



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

November 9, 2021

EA 04-224

Mr. Terry J. Brown
Site Vice President
Energy Harbor Nuclear Corp.
Davis-Besse Nuclear Power Station
5501 North State Route 2
Oak Harbor, OH 43449-9760

SUBJECT: RELAXATION OF 2005 CONFIRMATORY ORDER MODIFYING
LICENSE

Dear Mr. Brown:

This letter is in response to your September 3, 2021, letter (ADAMS Accession No. ML21246A045) requesting a relaxation of a condition that appears in the Confirmatory Order (CO) (ADAMS Accession No. ML051960354) issued to Energy Harbor Nuclear Corp.'s (EH's) predecessor, FirstEnergy Nuclear Operating Company (FENOC), on July 15, 2005, in connection with EA 04-224.

The 2005 CO contains the following required safety-conscious work environment (SCWE) actions to be completed by FENOC:

1. By no later than August 31, 2005, FENOC will provide contractors who are granted unescorted access to FENOC nuclear facilities with SCWE training that is equivalent to the SCWE training provided to FENOC employees as part of Plant Access Training.
2. By no later than August 31, 2005, FENOC will review the SCWE training module included in Plant Access Training and make any changes necessary to ensure that the module clearly reinforces that FENOC SCWE policies and NRC employee protection requirements (10 CFR 50.7) apply to all personnel working on behalf of FENOC, specifically including contractor employees, supervision, and management.
3. By no later than August 31, 2005, FENOC will provide specific training to the Davis-Besse food services contractor management and supervision involved in the provision of services to FENOC on SCWE principles, FENOC SCWE policies, and NRC employee protection requirements (10 C.F.R. 50.7). This training will be comparable to the SCWE training that has been provided to FENOC management and supervision.
4. By no later than August 31, 2005, FENOC will include surveys of contractor personnel as part of the quarterly FENOC performance monitoring of SCWE at its nuclear facilities. These surveys are performed annually. Other data relied upon in the quarterly performance monitoring already includes the activities of contractor personnel in the calculation of the applicable performance measures.

In your September 3, 2021, letter, you state that, "Consistent with the CO, EH will continue to include contractor personnel in the scope of the SCWE surveys it performs; however,

going forward EH seeks to adjust the frequency of the performance of SCWE surveys consistent with industry practice and site conditions" instead of annually, as stated in item 4, above.

In a letter dated February 1, 2008, from the NRC to FENOC, re: DAVIS-BESSE NUCLEAR POWER STATION NRC INTEGRATED INSPECTION REPORT 05000346/2007005 (ML080360447), the NRC documented inspection activities associated with FENOC's compliance with Confirmatory Order EA 04-224. In that letter, the NRC concluded that: "SCWE training provided an adequate overview of employee protection requirements and the elements of a good SCWE; FENOC provided the SCWE training to the Davis-Besse food services contractor manager; contractor personnel are participating in the annual SCWE audits; and the Confirmatory Order is properly being implemented."

More recently, in a letter dated October 7, 2021, from the NRC to Energy Harbor Nuclear Corp., re: DAVIS-BESSE NUCLEAR POWER STATION – BIENNIAL PROBLEM IDENTIFICATION AND RESOLUTION INSPECTION REPORT 05000346/2021010 (ML21280A112), the NRC documented that it found no challenges to EH's SCWE.

In conclusion, based on EH's continued actions for monitoring SCWE at this nuclear facility and the NRC inspection results, the NRC finds that you have demonstrated compliance with the CO and therefore have shown good cause to grant the requested relaxation to perform the SCWE surveys at a biennial frequency, consistent with current industry practice and site conditions.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

Mark D. Lombard, Director
Office of Enforcement

Docket No. 50-346; 72-014
License No. NPF-3