongdoing by a licensee or certificate holder, applicant for a license or certificate, their contractor, or their vendor; and
  - (b) OIG when a petition contains any allegation of wrongdoing by an NRC employee or NRC contractor.

**G. Regional Administrators**

- 1. As needed, provide support and information for the preparation of an acknowledgment letter and a director's decision on a 2.206 petition.
- 2. Make the petition manager aware of information that is received or that is the subject of any correspondence relating to a pending petition.
- 3. Participate, as necessary, in meetings with the petitioner and public, in technical review of petitions and in deliberations of the PRB.

**H. Deputy Office Directors, Office of Nuclear Reactor Regulation (NRR), Office of New Reactors (NRO), Office of Nuclear Material Safety and Safeguards (NMSS), and Office of International Programs (OIP)**

- 1. Concur on PRB final recommendations.
- 2. Concur on PRB decisions to consolidate similar petitions or to hold a petition in abeyance.

**I. Director, Division of Operating Reactor Licensing (DORL), NRR**

- 1. Appoints the agency 2.206 petition coordinator, normally a project manager from NRR/DORL.
- 2. Signs the 2.206 status reports.

**J. 2.206 Petition Review Board (PRB) Chairperson**

Each office that is assigned a petition will appoint a PRB chairperson, generally a SES manager, who—

- 1. Convenes PRB meetings.
- 2. Is the decision maker for the PRB.

3. Ensures appropriate review of a petition in a timely manner.
4. Ensures appropriate documentation of PRB meetings.
5. Signs closure letters.

**K. Agency 2.206 Petition Coordinator**

1. Provides support to each office 2.206 petition coordinator to ensure consistency in implementing the 2.206 process throughout the agency.
2. Prepares a 2.206 status report, which is posted to the NRC public Web site.
3. Serves as office 2.206 petition coordinator for NRR and performs the duties listed in Section III.L of this directive.
4. Responsible for coordinating with the Office of the Secretary (SECY) in assigning director's decision numbers and informing SECY when a director's decision is signed.
5. Ensures that a periodic 2.206 program self-assessment is performed.
6. Responsible for developing and maintaining agency guidance for implementing the policy documented in MD 8.11.

**L. Office 2.206 Petition Coordinator**

Each office that is assigned petitions will assign an office 2.206 petition coordinator. The office 2.206 petition coordinator for each office—

1. Tracks the status of each petition within the office.
2. Coordinates the office-specific implementation of the policy documented in MD 8.11.
3. Serves on the PRB and provides advice to the PRB on implementing the 2.206 process in accordance with MD 8.11 and guidance for timely resolution.
4. Provides support to assigned 2.206 petition managers.
5. Provides the current status of petitions assigned to the office, upon request, to the agency 2.206 petition coordinator.
6. Provides guidance to staff who receive requests for enforcement-related action that are not explicitly identified as petitions under 10 CFR 2.206.
7. Convenes periodic PRB meetings with petition managers to discuss the status of open petitions and to provide guidance for timely resolution.

**M. 2.206 Petition Manager**

Each office that is assigned a petition assigns a 2.206 petition manager. The assigned petition manager—

1. If necessary, informs his or her office 2.206 petition coordinator of receipt of a 10 CFR 2.206 petition.
2. Performs initial screening of 10 CFR 2.206 petitions in accordance with Section II of this directive handbook.
3. Informs the office allegations coordinator and the appropriate regional allegations coordinator of a petition that involves a potential allegation.
4. Serves as the NRC point of contact for the petitioner.
5. Contacts the petitioner to determine if he or she wants the request processed as a 10 CFR 2.206 petition and determines the correct process for any petition.
6. Identifies staff members to serve on the PRB.
7. Schedules PRB meetings.
8. Prepares a written summary of the internal PRB meetings for the PRB members' review, if requested by the PRB chairperson.
9. Prepares all PRB and agency decisions and notices on 2.206 petitions in accordance with this directive handbook.
10. Provides the current status of a petition, upon request, to the office and/or agency 2.206 petition coordinator.
11. Provides any comments received on a proposed director's decision to the office 2.206 petition coordinator.
12. Prepares extension requests for review and approval in accordance with office or OEDO procedures.
13. Coordinates with the office 2.206 petition coordinator and the agency 2.206 petition coordinator when a director's decision number is needed and when the director's decision is signed.

**IV. APPLICABILITY**

The policy and guidance in this directive and handbook apply to all NRC employees.

**V. DIRECTIVE HANDBOOK**

Directive Handbook 8.11 details the procedures for staff review and disposition of a petition submitted in accordance with 10 CFR 2.206.

## VI. DEFINITIONS

### 10 CFR 2.206 Petition

A written request filed by any person to institute a proceeding pursuant to Section 2.202 to modify, suspend, or revoke a license, or for other action as may be proper (hereinafter referred to in this directive as to take enforcement-related action). The request must meet the criteria for accepting petitions for review under 10 CFR 2.206 (see Section III.C, “Criteria for Petition Evaluation,” of this directive handbook).

### Licensee

Throughout this MD, any references to a licensee shall be interpreted to include all licensees, certificate holders, and permit holders; applicants for licenses, certificates or permits; or other persons subject to the jurisdiction of the Commission.

## VII. REFERENCES

### *Code of Federal Regulations*

10 CFR 2.201, “Notice of Violation.”

10 CFR 2.202, “Orders.”

10 CFR 2.206, “Requests for Action Under This Subpart.”

10 CFR 2.390, “Public Inspections, Exemptions, Requests for Withholding.”

10 CFR 2.802, “Petition for Rulemaking.”

### *Nuclear Regulatory Commission Documents*

Allegation Manual:

<https://www.nrc.gov/about-nrc/regulatory/allegations-resp.html>.

Management Directives—

3.5, “Attendance at NRC Staff-Sponsored Meetings.”

7.4, “Reporting Suspected Wrongdoing and Processing OIG Referrals.”

8.4, “Management of Facility-Specific Backfitting and Information Collection.”

8.8, “Management of Allegations.”

Guidance for Electronic Submissions to the NRC:

<https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>.

Desktop Guide: Review Process for 10 CFR 2.206 Petitions

<https://www.nrc.gov/about-nrc/regulatory/enforcement/petition.html>



**NUREG-Series Publications—**

NUREG-0750, “Nuclear Regulatory Commission Issuances,” published semi-annually: available at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0750/>.

NUREG/BR-0200, Revision 5, “Public Petition Process,” available at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0200/>.

***United States Code***

Freedom of Information Act (5 U.S.C. 552).

