

**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-XX-XX</b>
<i>Volume 8:</i>	Licensee Oversight Programs	
<i>Approved By:</i>	[Name and Title of Approving Official]	
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<i>Issuing Office:</i>	Office of Nuclear Reactor Regulation Division of Operating Reactor Licensing	
<i>Contact Name:</i>	Merrilee Banic	
<p><b>EXECUTIVE SUMMARY</b></p> <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 Petition Review Board (PRB) evaluation criteria,</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 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 acknowledgement or closure letter,</li> <li>• Add criteria for holding a petition in abeyance,</li> <li>• Add guidance on requests to impose requirements outside of NRC jurisdiction, and</li> <li>• Add the Office of International Programs to the offices responsible for petitions.</li> </ul>		

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**I. POLICY**

It is the policy of the U.S. Nuclear Regulatory Commission to provide any person with the means to request that the NRC institute a proceeding pursuant to Section 2.202 of Title 10 of the *Code of Federal Regulations* (10 CFR 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). This policy is codified in Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206). 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. Conducts the legal review and provides advice on a 10 CFR 2.206 petition and, upon specific request from the staff in a special case or where a petition raises legal issues, reviews the proposed and final director's decision.
2. Provides legal advice to the Commission, EDO, office directors, and staff on other matters related to the 10 CFR 2.206 process.

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

1. Provides enforcement and allegation program advice on a 10 CFR 2.206 petition and, upon specific request from the staff, reviews the proposed director's decision.
2. Provides enforcement and allegation program advice to the Commission, EDO, office directors, and staff on other matters related to the 10 CFR 2.206 process.

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

1. The Office of Investigations (OI) provides advice on a 10 CFR 2.206 petition 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. Any mention outside the NRC of an ongoing Office of Investigations (OI) or Office of the Inspector General (OIG) investigation requires the approval of the Director of OI or the IG, respectively.

**E. Directors of 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)**

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), the Office of Nuclear Material Safety and Safeguards (NMSS), or the Office of New Reactors (NRO), and the Office of International Programs.
2. Approve or deny a petitioner's request for immediate action.
3. Sign acknowledgment letters, *Federal Register* notices, and director's decisions.
4. Provide up-to-date information on all assigned petitions.
5. Appoint a petition review board (PRB) chairperson.
6. Designate a petition manager for each petition.
7. Request OGC involvement, where appropriate, through the Assistant General Counsel for Materials Litigation and Enforcement.
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.
9. Designate an Office 2.206 Petition Coordinator if applicable.

**F. 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.

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

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

**H. Director, Division of Operating Reactor Licensing (DORL), Office of Nuclear Reactor Regulation (NRR)**

Appoints the Agency 2.206 Petition Coordinator, normally a project manager from the Division of Operating Reactor Licensing (DORL), NRR.

**I. 2.206 PRB Chairperson**

Each office that is assigned a petition will appoint a PRB Chairperson, generally a Senior Executive Service manager, who—

1. Convenes PRB meetings.
2. Ensures appropriate review of a petition in a timely manner.
3. Ensures appropriate documentation of PRB meetings.
4. Convenes periodic PRB meetings with petition managers to discuss the status of open petitions and to provide guidance for timely resolution.

**J. 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 NRR's 2.206 Petition Coordinator and performs the duties of the NRR 2.206 Petition Coordinator listed in Section III.K of this directive.

**K. Office 2.206 Petition Coordinator**

Each office that is assigned a petition will assign an Office 2.206 Petition Coordinator. The Office 2.206 Petition Coordinator for each office—

1. Provides direct support to the 2.206 PRB Chairperson by tracking the status of each petition within that office and providing guidance for timely resolution.
2. Ensures that PRB members and advisors follow the 2.206 process in accordance with MD 8.11.

3. Prepares a written summary of the internal PRB meetings for the PRB members' review, if requested by the PRB Chairperson.
4. Performs other office-specific tasks that may be assigned by the PRB Chairperson.
5. Provides support to assigned 2.206 Petition Managers.
6. Provides the current status of a petition, upon request, to the Agency 2.206 Petition Coordinator.

