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Notice of Comment and Opportunity to Provide Written Comments on Management Directive 8.11

**Comment On:** NRC-2010-0242-0001  
Review of Management Directive 8.11

**Document:** NRC-2010-0242-DRAFT-0013  
Comment on FR Doc # 2010-18739

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## Submitter Information

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## General Comment

See attached file(s) This is my corrected comment: please do not consider or post my earlier comment.

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## Attachments

**NRC-2010-0242-DRAFT-0013.1:** Comment on FR Doc # 2010-18739

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*SUDSI Review Complete  
Template = ADM-013*

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Cdd = T. Meusch (TME)*

October 12, 2010

Cindy Bladey  
Chief, Rules, Announcements and Directives Branch  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Subject: Mark Edward Leyse's comments on "Review of Management Directive 8.11:"  
NRC-2010-0242

Dear Ms. Bladey:

In Mark Edward Leyse's, Commentator's, responses to "Review of Management Directive 8.11," published in the Federal Register on July 30, 2010, pages 44992-44993, Commentator suggests changes to two of the criteria for rejecting petitions under 10 C.F.R. 2.206. The two criteria are: 1) III(C)(2)(a), the criterion that petitions do not provide facts sufficient to constitute a basis for a requested action and 2) III(C)(2)(d), the criterion that petitions raise generic issues that address deficiencies within existing Nuclear Regulatory Commission ("NRC") rules.

First, regarding rejecting 10 C.F.R. § 2.206 petitions, the criterion that petitions do not provide facts sufficient to constitute a basis for a requested action, "Review Process for 10 CFR 2.206 Petitions," Handbook 8.11, III(C)(2)(a), states that a petition will be rejected if:

The incoming correspondence...fails to provide sufficient facts to support the petition...simply alleg[ing] wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate).

Commentator recommends that when a petition review board ("PRB") rejects a 10 C.F.R. § 2.206 petition on the grounds that the petitioner fails to provide sufficient facts to indicate that any given plant is in violation of any NRC requirement and/or operating in a manner that compromises public safety, that the PRB shall be required to provide a substantive foundation for its claim. It has been Commentator's experience that when PRBs have rejected Commentator's 10 C.F.R. § 2.206 petitions on the grounds that the petitions failed to provide sufficient facts to indicate that any given plant is in

violation of any NRC requirement and/or operating in a manner that compromises public safety, that the PRBs provided no foundation for their claims and, therefore, provided no foundation for rejecting the petition on the grounds of III(C)(2)(a).

So “Review Process for 10 CFR 2.206 Petitions,” Handbook 8.11, should be revised to require that PRBs explain why 10 C.F.R. § 2.206 petitions fail to provide sufficient facts to indicate that any given plant is in violation of any NRC requirement and/or operating in a manner that compromises public safety, if the PRB decides to reject the petitions on the grounds of III(C)(2)(a).

Second, regarding rejecting 10 C.F.R. § 2.206 petitions, the criterion that petitions address deficiencies within existing NRC rules, “Review Process for 10 CFR 2.206 Petitions,” Handbook 8.11, III(C)(2)(d), states that a petition will be rejected if:

The request addresses deficiencies within existing NRC rules. This type of request should be addressed as a petition for rulemaking.

Commentator recommends that when a PRB reviews a 10 C.F.R. § 2.206 petition, the PRB should be allowed to make exceptions to III(C)(2)(d) when there are safety issues that seriously compromise public safety: such 10 C.F.R. § 2.206 petitions need to be expedited and reviewed by PRBs. 10 C.F.R. § 2.206 petitions addressing such safety issues should not automatically be rejected on the grounds that the petitioner addresses deficiencies within existing NRC rules. It is Commentator’s opinion that when PRBs rejected Commentator’s 10 C.F.R. § 2.206 petitions, on the grounds that the petitioner addressed safety issues Commentator had also raised in rulemaking petitions, that those safety issues should have been reviewed by the PRBs, because they seriously compromised public safety.

(It is not Commentator’s purpose to criticize NRC’s rulemaking process, which requires extensive technical reviews and public comment periods; however, it is a commonly acknowledged fact that NRC’s rulemaking process can take several years. Clearly, 10 C.F.R. § 2.206 petitions, addressing safety issues that seriously compromise public safety, should be expedited and reviewed by PRBs, even if the same issues are being addressed in tandem, in rulemaking petitions and/or in NRC’s rulemaking process.)

So “Review Process for 10 CFR 2.206 Petitions,” Handbook 8.11, should be revised to allow PRBs to make exceptions to III(C)(2)(d) when there are safety issues that

seriously compromise public safety: such 10 C.F.R. § 2.206 petitions need to be expedited and reviewed by PRBs.

Admittedly, Commentator has not provided criteria for defining safety issues that seriously compromise public safety and it would be difficult in some cases for PRBs to review 10 C.F.R. § 2.206 petitions that address complex safety issues that NRC's rulemaking process could take years to conclusively address; however, there are clear cases, in which, a PRB would be effective by making decisions that would *temporarily* protect public safety, as NRC's rulemaking branch reviewed the safety issues in question. For cases where public safety is seriously compromised, a new process should be developed, in which PRBs would work in tandem with NRC's rulemaking branch: PRBs would establish temporary protections for the public, as NRC's rulemaking branch reviewed the safety issues in question.

Respectfully submitted,



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