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**I. INTRODUCTION****A. Title 10 of the *Code of Federal Regulations*, Section 2.206**

1. Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206) has been a part of the U.S. Nuclear Regulatory Commission's (NRC's) regulatory framework since the NRC was established in 1975. Section 2.206 permits any person to file a request to institute a proceeding pursuant to Section 2.202 of 10 CFR to modify, suspend, or revoke a license, or for other action as may be proper (hereinafter referred to in this directive as to take enforcement-related action). Such a request is referred to as a 2.206 petition.
2. Section 2.206 requires that a request be submitted in writing, specify the action requested, and set forth the facts that constitute the basis for the request.
3. The NRC staff will not treat general opposition to nuclear power or a general assertion of a safety problem, without supporting facts, as a formal request under 10 CFR 2.206. The staff will treat general requests as allegations or routine correspondence.
4. In addition to receiving petitions as described in 10 CFR 2.206, the Commission or a licensing board may refer issues to the staff for consideration in the 2.206 process.

**B. Petitions Containing Allegations of Wrongdoing**

1. The NRC defines wrongdoing by NRC licensees or other regulated entities as a willful violation of regulatory requirements (i.e., a violation involving either deliberate misconduct or careless disregard).
2. If a petition alleges wrongdoing on the part of a licensee or other regulated entity, the NRC staff will coordinate with the appropriate office allegation coordinator to enter the petition (or relevant portion thereof) in the allegation program.
3. The Office of the Inspector General (OIG) addresses suspected wrongdoing by NRC employees and contractors such as mismanagement of agency programs that could adversely impact matters related to public health and safety.
4. If the petition contains information of suspected wrongdoing involving an NRC employee, contractor, or vendor, the NRC staff will follow the procedures in Management Directive (MD) 7.4, "Reporting Suspected Wrongdoing and Processing OIG Referrals," for reporting to the OIG.

5. The Director of the Office of Investigations (OI) or the Inspector General (IG), respectively, must approve any mention outside of the NRC of an ongoing OI or OIG investigation.

## **II. INITIAL STAFF ACTIONS**

### **A. NRC's Receipt of a Petition**

#### **1. Process Summary**

After the NRC receives a request under 10 CFR 2.206, the Executive Director for Operations (EDO) assigns it to the director of the appropriate office for evaluation and response. After the EDO assigns the petition to the appropriate office, the assigned staff will perform an initial screening of the petition to determine whether it should be entered into the 2.206 process. If the petition is entered into the 2.206 process, a petition review board (PRB) will perform an initial assessment to determine whether it should be accepted for review. If the NRC accepts the petition for review, the official response is the office director's written decision addressing the issues raised in the petition. In that decision, the office director may grant, partially grant, or deny the petitioner's requested action. The NRC provides the petitioner opportunities to address and provide feedback to the PRB. The Commission may, on its own initiative, review the office director's decision within 25 days of the date of the decision, although it will not entertain a request for review of the office director's decision.

#### **2. Assignment of Staff Action and Initial Screening**

The assigned staff should perform initial screening of the submittal to determine if the petition, or portions of the petition, should be entered into the 2.206 process. The initial screening criteria are described below:

- (a) Issues referred to the staff for consideration as a 2.206 petition by the Commission or a presiding officer in an NRC adjudicatory proceeding will be entered into the 2.206 process as described in Section II.A.2(g) of this handbook.
- (b) Petitions may be in the form of requests for an enforcement-related action that may or may not cite 10 CFR 2.206 and may initially be directed to staff other than the EDO. Upon receipt of a written request for an enforcement-related action, regardless of how received, the staff will screen the request to determine if it is within the scope of the 10 CFR 2.206 process.
- (c) The staff will promptly review the petition to determine if it requests short-term immediate action (e.g., a request to shut down an operating facility or prevent restart of a facility that is ready to restart) or if an issue raised in the petition may warrant immediate action (even if not requested). See Section III.B.1 of this handbook for more information.

(d) The staff may screen out a request from the 10 CFR 2.206 process and, instead, respond using another appropriate process, such as general correspondence or referral to the allegations process, in the following cases:

(i) Verbal Requests

A verbal request for enforcement-related action under 10 CFR 2.206 (e.g., by telephone or orally in person) will not be considered under the 2.206 petition process. The staff should inform a person who makes a verbal request that the request must be submitted to the NRC in writing using one of the methods described in 10 CFR 2.206. For electronic submissions, "[Guidance for Electronic Submissions to the NRC](https://www.nrc.gov/site-help/electronic-sub-ref-mat.html)" is available at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>.

(ii) General Assertions and Duplicative Requests for Action under 10 CFR 2.206

The petition is simply (1) a general statement of opposition to licensed activities, nuclear facilities or materials or (2) a general assertion without supporting facts. Examples include conclusory statements without support (e.g., a claim that the quality assurance at a facility is inadequate, with no further explanation), letters submitted to the NRC as a result of mass mailing campaigns, or letters of support for a 10 CFR 2.206 petition that is already under NRC consideration. The staff will not address general assertions with no supporting facts or duplicative requests for action under the 2.206 petition process.

(iii) Allegations

- If the petition alleges wrongdoing (see Section I.B of this handbook), the staff should refer to the allegation program guidance found in MD 8.8, "Management of Allegations" and the Allegation Manual. Referrals to the allegation program should be completed in a timely manner in accordance with MD 8.8.
- The assigned staff should coordinate with the office allegation coordinator and office 2.206 petition coordinator to ensure they reach agreement on any request for action (or portion thereof) that will be referred to the allegation program, including how the submitter will be informed and how the referral will be documented.
- If the staff determines that a petition (or portions thereof) should be referred to the allegation program, those portions of the petition and any correspondence related to the allegation should be handled as prescribed in MD 8.8. In addition, the identity of the petitioner should be protected to the extent practicable with respect to those portions of the petition.

- Once agreement is reached that all or part of a request will be referred to the allegation program, the staff will inform the submitter which parts of the request have been screened out of the 2.206 process, and how the remaining portions will be handled.
- The staff will review any portion of the request that does not involve allegations against the screening criteria in Section II.A.2(d) of this handbook, and will create a public version of the document (with information pertaining to allegations redacted).
- The NRC will redact any information related to allegations contained in the petition from documents sent to the licensee or made available to the public.

(iv) Requests for Non-Public Process or Identity Protection

If a petitioner requests that the petition remain non-public, and/or requests identity protection as part of the process, the staff should explain to the petitioner that the 2.206 process is a public process and, therefore, the petition and petitioner's identity must remain public. The staff should inform any petitioner who does not agree to these terms that the petition will be screened out of the 2.206 process and will be addressed through the appropriate NRC process, such as an allegation or as general correspondence. If the request is transferred to the allegation program, the assigned NRC staff will coordinate with the office allegation coordinator, consistent with MD 8.8.