#### **L. 2.206 Petition Manager**

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

1. Informs his or her Office 2.206 Petition Coordinator of receipt of a 10 CFR 2.206 petition.
2. Makes an initial screening as to whether the document is within the scope of the 10 CFR 2.206 process, in accordance with Section II of this handbook.
3. Informs the office allegations coordinator and the appropriate regional allegations coordinator of a petition that involves a potential allegation.
4. 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.
5. Identifies staff members to serve on the PRB.
6. Schedules PRB meetings.
7. Drafts the directors' decision.
8. Provides the current status of a petition, upon request, to the Office and/or Agency 2.206 Petition Coordinator.
9. Submits extension requests for review and approval in accordance with Office or OEDO procedures.
10. Refers to Exhibit 1, "Simplified 2.206 Process Flow Chart," and Exhibit 2, "Petition Manager Checklist," of this handbook for additional information on petition manager responsibilities.

#### **IV. APPLICABILITY**

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

#### **V. DIRECTIVE HANDBOOK**

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.D, “Criteria for Petition Evaluation,” of this handbook).

### Licensee

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

## VII. REFERENCES

### *Code of Federal Regulations*

10 CFR 2.202, “Orders.”

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

10 CFR 2.309, “Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions.”

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

10 CFR 2.802, “Petition for Rulemaking.”

32 CFR Part 2002, “Controlled Unclassified Information.”

### *Federal Register*

“Review of Management Directive 8.11,” 75 *FR* 146 (July 30, 2010), available at <http://www.gpo.gov/fdsys/pkg/FR-2010-07-30/pdf/2010-18739.pdf>.

### *U.S. Nuclear Regulatory Commission Documents*

Enforcement Petition (2.206) Documents:

<http://www.nrc.gov/reading-rm/doc-collections/petitions-2-206>.

External Comments Received in Response to the *Federal Register* Notice for MD 8.11  
Published on Friday, July 30, 2010 ([ML13029A648](#)).

Management Directive—

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

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

8.8, “Management of Allegations.”

Allegation Manual: <https://www.nrc.gov/docs/ML1700/ML17003A227.pdf>.

Memorandum of Understanding Between the NRC and the Department of Justice,  
December 14, 1988 (53 FR 50317):

<http://www.nrc.gov/about-nrc/regulatory/enforcement/moudoj.pdf>.

NRC Plain Language Action Plan:

<http://www.internal.nrc.gov/NRC/PLAIN>.

NRC Web Sites—

*Federal Register* Notice Template Library on SharePoint:

<http://fusion.nrc.gov/adm/team/DAS/RADB/rt/Templates/default.aspx>.

Sample template for—

“*Federal Register* notice of receipt” (ML14013A008).

“*Federal Register* notice for director’s decision” (ML14013A007).



NRC Forms Library on SharePoint:

<http://fusion.nrc.gov/nrcformsportal/default.aspx>.

NRC Policy and Procedures for Handling, Marking, and Protecting Sensitive Unclassified Non-Safeguards Information (SUNSI):

<http://www.internal.nrc.gov/sunsi/>.

Operating Reactor Listserve:

<http://www.nrc.gov/public-involve/listserver/plants-by-region.html>.

Generic Communications Listserve:

<http://www.nrc.gov/reading-rm/doc-collections/gen-comm>.

NUREG-Series Publications—

NUREG-0750, “Nuclear Regulatory Commission Issuances,” published semi-annually:

<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0750/>.

NUREG/BR-0200, Revision 5, “Public Petition Process”:

<http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0200/>.

Yellow Announcement

NRC Yellow Announcement YA-05-0077, “Policy Revision: NRC Policy and Procedures for Handling, Marking, and Protecting Sensitive Unclassified Non-Safeguards Information (SUNSI),” October 26, 2005 (ADAMS Accession No. [ML051220278](#)).

**U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)**

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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 regulatory framework since the NRC was established in 1975. Section 2.206 permits any person to file a petition to institute a proceeding pursuant to Section 2.202 of Title of the *Code of Federal Regulations* (10 CFR 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).
2. Section 2.206 requires that the petition be submitted in writing, specify the action requested, and set forth the facts that constitute the basis for the request.
3. NRC staff will not treat general opposition to nuclear power or a general assertion of a safety problem, without supporting facts, as a formal petition, as referenced in 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 for consideration in the 2.206 process.

