



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

November 19, 2020

Mr. Terry J. Brown  
Site Vice President  
Energy Harbor Nuclear Corp.  
Mail Stop P-DB-3080  
5501 North State Route 2  
Oak Harbor, OH 43449-9760

SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1 – EXEMPTION  
FROM SELECT REQUIREMENTS OF 10 CFR PART 26 (EPID L-2020-LLE-0208  
[COVID-19])

Dear Mr. Brown:

The U.S. Nuclear Regulatory Commission (NRC) has approved the requested exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, “Fitness for Duty Programs,” Section 26.205, “Work hours.” This action is in response to the Energy Harbor Nuclear Corp. (the licensee) application dated November 18, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20323A169), based on the March 28, 2020 (ADAMS Accession No. ML20087P237), letter from Mr. Ho Nieh describing a process to request expedited review of certain exemptions from 10 CFR Part 26 during the COVID-19 public health emergency (PHE).

The application provided the following information:

- A statement that Davis-Besse Nuclear Power Station, Unit No. 1 (Davis-Besse) can no longer meet the work-hour controls of 10 CFR 26.205(d) for certain positions;
- A list of positions for which Davis-Besse may implement alternative work-hour controls upon the NRC granting the requested exemption. From this, the NRC has determined the positions for which Davis-Besse will maintain current work-hour controls under 10 CFR 26.205(d)(1)-(d)(7) and the positions for which Davis-Besse requested the exemption;
- The date and time when Davis-Besse will begin implementing site-specific COVID-19 PHE fatigue-management controls for personnel specified in 10 CFR 26.4(a);
- A statement that Davis-Besse’s site-specific COVID-19 fatigue-management controls are consistent with the constraints outlined in the March 28, 2020, letter; and

- A statement that Davis-Besse will establish alternative controls for the management of fatigue during the period of the exemption and, at a minimum, the controls ensure that, for individuals subject to these alternative controls:
  - Individuals will not work more than 16 work hours in any 24-hour period and not more than 86 work hours in any 7-day period, excluding shift turnover,
  - A minimum 10-hour break is provided between successive work periods,
  - 12-hour shifts are limited to not more than 14 consecutive days,
  - A minimum of 6 days off is provided in any 30-day period, and
  - Requirements have been established for behavioral observation and self-declaration during the period of the exemption.

Therefore, the NRC finds that the technical basis for an exemption described in the March 28, 2020, letter is applicable to the licensee's specific request.

Section 26.9, "Specific exemptions," of 10 CFR allows the NRC to grant exemptions from the requirements of 10 CFR Part 26. The NRC staff has determined that granting the licensee's requested exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

The underlying purpose of 10 CFR 26.205(d) is to prevent impairment from fatigue due to duration, frequency, or sequestering of successive shifts. Based on the evaluation provided in the NRC's March 28, 2020, letter and the criteria discussed above, no new accident precursors are created by using whatever licensee staff resources may be necessary or available during the term of this exemption to respond to a plant emergency and to ensure that the plant maintains a safe and secure status. Therefore, the probability of postulated accidents is not increased. Also, the consequences of postulated accidents are not increased because there is no change in the types of accidents previously evaluated. The requested exemption would allow the use of licensee staff resources as may be necessary to maintain safe operation of the plant and to respond to a plant emergency. Therefore, the NRC finds that there is no undue risk to public health and safety from granting the requested exemption.

The requested exemption would allow the use of licensee security staff resources as may be necessary to ensure the common defense and security. Therefore, the NRC finds that there is no impact on common defense and security from granting the requested exemption.

Due to the impacts that the COVID-19 PHE has had on the licensee's ability to comply with the work-hour controls of 10 CFR 26.205(d), the importance of maintaining the operations of Davis-Besse, and the controls the licensee has established, the NRC finds that granting the requested exemption is in the public interest.

Granting the requested exemption from the requirements of 10 CFR 26.205 is categorically excluded under 10 CFR 51.22(c)(25), and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(I), that the requirements from which the exemption is sought involve other requirements of an administrative, managerial, or organizational nature.

The NRC staff also determined that approval of this exemption involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, does not authorize changes to any of the assumptions or limits used in the facility licensee's safety analyses, and does not introduce any new failure modes. There is no

significant change in the types or significant increase in the amounts of any effluents that may be released offsite because this exemption does not affect any effluent release limits as provided in the facility licensee's technical specifications or by the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation." There is no significant increase in individual or cumulative public or occupational radiation exposure because this exemption does not affect limits on the release of any radioactive material or the limits provided in 10 CFR Part 20 for radiation exposure to workers or members of the public. There is no significant construction impact because this exemption does not involve any changes to a construction permit. There is no significant increase in the potential for or consequences from radiological accidents because the exemption does not alter any of the assumptions or limits in the licensee's safety analysis. In addition, the NRC staff determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

Based on the above, the NRC staff finds that (1) the exemption is authorized by law, (2) the exemption will not endanger life or property or the common defense and security, and (3) the exemption is otherwise in the public interest.

This exemption is effective from November 19, 2020, through January 18, 2021.

Sincerely,

Craig G. Erlanger, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-346

cc: Listserv

SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1 – EXEMPTION  
FROM SELECT REQUIREMENTS OF 10 CFR PART 26 (EPID L-2020-LLE-0208  
[COVID-19]) DATED NOVEMBER 19, 2020

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**ADAMS Accession No. ML20323A412****\*via e-mail**

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