(v) Requests That Would Not Reasonably Lead to an Enforcement Action

NRC regulations state that a 2.206 petition is a request "to institute a proceeding pursuant to 10 CFR 2.202 to modify, suspend, or revoke a license, or for any other action as may be proper." The regulations also require that the request "specify the action requested and set forth the facts that constitute the basis for the request."

- A petition should be screened out if it does not request a specific enforcement-related action (e.g., issuing an order modifying, suspending, or revoking a license pursuant to 10 CFR 2.202, issuing a notice of violation pursuant to 10 CFR 2.201, etc.) and does not identify a specific safety or security concern (e.g., a technical deficiency or potential violation). A petition must provide information that could reasonably lead the NRC to take an enforcement action (not necessarily the action requested).

- A petition that identifies a valid safety or security concern will not be screened out solely because the action requested is inappropriate for the circumstances.
- A petition that does not request a specific enforcement-related action should be evaluated to determine if it contains an implied request for action. If a petition does not contain an explicit or implied request for enforcement-related action, the request should be screened out of the 2.206 process and be considered for referral to an appropriate NRC process (e.g. allegations, rulemaking, or general correspondence).

(vi) Requests to Impose a Requirement that is Outside of NRC Jurisdiction

A request to impose a requirement that is outside the jurisdiction of the Commission (e.g., a state or local ordinance or a requirement of another federal agency) will not be considered under the 2.206 process, but may be referred to the appropriate regulatory authority.

(vii) Requests for Rulemaking

A petition that alleges deficiencies in existing NRC rules, and/or requests changes to existing NRC rules, will not be considered under the 2.206 process, but may be referred to the appropriate rulemaking branch for consideration as a petition for rulemaking under 10 CFR 2.802. The petition manager will consult with the appropriate rulemaking branch within the NRC, and will incorporate the rulemaking branch's input into the NRC's response to the petitioner.

(viii) Requests for Information

If a petition contains a request for public records regarding NRC licensed activities, nuclear facilities or materials licensees, that request will not be considered under the 2.206 process. In such cases, the petitioner should be referred to the NRC [Freedom of Information Act \(FOIA\) Guide](#). The FOIA generally provides any person the right to obtain access to Federal agency records.

(ix) Issue(s) Under Review in an Adjudicatory Proceeding

If the issue(s) raised in a petition (or portions thereof) are the subject of a proffered or admitted contention in an ongoing NRC adjudicatory proceeding regarding the same licensee and facility, those issues generally will not be considered in the 2.206 process (regardless of whether the 2.206 petitioner proffered the contention or is a party to the proceeding).



- (e) Notwithstanding the screen-out criteria above, the staff, upon its own determination, may consider an issue for immediate action and/or inclusion in the 2.206 process.
- (f) For requests that are screened out, the staff should inform the submitter of the reasons why, referring back to the screen-out criteria above, and explain that the concern(s) raised will be transferred to another process (e.g., petition for rulemaking, or general correspondence). The communication of the staff's decision to screen out a request and refer it to another process should be documented as an official agency record (e.g., e-mail added in ADAMS, or record of a phone call).
- (g) A request for an enforcement-related action that is not screened out under Section II.A.2 will be entered into the 2.206 petition process and evaluated for acceptance as described in Section III.C of this handbook.

#### **B. Petition Manager Initial Action**

1. The petition manager will promptly review the petition to determine if it requests short-term immediate action (e.g., a request to shut down an operating facility or prevent restart of a facility that is ready to restart) or if an issue raised in the petition may warrant immediate action (even if not requested). See Section III.B.1 of this handbook for more information on immediate requests.
2. Before the petition is released to the public and before the PRB meeting, the petition manager will informally inform the petitioner the petition was received and, because the 2.206 petition process is a public process, the petition and all the information in it, including the petitioner's identity, will be made public.
3. After the initial contact with the petitioner, the petition manager will promptly advise relevant licensee(s) of the petition, and send the appropriate licensee(s) a copy of the petition for information.
4. See the "Desktop Guide: Review Process for 10 CFR 2.206 Petitions," for further information on petition manager actions. The [Desktop Guide](#) is available on the NRC public webpage).

### **III. PETITION REVIEW BOARD (PRB)**

#### **A. Petition Review Board Composition**

The PRB consists of—

1. A PRB chairperson (generally a Senior Executive Service manager).
2. The office 2.206 petition coordinator.
3. A 2.206 petition manager.

4. Cognizant management and staff, as necessary.
5. A cognizant regional representative (a regional branch chief or higher if there is a concern involving a potential violation).
6. A representative from OI, if recommended by the petition manager.
7. A representative from the Office of Enforcement (OE). The OE representative should address both the enforcement and allegation programs and inform the PRB if the petition involves an issue that is already in, or was previously addressed in, the allegation or enforcement programs.
8. The petition manager may also recommend that the office enforcement coordinator be included in the PRB.
9. A representative from the Office of the General Counsel, as necessary.

#### **B. Schedule for PRB Meeting**

1. If the petition requests immediate action or the petition manager determines that immediate action may be necessary, the petition manager will convene an initial PRB meeting as soon as possible to decide whether immediate action is warranted. The petition manager may hold an in-person meeting of the PRB or use other means (e-mail, teleconference) to obtain the PRB's recommendation on immediate actions. In such cases, a subsequent PRB meeting (see Section III.D of this handbook) will be held to evaluate the petition for acceptance. In extremely urgent cases that do not enable formation of a PRB, the petition manager will consult with office management to ensure the petition is appropriately addressed. Immediate actions are approved or denied by the assigned office director.
2. After addressing any requests for immediate action (see Section III.B.1 above), the assigned office will convene a PRB meeting to evaluate the petition for acceptance. The PRB meeting should be held as quickly as possible, but no later than 3 weeks after EDO assignment of the petition. See Section IV.B of this handbook for more information on establishing a schedule for the PRB's review.

#### **C. Criteria for Petition Evaluation**

The staff will use the criteria in this section to determine whether to accept a petition for review, whether to consolidate two or more petitions, and whether to hold a petition in abeyance.