**B. Petitions Containing Allegations of Wrongdoing**

1. Wrongdoing by NRC licensees or other regulated entities is defined as a willful violation of regulatory requirements (i.e., a violation involving either deliberate misconduct or careless disregard).
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. If a petition alleges wrongdoing on the part of a licensee or other regulated entity, NRC staff will coordinate with the appropriate Office Allegation Coordinator to enter the petition (or relevant portion thereof) in the Allegation Program.
4. If the petition contains information of suspected wrongdoing involving an NRC employee, contractor, or vendor, 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. Any mention outside the NRC of an ongoing OI or OIG investigation requires the approval of the Director of OI or the Inspector General (IG), respectively.

## 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 Office of the Executive Director for Operations (OEDO) assigns it to the director of the appropriate office for evaluation and response. After a petition is assigned to the appropriate office and the staff determines that it should be entered into the 2.206 process, a Petition Review Board (PRB) will assess the petition to determine whether it should be accepted for review. If a petition is accepted 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. Following the PRB's initial assessment, the petitioner has the opportunity to address the PRB, and the petitioner is also provided an opportunity to comment on the proposed director's decision. 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

##### Initial Screening

- (a) An issue that is referred to the NRC staff for consideration under the 2.206 process by the Commission or a presiding officer in an adjudicatory proceeding will be entered in the 10 CFR 2.206 process as described in Section II.A.2(e) 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 Executive Director for Operations (EDO). Upon receipt of a written request for an enforcement-related action, regardless of how received, the staff will screen the petition to determine if it is within the scope of the 10 CFR 2.206 process.
- (c) The staff will not enter a request into the 10 CFR 2.206 process, and will respond using general correspondence or as otherwise appropriate, in the following cases:
  - (i) 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., that the quality assurance at a facility is inadequate), 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.

(ii) Allegations of Wrongdoing

- If the staff determines that a petition (or portions thereof) contains allegations, those portions of the petition should remain non-public, and controlled consistent with applicable allegation documentation control guidance, and the identity of the petitioner should be protected to the extent practicable with respect to those portions of the petition. Portions of the petition that do not involve allegations should remain in the 2.206 process, and a public version of the document (with information pertaining to allegations redacted) should be created.
- 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. The petition manager will inform the petitioner that the issue will be handled as an allegation, and discuss identity protection consistent with MD 8.8.
- Any information related to allegations or other sensitive information that makes up a part of the petition will be redacted from copies sent to the licensee or made available to the public.

(iii) 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. A petitioner who does not agree to these terms should be informed that the petition will be removed from the 2.206 process and told how it will be handled (e.g., as an allegation or through another appropriate NRC response mechanism, if not processed as an allegation). If the petition is transferred to the allegation program, coordinate with the Office Allegation Coordinator.

(iv) No Request for Action in Accordance with 10 CFR 2.202

The petition does not seek an enforcement-related action that would involve initiating a proceeding in accordance with 10 CFR 2.202, "Orders." Petitions that do not seek any enforcement-related action that would involve initiating a proceeding in accordance with 10 CFR 2.202 (e.g., a proceeding to modify, suspend, or revoke a license or take such other action as may be proper by serving an order on the licensee or other person subject to the jurisdiction of the Commission) will not be considered under the 2.206 process.

(v) Requests to impose a requirement that is outside of NRC jurisdiction

Requests 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.

(vi) 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. The petition manager will consult with the appropriate rulemaking branch within the NRC. The petition manager will incorporate the rulemaking branch's input into the NRC's response to the petitioner.

(vii) 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 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).

(d) 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.

(e) A request for an enforcement-related action that is not screened out under Section II.A.2(a) will be entered into the 2.206 petition process and considered for acceptance as described in Section III.C of this handbook.

## **B. Petition Manager 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).

2. Before the petition is released to the public and before the PRB meeting, the petition manager will informally inform the petitioner that the petition was received and that 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, send the appropriate licensee(s) a copy of the petition for information.
4. See Exhibit 1, "Simplified 2.206 Process Flow Chart," for further information on petition manager actions.

### **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) if recommended by the petition manager. The OE representative should address both the enforcement and allegation programs and should be able to inform the PRB if the petition involves an issue that is already in the allegation program.
8. The petition manager may also recommend that his or her Office Enforcement Coordinator be included in the PRB.
9. A representative from OGC, if recommended by the petition manager.



