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**Cc:** [Banic, Merrilee](#); [Render, Diane](#); [Pickett, Douglas](#); [Guzman, Richard](#)  
**Subject:** GUNTER ET AL. 2.206 PETITION REQUESTING ENFORCEMENT ACTION AGAINST JAMES A. FITZPATRICK PLANT (CAC NO. ME8189) - REVISED INITIAL RECOMMENDATIONS  
**Date:** Monday, October 17, 2016 1:15:00 PM

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Ms. Azulay,

In accordance with MD 8.11, which governs the NRC 2.206 petition process, I am writing to inform you that the petition review board (PRB) has revised its initial recommendations on your 2.206 petition regarding Containment Vents for the James A. Fitzpatrick (JAF) plant.

**Background:**

On October 4, 2012, the NRC advised you of the PRB's initial recommendation. The PRB's initial recommendation was to accept the petition in part, and hold in abeyance three issues addressing hydrogen control and mitigation. In addition, the PRB's initial recommendation included rejection of all other issues that did not meet the criteria for review under 10 CFR 2.206 process described in MD 8.11.

You requested a Freedom of Information Act (FOIA) request to be completed before addressing the PRB in response to this initial recommendation. After the FOIA request was fulfilled, you addressed the PRB on June 29, 2015. The PRB met internally on May 7, 2015, July 15, 2015 and July 20, 2016 for the resolution of the petition.

By letter dated September 8, 2016, Exelon (or the licensee) requested an extension until June 2018 to fully comply with the implementation of Phase I of NRC Commission's Order EA-13-109, "Order Modifying Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation Under Severe Accident Conditions." The NRC staff is reviewing the licensee's extension request.

**Rejected concerns in the petition:**

The NRC staff rejected the other concerns in your petition because they did not meet the criteria for review per the MD 8.11. For example, your assertion of the lack of a direct torus hardened vent system raised apparent design vulnerabilities was not accepted for review, because of the staff's previous review and evaluation determination that the JAF plant is safe. Further, as lessons learned from the events at Fukushima-Daichi on March 11, 2011, the NRC Commission issued the Order EA-13-109 which addresses the design and operation of the containment vents under severe accident conditions for boiling water reactors with Mark I and Mark II containments. A number of your concerns in the petition are addressed by the Order EA-13-109, and JAF plant must comply with the requirements of the Order EA-13-109.

**Staff resolution of the three remaining concerns:**

- The NRC staff completed activities related to the lessons learned from the Fukushima Daichi accident that relate to hydrogen control and mitigation. Recommendation 6 from the NRC Fukushima Near Term Task Force (NTTF) involves performing additional assessments for hydrogen control and mitigation. The staff presented its initial assessment

and recommendations to the NRC Commission in SECY-15-0137, "Proposed Plans for resolving Open Fukushima Tier 2 & 3 recommendations," dated October 29, 2015 (ADAMS Accession No. ML15254A006), and the Advisory Committee on Reactor Safeguards (ACRS). The Commission approved the resolution plans on February 8, 2016, and directed the staff to document the final results of the evaluations after interactions with external stakeholders and the ACRS.

In SECY-15-0137, the staff's preliminary recommendation assessment for NTTF Recommendation 6 was that further regulatory action or study are not warranted. The NRC staff had additional interactions with the external stakeholders and ACRS focused on Recommendation 6 after the issuance of SECY-15-0137. The staff's final assessment related to hydrogen control and mitigation and closing of Recommendation 6 was provided in SECY-16-041, "Closure of Fukushima Tier 3 Recommendations Related to Containment Vents, Hydrogen Control, and Enhanced Instrumentation," dated March 31, 2016 (ADAMS Accession No. ML16049A079). The findings of SECY-16-0041 are based in part on the requirements imposed through Order EA-13-109.

**PRB revised initial recommendations:**

The PRB met on July 20, 2016 to deliberate on the path forward. As discussed above, the three remaining concerns raised by your petition have already been the subject of NRC staff review and evaluation. These concerns have been resolved, and your petition does not present significant new information.

Thus, as discussed above, all the concerns in this petition have been resolved. Please advise if you would like to address the PRB to respond to the PRB's revised recommendations. If you and your co-petitioners would like to meet in person, I will need to schedule a formal public meeting at the NRC Headquarters. If you would prefer to address the PRB via phone, I will also work with you to coordinate a date/time during the upcoming weeks.

Within 3-4 business days, please advise me of **three preferred dates** that will work for you and the co-petitioners so that I can arrange this meeting or teleconference. After this discussion, the PRB will consider the need to modify any of its recommendations.

Should you choose not to address the PRB, the PRB plans to issue a Closure letter in accordance with MD 8.11 Handbook, Part III, Page 18, "Requests That Do Not Meet the Criteria."

Please also note that I will be out of the office from October 27 to November 15, 2016. During my absence, Diane Render (copied on this e-mail) will be my backup and your NRC point of contact for this 2.206 petition. Diane can be reached at 301-415-3629.

Thanks, Booma

**Booma Venkataraman, P.E.**

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