1. Criteria for Accepting Petitions Under 10 CFR 2.206

The staff will accept a petition, or a portion of the petition, for review under 10 CFR 2.206 if the request meets the criteria in Section III.C.1(a) and (b) below:

- (a) The petition specifies the facts that constitute the basis for taking the requested action, and those facts are sufficient to provide support for the requested action. The petitioner must provide more than a bare assertion that the NRC should take action. The supporting facts must be sufficient to warrant further inquiry.
- (b) The petition falls within one of the following categories:
- (i) The issues raised by the petitioner have not previously been the subject of a facility-specific or generic NRC staff review, or
  - (ii) The issues raised have previously been the subject of a facility-specific or generic NRC staff review, and at least one of the following circumstances applies:
    - The prior review did not resolve the issues raised by the petitioner, or
    - The resolution of the issues in the prior review does not apply to the facts provided by the petitioner to support the requested action, or
    - The petition provides significant new information that the staff did not consider in the prior review.
- (c) For the criterion in Section III.C.1(b)(ii) above:
- (i) If the prior review occurred in the allegation process, the petition (or portion thereof) will not be accepted in the 2.206 process. Rather, the staff's prior conclusion will be shared publicly without reference to the related allegation.
  - (ii) In other cases involving prior reviews, the staff should determine, in its technical judgment, whether or not the listed circumstances in Section III.C.1(b)(ii) apply. In most cases, if the staff determines that an issue has been resolved, the staff should identify its supporting documentation.
- (d) If the petition raises multiple issues, the staff should accept the petition only with respect to those issues that satisfy the criteria in Section III.C.1(a) and (b) above.

## 2. Criteria for Consolidating Petitions

Generally, all requests submitted by different individuals will be treated and evaluated separately. When two or more petitions request action against the same licensee, specify essentially the same bases, provide adequate supporting information, and are submitted at about the same time, the PRB must weigh the benefit of consolidating the petitions against the potential for minimizing the importance of any single petition. The PRB will recommend whether consolidation is or is not appropriate, and the assigned office director or deputy office director will make the final determination.

### 3. Criteria for Holding a Petition in Abeyance

If a petition meets the acceptance criteria in Section III.C.1 of this handbook, there may be circumstances in which it would be appropriate to hold the petition in abeyance pending the outcome of a related staff review outside of the 2.206 process.

- (a) The PRB may hold a petition in abeyance if—
  - (i) The issues raised in the petition are the subject of ongoing or imminent review,
  - (ii) The review is not expected to be completed in the near future, and
  - (iii) The staff needs the results of the review in order to reach an informed decision on the issues raised in the petition.
- (b) If the petition raises multiple issues, the PRB should hold in abeyance only those portions of the petition that meet the criteria in Section III.C.3(a) above.
- (c) The staff should not hold a petition in abeyance solely to allow a petitioner to develop additional supporting information not provided with the original petition.
- (d) When the PRB decides to hold all or part of a petition in abeyance—
  - (i) The PRB chairperson will ensure that the office director, or designee, is informed of the PRB's decision and concurs with the decision.
  - (ii) The petition manager will then inform the petitioner of the PRB decision and its basis.
  - (iii) The petition manager will also inform the petitioner when the PRB expects to resume its assessment of the 2.206 petition.
  - (iv) If a petition is held in abeyance, the petition manager will notify the petitioner by telephone and/or e-mail that status updates will occur at least every 120 days (unless another time period is agreed upon with the petitioner) as described in Section IV.C of this handbook.
  - (v) When the staff completes its review of the related issue, the petition manager will notify the petitioner that the petition is no longer being held in abeyance and the PRB is resuming its review.

#### **D. PRB Initial Assessment**

- 1. The PRB ensures that the staff follows an appropriate process in evaluating a petition. The PRB—
  - (a) Determines whether the petitioner's request meets the criteria for accepting petitions for review (see Section III.C.1 of this handbook).

- (b) Determines whether there is a need for immediate action (whether requested or not).
  - (c) Establishes a schedule for responding to the petitioner in a timely manner (see Section IV.B of this handbook for guidance regarding schedules).
  - (d) Determines whether the petition should be consolidated with another petition.
  - (e) Confirms whether any referrals to the allegation program or OIG made during initial screening are appropriate.
  - (f) Determines whether the licensee should be asked to respond to the petition.
  - (g) Addresses the possibility of issuing a streamlined director's decision concurrently with the acknowledgment letter for cases where the basis of the petition is well known to the NRC staff and existing regulatory framework is in place to address the concerns raised. See Section III.G.2(f) of this handbook for information on when a streamlined response could be appropriate.
2. The PRB meetings to consider immediate actions, evaluate the petition against the acceptance criteria, or to review the petition are closed to the public and separate from the PRB meetings with the petitioner and the licensee described in Section III.F of this handbook.
- (a) At the meeting, the petition manager briefs the PRB on the petitioner's request(s), any background information, the need for an independent technical review, and a proposed plan for resolution, including target completion dates.
  - (b) The petition manager, with the assistance of the office 2.206 petition coordinator, ensures appropriate documentation of all PRB recommendations in the summary of the PRB meeting.

#### **E. Informing the Petitioner of the Results of the Initial PRB Assessment**

1. After the PRB performs the initial assessment of the petition against the evaluation criteria in Section III.C of this handbook, and before meeting with the petitioner, the PRB chairperson will inform the office director, or designee, of the results of the PRB's initial assessment.
2. The petition manager will then inform the petitioner of the following:
  - (a) Whether or not the petition, as submitted, meets the criteria for acceptance in Section II.C.1 of this handbook.
  - (b) The disposition of any request for immediate action.
  - (c) If the petition is accepted for review, the process the PRB will follow to review the petition.

- (d) The opportunity to meet with the PRB to discuss the initial assessment, as described in Section III.F of this handbook.
  - (e) If the petitioner chooses to meet with the PRB, any questions or comments on the petition that the PRB would like the petitioner to address.
3. If the staff plans to take an action that is contrary to an immediate action requested in the petition before issuing either the closure letter or acknowledgment letter, the petition manager should informally notify the petitioner promptly by telephone and/or e-mail of the pending staff action. Reasons for the staff's action will be documented in the closure or acknowledgment letter.
  4. The petitioner will not be advised of an ongoing investigation of wrongdoing being conducted by OI, but should be informed if the petition contained an assertion of wrongdoing that is being referred to the allegation program for possible investigation.