**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 the PRB as soon as possible, to decide whether immediate action is warranted. 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.
2. The assigned office will convene a PRB meeting to assess the 2.206 petition. The PRB meeting should be held as quickly as possible, but should be held within 3 weeks of OEDO assignment of the petition.

**C. Criteria for Petition Evaluation**

The staff will use the criteria in this section to determine how to process a petition.

**1. Criteria for Accepting Petitions Under 10 CFR 2.206**

The staff will accept a petition for review under the requirements of 10 CFR 2.206 if the request meets both of the following criteria:

- (a) The petition specifies the facts that constitute the basis for taking the requested action under 10 CFR 2.202, 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.
    - The resolution of the issues in the prior review does not apply to the facts provided by the petitioner to support the requested action.
    - 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) would not be accepted in the 2.206 process. Rather, the staff's prior conclusion would 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 Sections 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 diluting the importance of any single petition. The PRB will recommend whether consolidation is or is not appropriate, and the assigned office director will make the final determination.

## 3. Criteria for Holding a Petition in Abeyance

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 staff should not hold a petition in abeyance merely to allow a petitioner to develop additional supporting information not provided with the original petition. 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 of this handbook.
- (c) When the PRB decides to hold all or part of a petition in abeyance—
  - (i) The PRB will ensure that the office director, or designee, is informed of the PRB's decision and he or she concurs.
  - (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 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 review related to the petition is completed, the petition manager will notify the petitioner.

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

1. The PRB ensures that an appropriate petition assessment process in reviewing the petition against the acceptance criteria is followed. 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 of this handbook for guidance regarding schedules).
  - (d) Determines whether the petition should be consolidated with another petition.
  - (e) Determines when a referral to the Allegation Program or OIG is appropriate, if there is some question from members about previous screening.
  - (f) Determines whether the licensee should be asked to respond to the petition.
  - (g) Adds review board meetings when reviewing a complex petition to ensure that suitable progress is being made.
  - (h) Addresses the possibility of issuing a partial director's decision.
2. PRB meetings to consider immediate actions, assess the petition against the evaluation criteria, or to review the petition are closed and separate from any meeting with the petitioner and the licensee.
  - (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 assesses 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 under 10 CFR 2.206,
  - (b) The disposition of any request for immediate action, and
  - (c) How the review will proceed.
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, then the petition manager should informally notify the petitioner promptly of the pending staff action. Reasons for the staff's action will be documented in the closure or acknowledgement letter.
4. The petitioner will not be advised of an on-going investigation of wrongdoing being conducted by OI, but would be informed if the petition contained an assertion of wrongdoing that was 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 initial assessment, the petition manager will offer the petitioner an opportunity to clarify or supplement the petition with the PRB based on the results of the PRB's initial assessment. This opportunity will be either a teleconference between the petitioner and the PRB, or a public meeting, if the petitioner wishes to address the PRB in person. The meeting or teleconference should be scheduled so as not to adversely affect the established petition review schedule.
  - (a) If the petitioner chooses to address the PRB by telephone, it is not considered a public meeting, and no public notice is necessary. The teleconference is recorded and transcribed. The petition manager will establish a mutually agreeable time and date and arrange to conduct the teleconference on a recorded line through the NRC Headquarters Operations Center (301-816-5100). The digital recording from the Operations Center is converted to a printed transcript that is sent to the petitioner and the same distribution list as the original petition. The petition manager will arrange for transcription service by submitting an NRC Form 587, "Request for Court Reporting Service," to the Atomic Safety and Licensing Board Panel (ASLBP) staff.

