



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 6, 2016

Ms. Sandra Gavutis, Executive Director
C-10 Research & Education Foundation
44 Merrimac Street
Newburyport, MA 01950

Dear Ms. Gavutis:

Your petition submitted by e-mail, dated December 22, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16006A002), addressed to MSHD Resource, has been referred to me pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), 2.206, "Requests for action under this subpart," of the U.S. Nuclear Regulatory Commission (NRC) regulations. You requested that the NRC issue an order to the licensee of the Seabrook Station, Unit No. 1 (Seabrook), requiring immediate implementation and enforcement of American Concrete Institute (ACI) 349.3R, "Evaluation of Existing Nuclear Safety-Related Concrete Structures," and American Society for Testing and Materials (ASTM) C856-11, "Standard Practice for Petrographic Examination of Hardened Concrete," and requiring core sampling and petrographic testing for the mechanical properties of tensile strength, Poisson's ratio, modulus of elasticity, and compressive strength—specifically for walls of the containment building and spent fuel pool at Seabrook. As the basis for your request, you state that alkali-silica reaction (ASR) continues to degrade the structural integrity of concrete structures at Seabrook, and that core sampling and petrographic testing is necessary to understand the current properties of, and the extent of degradation caused by ASR on safety-related structures at Seabrook. C-10 Research & Education Foundation (C-10) believes that the presence of ASR at Seabrook is inimical to public health and safety.

Your petition was supplemented by e-mail comments from Mr. David Lochbaum of the Union of Concerned Scientists, dated February 12, 2016 (ADAMS Accession No. ML16043A486); e-mail comments from Mr. Paul Brown, dated February 14, 2016 (ADAMS Accession No. ML16047A020); and e-mail comments by C-10, dated February 15, 2016 (ADAMS Accession No. ML16047A021).

The Petition Review Board (PRB) held a teleconference on February 16, 2016, to give C-10 an opportunity to provide any relevant additional explanation and support its request. This teleconference was transcribed and added as a supplement to the petition. The transcript is located at ADAMS Accession No. ML16055A394.

The licensee for Seabrook provided a voluntary response to your petition by letter dated February 23, 2016 (ADAMS Accession No. ML16056A083).

As your request acknowledged, you submitted by letter dated September 25, 2014 (ADAMS Accession No. ML14281A124), a petition for rulemaking (PRM-50-109) pursuant to 10 CFR 2.802, "Petition for rulemaking." That petition for rulemaking requested that the NRC amend its regulations to require that all licensees comply with ACI 349.3R and ASTM C856-11. As described in an e-mail dated June 1, 2016 (ADAMS Accession No. ML16166A429), the NRC

published PRM-50-109 in the *Federal Register* for comment on January 12, 2015, and this issue is currently under NRC review.

The PRB reviewed PRM-50-109, and determined that it is practically identical to your 2.206 petition request for Seabrook in that both request NRC require licensee compliance with ACI 349.3R and ASTM C856-11. The main difference being that your 2.206 petition requests that the NRC staff issue an order requiring immediate implementation and enforcement of ACI 349.3R and ASTM C856-11 at Seabrook. However, based on periodic NRC inspections over the past several years, the PRB determined that there is no immediate safety concern caused by ASR at Seabrook.

On March 23, 2016, the NRC informed you by e-mail (ADAMS Accession No. ML16083A245) that the PRB recommended rejecting your petition, because it addresses deficiencies within existing NRC rules. Specifically, Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions" (ADAMS Accession No. ML041770328), Section III.C.2, "Criteria for Rejecting Petitions Under 10 CFR 2.206," states that the NRC staff will not review a petition under 10 CFR 2.206 if "[t]he request addresses deficiencies within existing NRC rules."

Your petition requests that the NRC immediately require Seabrook compliance with industry standards ACI 349.3R and ASTM C856-11, which you acknowledge are not current regulatory requirements imposed by the NRC in 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities." Rather, your petition advocates "for adoption and enforcement of these standards." As indicated in MD 8.11, a petition request that is focused on resolving a perceived deficiency with existing NRC rules is properly handled through a petition for rulemaking.

The NRC offered you a second opportunity to address the PRB, which you accepted. At your request, the PRB held a public meeting on June 6, 2016, in the NRC offices in Rockville, Maryland to provide you an opportunity to comment on the PRB's recommended rejection of your petition. This public meeting was transcribed and added as a supplement to the petition. The transcript is located at ADAMS Accession No. ML16167A364. In addition, the meeting was webcast on the NRC webpage for viewing by the public. The PRB appreciated the information you provided during the public meeting. The PRB subsequently reviewed the transcript, and determined that the information presented did not revise or clarify the purpose and scope of the petition.

Therefore, in accordance with MD 8.11, Section III.C.2, the PRB rejects the petition under the criterion that "[t]he request addresses deficiencies within existing NRC rules." This letter closes your 2.206 petition.

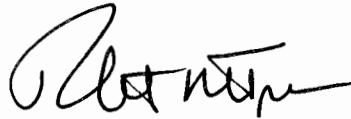
The NRC staff will continue to process and keep you informed about PRM-50-109.

S.Gavutis

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Thank you for bringing these issues to the attention of the NRC.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert M. Taylor". The signature is fluid and cursive, with a large initial "R" and "M".

Robert M. Taylor, Deputy Director
Division of Safety Systems
Office of Nuclear Reactor Regulation

Docket No. 50-443

cc: Listserv

S.Gavutis

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Thank you for bringing these issues to the attention of the NRC.

Sincerely,

/RA/

Robert M. Taylor, Deputy Director
Division of Safety Systems
Office of Nuclear Reactor Regulation

Docket No. 50-443

cc: Listserv

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ADAMS Accession No.: ML16169A172 Package: ML161721A018

Incoming Petition: ML16006A002 (Incoming Petition) OEDO-2016-00007: ML16006A309 *by e-mail

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