#### **F. Meeting With the Petitioner**

1. After informing the petitioner of the results of the PRB's initial assessment, the petition manager will offer the petitioner an opportunity for a public meeting with the PRB to clarify or supplement the petition based on the results of the PRB's initial assessment. The meeting between the PRB and the petitioner, if accepted, will be held as a public meeting, either in-person at NRC headquarters in Rockville, Maryland, or by another agreed-upon arrangement (e.g., public teleconference or virtual public meeting). This public meeting should be scheduled so as not to adversely affect the established petition review schedule.
  - (a) If the petitioner chooses to address the PRB by teleconference, the petition manager will establish a mutually agreeable time and date and arrange to conduct the teleconference on a moderated and recorded bridge line. The petition manager will arrange for transcription service and the transcript will become a supplement to the petition.
  - (b) If the petitioner accepts the offered meeting with the PRB, the petition manager will establish a mutually agreeable time and date for the meeting with the petitioner. The petition manager will follow the public notice period and other provisions of MD 3.5, "Attendance at NRC Staff-Sponsored Meetings." The meeting should be referred to as a meeting between the NRC staff, the petitioner, and the licensee (unless the licensee chooses not to participate). The meeting will be available through a moderated and recorded bridge line and a transcript will be created and distributed to the same distribution list as the original petition.
2. This meeting with the PRB, if held, is an opportunity for the petitioner to provide any relevant additional explanation and support for the request in light of the PRB's initial assessment. The PRB will consider the petitioner's statements made at the meeting,

along with the original petition, in making its final recommendation on whether to accept the petition according to the criteria in Section III.C.1 of this handbook.

3. If the petitioner presents significant new information to the NRC staff that is unrelated to the concerns raised in the petition, the PRB may determine that the new information constitutes a new petition.
4. The petition manager will invite the licensee to participate in the meeting with the petitioner to ensure that the licensee understands the concerns about its facility or activities.
5. During the meeting with the petitioner, the PRB members may ask questions of the petitioner or the licensee to clarify their understanding of the issues raised in the petition. After the petitioner's presentation, the PRB will give the licensee an opportunity to ask the PRB members questions related to the issues raised in the petition. Also, the PRB will give the petitioner and the licensee an opportunity to ask the PRB questions related to the process for evaluating and reviewing 2.206 petitions. Although the intent is that the PRB members would respond to such questions, the licensee or petitioner may also voluntarily respond. If detailed information is needed from the licensee, the PRB should ask the licensee to provide a voluntary response as discussed in Section IV.A.1 of this handbook.
6. The petition manager will ensure that all NRC staff at the meeting are aware of the need to protect sensitive information from disclosure.
7. The petitioner may request that a reasonable number of associates be permitted to assist in addressing the PRB at the meeting. The petition manager will—
  - (a) Discuss this request with the petitioner,
  - (b) Determine the number of speakers, and
  - (c) Allot a reasonable amount of time for the presentation so that the staff can acquire the information needed for its review in an efficient manner.
8. Prior to concluding the meeting, the petition manager will request feedback from attendees on the 2.206 review process. Such feedback may be provided during the meeting or after the meeting (using the public meeting feedback survey or by directly contacting the petition manager). Staff who receive feedback should discuss the input received with their office 2.206 petition coordinator and their management as appropriate.
9. The petition manager will review the meeting transcript, and where necessary, edit it to ensure it accurately reflects what was said in the meeting. Corrections are only necessary for errors that affect the meaning of the text of the transcript. The petition manager is not expected to correct inconsequential errors.

10. After editing, the petition manager will ensure that the transcript receives the same distribution (petitioner, licensee, publicly available in ADAMS, etc.) as the original petition.
11. After the meeting with the petitioner, the PRB will consider the supplemental information presented during the meeting together with the original petition in making its final recommendation on whether to accept the petition for review. Before issuing either an acknowledgment or closure letter, the PRB chairperson will ensure that the office director, or deputy office director, is informed of the PRB's recommendations (including a recommendation to issue a partial or streamlined director's decision) and concurs with the recommendations.

### **G. Response to the Petitioner**

1. The petition manager will promptly notify the petitioner by e-mail about NRC staff decisions regarding immediate action requests. Such notifications may occur before the PRB finalizes its recommendation on whether to accept the petition for review.
2. After the PRB finalizes its recommendations on whether to accept the petition for review, the petition manager will notify the petitioner of the PRB's determination by telephone and/or e-mail. If the petition is accepted, the petition manager will inform the petitioner of how the review will proceed. The PRB's recommendations will be documented in either a closure letter (which documents the reasons why the petition was not accepted for review) or an acknowledgment letter (if the petition is accepted for review). The closure letter or acknowledgment letter will address any supplemental information provided by the petitioner, any comments the petitioner made concerning the initial PRB assessment, and the NRC staff's response to those comments. Section IV.B, "Schedule," of this handbook describes planning the schedule specifying the goal for the acknowledgment or closure letter to be issued within 90 days of the EDO assigning the petition.
3. Requests That Do Not Meet the Criteria for Acceptance
  - (a) If the PRB, with office-level management concurrence, determines that the petition does not meet the criteria for acceptance as a 10 CFR 2.206 petition, the petition manager then prepares a closure letter that—
    - (i) Explains why the request was not accepted for review under 10 CFR 2.206, referring back to the Criteria for Petition Evaluation in Section III.C of this handbook,
    - (ii) Acknowledges the petitioner's efforts in bringing issues to the staff's attention,
    - (iii) If applicable, explains the staff's response to the immediate action requested and the basis for that response,
    - (iv) Notifies the petitioner whether the request is being referred to another NRC program for action, and



(v) Responds, to the extent possible at that time, to the issues in the petitioner's request and identifies supporting documents if applicable.

(b) The assigned organization is responsible for ensuring the appropriate concurrence and distribution for the closure letter. At a minimum, each PRB member and the office director concurs on the closure letter. The PRB chairperson signs the closure letter.

#### 4. Requests That Meet the Criteria for Acceptance

(a) If the PRB finds that the petition meets the criteria for acceptance as a 10 CFR 2.206 petition, the petition manager prepares an acknowledgment letter and associated *Federal Register* notice of receipt. See the "[Desktop Guide: Review Process for 10 CFR 2.206 Petitions](#)," available on the NRC public webpage at, for more details.

(b) The letter should acknowledge the petitioner's efforts in bringing issues to the staff's attention.

(c) If the petition contains a request for immediate action by the NRC, the acknowledgment letter will explain the staff's response to the immediate action requested and the basis for that response.

(d) The petition manager ensures that references MD 8.11 and NUREG/BR-0200, Revision 5, "Public Petition Process," are included with the acknowledgment letter. A copy of the acknowledgment letter must be sent to the appropriate licensee and the docket service list(s). See the "[Desktop Guide: Review Process for 10 CFR 2.206 Petitions](#)," available on the NRC public Web page.

(e) The assigned organization is responsible for ensuring the appropriate concurrence and distribution for the acknowledgment letter. At a minimum, each PRB member concurs on the acknowledgment letter. The office director signs the acknowledgment letter.