- (b) Any in-person meeting between the PRB and the petitioner will be held as a public meeting at NRC headquarters in Rockville, Maryland. If the petitioner selects this option, the petition manager will establish a mutually agreeable time and date for the public meeting with the petitioner. For the meeting, the petition manager will follow the prior public notice period and other provisions of MD 3.5, "Attendance at NRC Staff-Sponsored Meetings." However, the time constraints associated with this type of meeting may dictate that the 10-day public notice period described in MD 3.5 will not be met. MD 3.5 allows for fewer than 10 days of public notice, if necessary, with appropriate management concurrence. 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 via a bridge line, recorded by the NRC Headquarters Operations Center (301-816-5100) and a transcript will be created and distributed as described in Section III.F.1(a) of this handbook.
2. This public meeting or teleconference, 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 petitioner's statements at the meeting or teleconference will be evaluated in terms of whether the petitioner supports the bases for taking enforcement-related action set forth in the petition itself. The PRB will consider the petitioner's statements made at the meeting or teleconference, along with the original petition, in evaluating whether to accept the petition using the criteria in Section III.C.1 of this handbook.
  3. If the petitioner presents significant new information to the NRC staff, the PRB may determine that this new information constitutes a new petition that will be treated separately from the initial petition.
  4. The petition manager will invite the licensee to participate in any meeting or teleconference with the petitioner to ensure that the licensee understands the concerns about its facility or activities. The licensee may also ask questions to clarify the issues raised by the petitioner. However, the licensee will not be involved in any closed internal PRB meetings.
  5. The PRB members may ask questions to clarify their understanding of the petitioner's request.
  6. The petition manager will ensure that all NRC staff at the meeting or teleconference 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 him or her in addressing the PRB concerning the petition. 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. The petition manager will review the meeting or teleconference transcript and, where necessary, edit it to ensure it accurately reflects what was said in the meeting or teleconference. 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.
  9. After editing, the petition manager will ensure that the transcript receives the same distribution (petitioner, licensee, publicly available, etc.) as the original petition. This step should be accomplished by referencing the ADAMS Accession Number for the transcript in either an acknowledgment or closure letter.
  10. After the meeting or teleconference with the petitioner, the PRB will consider the supplemental information presented during the meeting or teleconference together with the original petition, against the acceptance criteria in Section III.C.1 of this handbook to determine if the petition, as supplemented, should be accepted for review. Before issuing either an acknowledgment or closure letter, the PRB Chairman will ensure that the office director, or designee, is informed of the PRB's recommendations and that he or she concurs.

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

The petitioner will be notified promptly of NRC staff decisions on any immediate action requests, which may occur prior to the PRB finalizing its recommendation on whether to accept the petition for review. After the PRB finalizes its recommendations, the petition manager will inform the petitioner by e-mail or telephone whether the petition meets the criteria for review, and if accepted, how the review will proceed, and then prepare a written response to the petitioner. The final recommendations will be included in either a closure letter or acknowledgment letter. The closure letter or acknowledgment letter will address any supplemental information provided by the petitioner, comments the petitioner made concerning the initial PRB assessment and the NRC staff's response. The letter should acknowledge the petitioner's efforts in bringing issues to the staff's attention. If the petition contains a request for immediate action by the NRC (for example, a request for immediate suspension of facility operation until final action is taken on the request), then the acknowledgment letter must explain the staff's response to the immediate action requested and the basis for that response. The petition manager

ensures that the original petition, supplements, and any enclosure(s) referenced in the letter are placed in ADAMS.

1. 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 is not being reviewed under 10 CFR 2.206, and
- (ii) Responds, to the extent possible at that time, to the issues in the petitioner's request.

(b) The PRB Chairman signs the closure letter.

2. 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.

(b) The petition manager ensures that references to (e.g., ADAMS Accession number or Web site address of) MD 8.11 and NUREG/BR-0200, Rev. 5, "Public Petition Process," prepared by the Office of Public Affairs (OPA), are included with the acknowledgment letter. The acknowledgment letter also should include the name, e-mail address, and telephone number of the petition manager, identify the technical staff organizational units that will participate in the review, and provide the planned schedule for the staff's review. A copy of the acknowledgment letter must be sent to the appropriate licensee and the docket service list(s).

(c) If the petition meets the criteria for acceptance but does not raise any new safety or security issues that have not been addressed by the staff, the staff may be prepared to respond to the merits of the petition immediately. For example, this may occur 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 acknowledgement letter would be accompanied by the final 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 publicly available NRC outgoing correspondence. The Operating Reactor listserv can be accessed on the NRC public Web site, at <http://www.nrc.gov/public-involve/listserver/plants-by-region.html>.
  - (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.
  - (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. The Generic Communications listserv can be accessed on the NRC public Web site, at <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/>. NRC correspondence or documentation related to an OI or OIG investigation will not be released outside NRC without the approval of the Director of OI, or the IG, respectively.
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 his or her petition.