#### (f) Streamlined Director's Decisions

(i) If the petition meets the criteria for acceptance but raises issues that the staff has evaluated and is prepared to issue a decision on, the staff may respond immediately to the petition by issuing a streamlined director's decision. Issuing a streamlined director's decision allows the NRC to move forward with an imminent decision or action that appropriately considers the information in the petition and avoids unnecessary duplication of NRC resources by the PRB addressing the same issue. For example, a streamlined director's decision may be appropriate in a case where a petition's supporting information consists almost entirely of NRC-generated information (e.g., inspection reports, generic letters) or information well known to the NRC (e.g., news reports, licensee event reports). In these cases, a proposed director's

decision would not be issued, and the acknowledgment letter would be accompanied by the final director's decision.

- (ii) Before issuing a streamlined director's decision, the PRB will consider the need to contact the petitioner to determine if the petitioner possesses information relevant to the bases for the decision that is beyond what is currently available to the NRC. In most cases, a streamlined director's decision would be issued without this additional interaction with the petitioner, and the petitioner can provide feedback after issuance.
- (iii) The petition manager will inform the petitioner of plans to issue a streamlined director's decision.

#### **H. Providing Documents to the Petitioner**

1. If the PRB determines that the 2.206 petition will be accepted for review, then the petition manager will—
  - (a) Add the petitioner to the service list(s) for the topic (if one exists). If a listserv is used, the petition manager will inform the petitioner how to join the listserv to receive electronic versions of the NRC's publicly available outgoing correspondence.
  - (b) Send copies electronically of any future correspondence from the licensee related to the petition to the petitioner, with due regard for proprietary, safeguards, and other sensitive information in accordance with established agency policies and procedures.
  - (c) Ensure that the petitioner is placed on distribution for other NRC correspondence relating to the issues raised in the petition, to the extent that the petition manager is aware of these documents, including relevant NRC generic communications (i.e., generic letters, regulatory issue summaries, information notices, or bulletins) that are issued while the NRC considers the petition. The petition manager will inform the petitioner how to join the listserv to receive electronic versions of publicly available NRC generic communications.
2. These three actions will remain in effect until 90 days after the director's decision is issued if the petitioner desires it.

#### **I. Supplements to the Petition**

A petitioner will occasionally submit a written supplement to a petition.

1. When a supplement is provided, the petition manager will promptly review the supplement to determine whether or not it contains sensitive information, which must be handled according to appropriate information security policies and procedures.

2. The petition manager will then include the supplement in the ongoing acceptance review (if the supplement is received before the PRB makes its final determination) or petition review (if the petition has been accepted) by taking appropriate actions listed in Section II.B of this handbook. The petition manager will ensure that the supplement receives the same distribution as the petition and will forward a copy of the supplement to the PRB members. The PRB members will review the supplement and determine whether they need to meet formally to discuss it and, if so, whether or not to offer the petitioner an opportunity to discuss the supplement with the PRB. In deciding whether an additional PRB meeting is needed, the PRB members will consider the safety significance and complexity of the information in the supplement. Clarification of previous information will generally not require an additional PRB meeting.
3. When a supplement is received, the petition manager will inform the petitioner of the PRB's schedule and advise the petitioner that additional supplements could delay the evaluation of the petition for acceptance or the review of a petition that has been accepted. Supplements will be considered to the extent practical taking into account the petition review schedule. Any impacts to the petition review schedule should be kept to a minimum.
4. The PRB will review supplements for additional relevant explanation or clarification of the issues raised in the original petition or additional relevant facts supporting the petitioner's view of the issues. To the extent that supplemental information provided by the petitioner raises new issues, requests additional enforcement-related actions, or otherwise expands the scope of the original petition, the PRB may consider such information as amending the petition and decline to consider the supplemental information in the petition review process. If the petitioner presents significant new information to the NRC staff, the PRB may determine that the supplement constitutes a new petition that will be treated separately from the initial petition.
5. After receiving a supplement, the PRB will then determine whether—
  - (a) There is a need for any immediate actions based on the supplemental information (whether requested or not).
  - (b) The supplement should be consolidated with the existing petition.
  - (c) The petition, as supplemented, meets the criteria for acceptance in Section II.C.1 of this handbook (if the petition has not already been accepted for review).
  - (d) To issue a partial director's decision.
  - (e) To revise the review schedule for the petition based on the supplement (see Section IV, "Petition Review Activities," of this handbook for guidance regarding schedules).

- (f) To send a letter acknowledging receipt of the supplement. A letter should be sent if the supplement provides significant new information, causes the staff to reconsider a previous determination, or requires a schedule change beyond the original 120-day goal.
  - (g) To offer the petitioner a meeting or teleconference with the PRB to discuss its recommendations with respect to the supplement. See Section III.F of this handbook for information on this type of meeting or teleconference.
6. For supplements received after an acknowledgment letter has been issued, the staff may determine that the schedule for the petition must be extended beyond the original goal as a result of the supplement. In this case, the assigned office should send an acknowledgment letter to the petitioner, reset the clock to the date of the new acknowledgment letter, and inform the OEDO.
  7. If the PRB determines that the supplement will be treated as a new petition (i.e., not consolidated with the existing petition), the assigned office must contact OEDO for a new tracking number.

#### **IV. PETITION REVIEW ACTIVITIES**

This section describes the activities that take place after a petition has been accepted for review.

##### **A. Reviewing the Petition**

1. Request for Licensee Input
  - (a) If appropriate, the petition manager will request the licensee to provide a voluntary response to the NRC on the issues specified in the petition, usually within 30 days. This staff request usually will be made in writing. The petition manager will advise the licensee that the NRC will make the licensee's response publicly available and will provide a copy of the response to the petitioner. The licensee may also voluntarily submit information related to the petition, even if the NRC staff has not requested this information.
  - (b) Unless necessary for the NRC's proper evaluation of the petition, the licensee should avoid using proprietary or personal privacy information that requires protection from public disclosure. If this information is necessary to completely respond to the petition, the petition manager ensures the information is protected in accordance with 10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding."
2. Technical Review Meeting With the Petitioner

The staff will hold a technical review meeting with the petitioner whenever it believes that a meeting (whether requested by the petitioner, the licensee, or the staff) would be beneficial to the staff's review of the petition. Meeting guidance is provided in

MD 3.5. The petition manager will ensure that the meeting does not compromise the protection of sensitive information. A meeting will not be held simply because the petitioner claims to have additional information and will not present it in any other forum.

### 3. Additional PRB Meetings

Additional PRB meetings may be scheduled for complex issues. Additional meetings also may be appropriate if the petition manager finds that significant changes must be made to the original plan for the resolution of the petition.

### 4. Conduct of PRB Meetings

The PRB chairperson makes the final decisions regarding recommendations proposed during the PRB meeting and provides final approval for requested actions. The petition manager prepares for and documents decisions made during the PRB meeting.

## **B. Schedule**

### Planning the Schedule

1. The first goal is to issue the acknowledgment or closure letter within 90 days of the OEDO assigning the petition.
2. The second goal is to issue the proposed director's decision for comment within 120 days after issuing the acknowledgment letter. The proposed director's decision for uncomplicated petitions should be issued in less than 120 days.
3. The third goal is to issue the final director's decision within 45 days of the end of the comment period for the proposed director's decision. The actual schedule should be shorter if the number and complexity of the comments allow.

## **C. Keeping the Petitioner Informed**

The petition manager ensures that the petitioner is notified at least every 60 days of the status of the petition, or more frequently if a significant action occurs. In cases where a petition is being held in abeyance, the petition manager ensures that the petitioner is notified at least every 120 days (or other timeframe agreed upon with the petitioner) and when the staff is ready to resume its review of the petition. The petition manager provides updates to the petitioner by telephone and/or e-mail. The petition manager should speak directly to the petitioner if reasonably possible. The petition manager must monitor the status of the petition so that reasonable detail can be provided. However, the update to the petitioner will not identify or discuss—

1. An ongoing OI or OIG investigation, unless approved by the Director of OI or the IG;
2. The referral of the matter to the Department of Justice (DOJ); or

3. Enforcement action under consideration.

#### **D. Updating NRC Management and the Public**

1. On a quarterly basis, the Division of Operating Reactor Licensing, NRR, will issue a status report of 2.206 petitions to the Director of NRR. The agency 2.206 petition coordinator also ensures the status report is added to ADAMS and made publicly available.
2. The NRC Web site provides petitions filed, director's decisions issued, quarterly status reports, and other related information, available at <https://www.nrc.gov/about-nrc/regulatory/enforcement/petition.html>.

### **V. THE DIRECTOR'S DECISION**

A director's decision is the official agency response to a 2.206 petition that is accepted for review. The director's decision may grant, partially grant, or deny the action requested by the petitioner. In most cases, the staff prepares a proposed director's decision, which is distributed to the petitioner and licensee for comment. After receiving any comments, the staff revises the director's decision as appropriate. The director's decision is then issued and a notice of issuance is subsequently published in the *Federal Register*.

#### **A. Content and Format**

1. The petition manager prepares a proposed director's decision on the petition for the office director's consideration. The petition manager also prepares letters to the petitioner and the licensee requesting comment on the proposed director's decision.
2. If the staff issues a streamlined director's decision, the steps related to a proposed director's decision may be omitted; see Section III.G.2(f) of this handbook for more information.
3. The proposed director's decision will clearly describe the issues raised by the petitioner, provide a discussion of the safety significance of the issues, and clearly explain the staff's disposition for each issue. If a partial director's decision was issued previously, the final director's decision will refer to, but does not have to repeat the content of, the partial director's decision.

#### **B. Granting the Petition**

The NRC may grant a petition for enforcement-related action, either in whole or in part, and it also may take other action to address the concerns raised by the petitioner. Once the staff has determined that a petition will be granted, in whole or in part, the petition manager will prepare a "Director's Decision under 10 CFR 2.206" for the office director's signature. The decision will explain the bases upon which the petition has been granted and identify the actions that the NRC staff has taken, or will take, to grant all or that portion of the petition. The decision also should describe any actions the licensee took

voluntarily that address aspects of the petition. A petition is characterized as being granted in part when the NRC grants only some of the actions requested and/or takes actions other than those requested to address the underlying problem. If the petition is granted in full, the director's decision will explain the bases for granting the petition and state that the NRC's action resulting from the director's decision is outlined in the NRC's order or other appropriate communication. If the petition is granted in part, the director's decision will clearly indicate the portions of the petition that are being denied and the staff's bases for the denial. When granting a petition, either in whole or in part, the PRB should consider guidance and policy in MD 8.4, "Management of Facility-Specific Backfitting and Information Collection."

### **C. Denying the Petition**

When the staff has determined that a petition will be denied, the petition manager will prepare a "Director's Decision under 10 CFR 2.206" for the office director's signature. The decision will explain the bases for the denial and discuss all matters raised by the petitioner in support of the request.

### **D. Final Versus Partial Director's Decision**

1. If all of the issues in the petition can be resolved together in a reasonable amount of time, then the staff will issue one director's decision addressing all of the issues. The staff will consider preparing a partial director's decision when some of the issues associated with the 2.206 petition are resolved in advance of other issues and if significant schedule delays are anticipated before resolution of the entire petition.
2. The format, content, and method of processing a partial director's decision are the same as that of a proposed director's decision and an accompanying *Federal Register* notice of issuance would still be prepared. However, the partial director's decision should clearly indicate those portions of the petition that remain open, explain the reasons for the delay to the extent practical, and provide the staff's schedule for the final director's decision.
3. Once a partial director's decision has been issued, the petition manager will prepare an extension request to extend the due date to support the resolution of any remaining issues. After completing its review of the remaining issues, the staff will issue a final director's decision addressing those issues. The final director's decision will refer to, but does not have to repeat the content of, the partial director's decision.

### **E. Issuing the Proposed Director's Decision for Comment**

1. After the assigned office director has concurred on the transmittal letters and the proposed director's decision, the assigned division director signs the transmittal letters. The petition manager will issue letters to the petitioner and the licensee

requesting comments on the enclosed, fully concurred on but unsigned, proposed director's decision.

2. The intent of this step is to give the petitioner and the licensee an opportunity to share any concerns they may have with the decision. The letters will request comments within a set period of time, typically 2 weeks. The amount of time allowed for comments may be adjusted depending on circumstances. For example, for very complex technical issues, it may be appropriate to allow more time for the petitioner and licensee to develop their comments.

#### **F. Comment Disposition – Proposed Director's Decision**

1. After the comment period closes on the proposed director's decision, the assigned office will review the comments received and provide the schedule to issue the director's decision to the agency 2.206 petition coordinator. The petition manager will evaluate any comments received on the proposed decision, obtaining the assistance of the technical staff, as appropriate. Although the staff only requests comments from the petitioner and the licensee, comments from other sources (e.g., other members of the public) may be received. These additional comments should be addressed in the same manner as the comments from the petitioner and licensee. A copy of the comments received and the associated staff responses will be included in the director's decision. An attachment to the decision will generally be used for this purpose.
2. If no comments are received on the proposed decision, the petition manager will include in the director's decision a reference to the letters that requested comments and a statement that no comments were received.
3. If the comments from the petitioner include new information, the PRB will reconvene to determine whether to treat the new information as part of the current petition or to treat it as a new petition which would be screened as described in Section II.A.2 of this handbook.