1. When a supplement is provided, the petition manager will review the supplement promptly and determine whether or not it contains sensitive information, which must be handled according to appropriate information security policies and procedures. When a supplement is provided, the project manager will take appropriate actions listed in Section II.B of this handbook. If the supplement contains allegations of wrongdoing, the petition manager will follow the guidance in Section II.A.2(a)(ii), first bullet, "Allegations of Wrongdoing," of this handbook. If all or part of the supplement is treated as an allegation, this fact will be documented in the allegation acknowledgment letter (see MD 8.8 and the Allegation Manual). For more detailed information on petition manager action, see Section II.B of this handbook.



2. 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 a formal 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 a new PRB meeting. If a new PRB meeting is not convened, the petition manager will include the supplement in the ongoing petition review and no further action is necessary.
3. Once a supplement is received, the petition manager will contact the petitioner to determine if this is the final written supplement to the petition. If the petitioner states that additional supplements will be submitted to the PRB for review, the petition manager will inform the petitioner of the PRB's schedule and advise the petitioner that additional supplements could delay or result in a revised schedule. Because prompt action may be needed to address any concerns, the schedule will generally not be revised or delayed to allow a petitioner to submit a supplement. Supplements will be considered to the extent practical if provided prior to the PRB completing its review. In addition, the petition manager will inform the petitioner that, depending upon the timing of the NRC's receipt of any supplements, the PRB may not be able to consider supplemental information provided after the petition was submitted. 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. If a new PRB meeting is convened, the PRB members will 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) To issue a partial director's decision.

- (d) 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).
  - (e) 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.
  - (f) To offer the petitioner a meeting or teleconference with the PRB to discuss its recommendations with respect to the supplement. (See III.F, "Meeting with the Petitioner," of this handbook for information on this type of meeting or teleconference.)
6. If the staff determines that the schedule for the petition must be extended beyond the original 120-day goal as a result of the supplement, the assigned office should send an acknowledgment letter to the petitioner, reset the 120-day clock to the date of the new acknowledgment letter, and inform the OEDO. This is only needed when a supplement is received after an acknowledgement letter has previously been sent.
  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 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

A technical review meeting with the petitioner will be held whenever the staff 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.

## B. Schedule

### Planning the Schedule

1. The first goal is to issue the acknowledgement or closure letter within 90 days of the OEDO's 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 associated staff review is completed. 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 (DORL), 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 the director's decisions issued and other related information. Enforcement Petition (2.206) Documents are available at <http://www.nrc.gov/reading-rm/doc-collections/#nuregs>. Director's decisions are also published in NUREG-0750, "Nuclear Regulatory Commission Issuances," available at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0750/>.

#### **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 published in the *Federal Register*.

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

The petition manager prepares a proposed director's decision on the petition and the associated *Federal Register* notice 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 (enclosed within the letters).

1. If the staff issues a streamlined director's decision, the steps related to a proposed director's decision may be omitted.
2. 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 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.

### **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 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 (but not signed) the proposed director's decision, the petition manager will issue letters to the petitioner and the licensee enclosing the proposed director's decision and requesting comments on it. The letters, with the enclosure, will be made available to the public through ADAMS.
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. The letters, including the proposed director's decision, should be transmitted to the recipients electronically or by fax, if possible.

#### **F. Comment Disposition**

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 then evaluate any comments received on the proposed decision, obtaining the assistance of the technical staff, as appropriate. Although the staff requested comments from only 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 as a new petition.

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

1. A decision under 10 CFR 2.206 consists of a letter to the petitioner, the director's decision, and the *Federal Register* notice.
2. The petition manager will prepare a letter to transmit the director's decision to the petitioner and will also prepare the associated *Federal Register* notice. If the staff's response to the petition involves issuing an order, the petition manager will prepare a letter to transmit the order to the licensee. The petition manager will include a copy of the order in the letter to the petitioner. When the director's decision has been signed, the petition manager will promptly send a copy of the decision, electronically or by fax if possible, to the petitioner. Copies of the director's decision and *Federal Register* notice that are sent to the licensee and individuals on the service list(s) are dispatched simultaneously with the petitioner's copy. Before dispatching the director's decision (or partial decision), the petition manager will inform the petitioner of the imminent issuance of the decision and the substance of the decision. The

petition manager will also ask the petitioner whether he or she wishes to continue receiving documents related to the petition.