#### **G. Issuing the Director's Decision**

1. The petition manager prepares a transmittal letter to the petitioner and the director's decision (or partial director's decision) to be signed by the office director. In addition, the petition manager prepares a *Federal Register* notice of issuance.
2. If the director's decision grants the issuance of an order, the order will be issued prior to, or concurrent with, issuing the director's decision. The petition manager will include a copy of the order as an enclosure to the transmittal letter to the petitioner.
3. The assigned office is responsible for ensuring the appropriate concurrence and distribution on the transmittal letter to the petitioner.



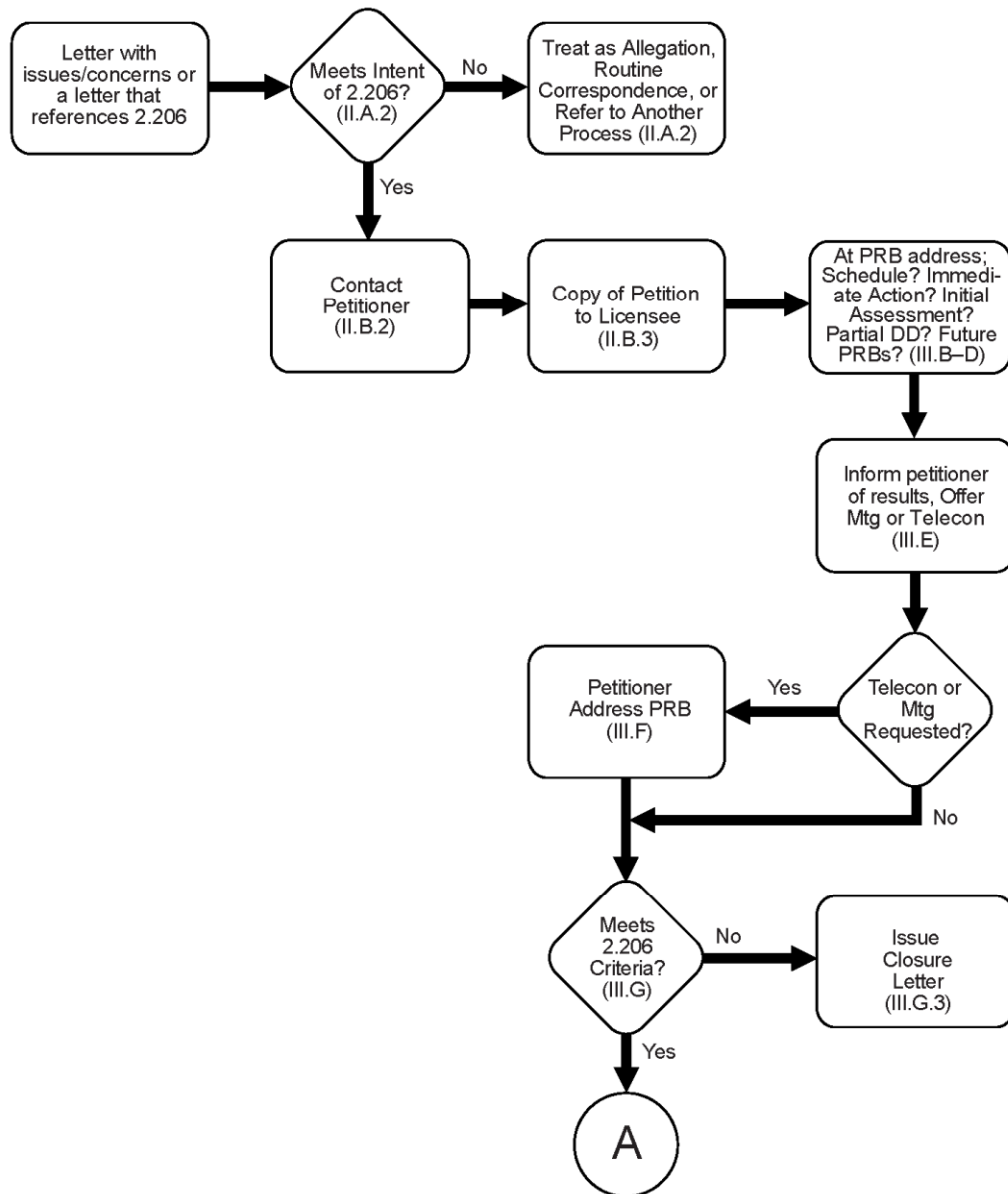
4. Before providing a director's decision to the office director for signature, the assigned office will contact the agency 2.206 petition coordinator for a director's decision number.
5. The assigned office director will sign the director's decision and the transmittal letter to the petitioner.
6. When the director's decision has been signed, the petition manager will ensure that the agency 2.206 petition coordinator is immediately informed. On the day the director's decision is signed, the agency 2.206 coordinator is expected to inform the Office of the Secretary (SECY) that the director's decision has been issued.
7. The petition manager will promptly inform the petitioner that the director's decision has been signed and will send a courtesy copy of the signed director's decision, electronically if possible, to the petitioner.
8. Occasionally, a petitioner may submit comments on a final decision after it is issued. In this case, the petition manager should ensure that the PRB reviews the comments provided and that an appropriate response is provided within a reasonable amount of time. If the petitioner provides new information in the comments, the PRB should determine whether the decision should be revised or if the information should be treated as a new petition. The petition manager should ensure that the comments and any staff response are added to the ADAMS records associated with the final decision. Any staff receiving feedback should ensure that the respective office 2.206 petition coordinator and management are aware of the feedback to facilitate identification of areas for process improvement.
9. The "[Desktop Guide: Review Process for 2.206 Petitions](#)," is available on the NRC public Web page for more specific procedural details.

#### **H. Coordination with SECY**

1. The agency 2.206 petition coordinator is responsible for requesting a director's decision number from SECY, and for notifying SECY of the issuance of a director's decision on the day the decision is signed. On the day of signature, the staff should keep the agency 2.206 petitioner coordinator informed.
2. When the agency 2.206 petition coordinator provides SECY with the ADAMS accession number of the signed director's decision and the package accession number, SECY will inform the Commission of the availability of the decision. If the director's decision denies the requested action in whole or in part, the Commission, at its discretion, may decide to review the director's decision within 25 days of the date of the decision and, as a result of its review, may direct the staff to take action other than that described in the director's decision. If the Commission does not act on the director's decision within 25 days or decide to extend its review time, the director's decision becomes the final agency action on the petition, and SECY will

inform the petitioner by letter that the Commission has taken no further action on those portions of the petition addressed in the director's decision.

**EXHIBIT Simplified 2.206 Process Flow Chart (1 of 2)**



1. Parenthetical Information is associated Handbook paragraph number

**EXHIBIT Simplified 2.206 Process Flow Chart (2 of 2)**