3. The assigned office director will sign the cover letter, the director's decision, and the *Federal Register* notice.

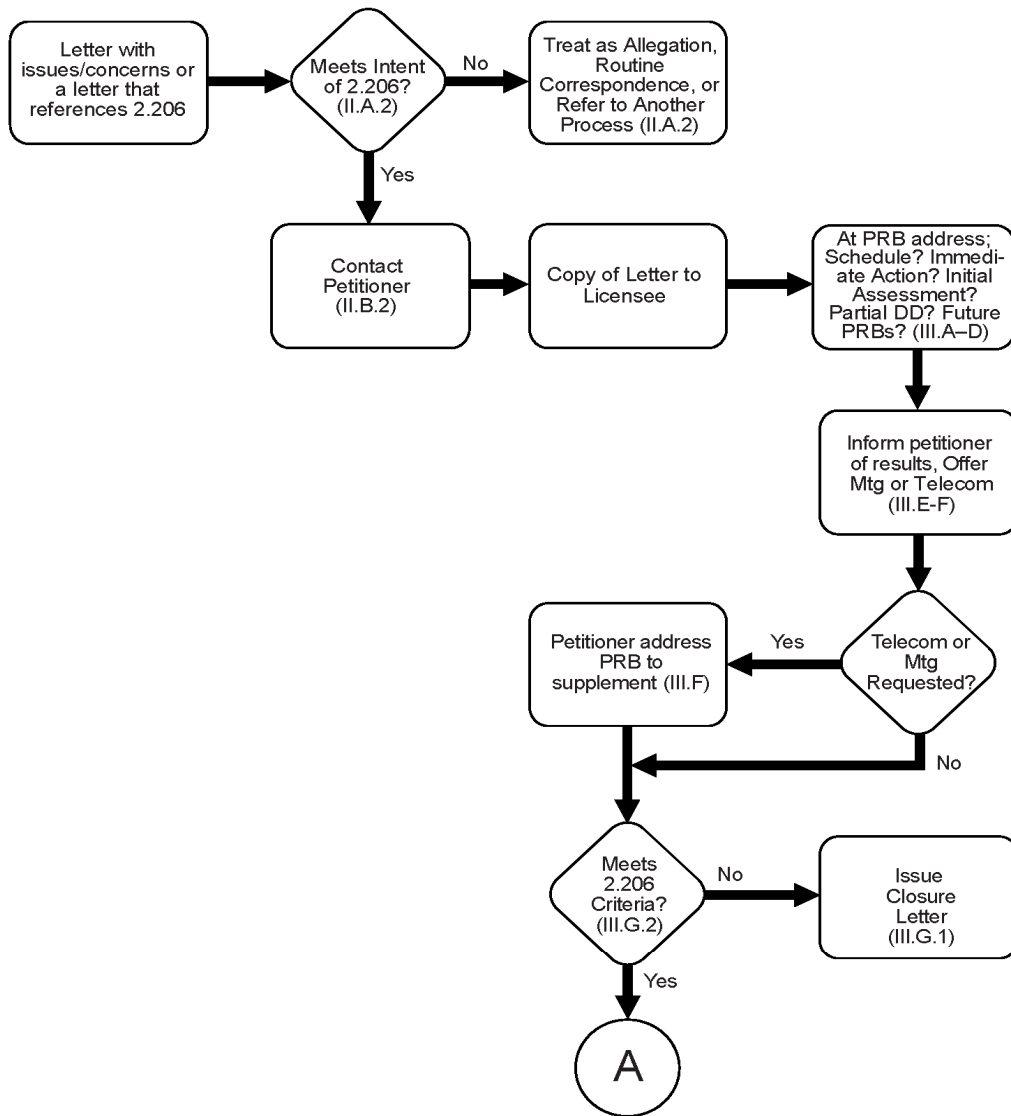
#### **H. Commission Actions**

SECY will inform the Commission of the availability of any partial or final director's decision. The Commission, at its discretion, may decide to review the director's decision within 25 days of the date of the decision and may direct the staff to take action other than that in the director's decision. If the Commission does not act on the director's decision within 25 days (unless the Commission extends the review time), the director's decision becomes the final agency action, and SECY sends a letter to the petitioner informing the petitioner that the Commission has taken no further action on those portions of the petition addressed in the director's decision.

DRAFT

**EXHIBIT**

**EXHIBIT 1 Simplified 2.206 Process Flow Chart**



1. Parenthetical Information is associated Handbook paragraph number



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

