



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION III  
2443 WARRENVILLE ROAD, SUITE 210  
LISLE, ILLINOIS 60532-4352

February 10, 2023

EA-23-002

Terry Brown  
Site Vice President  
Energy Harbor Nuclear Corp.  
Davis-Besse Nuclear Power Station  
5501 N. State Rte. 2, Mail Stop A-DB-3080  
Oak Harbor, OH 43449-9760

SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION – NRC INSPECTION REPORT  
05000346/2022091 AND APPARENT VIOLATION

Dear Terry Brown:

This letter refers to the inspection conducted at your Davis-Besse Nuclear Power Station facility from November 27, 2022 through December 3, 2022, by the U.S. Nuclear Regulatory Commission's (NRC) Region III office. The purpose of the Biennial Licensed Operator Requalification inspection was to examine activities conducted under your license as they relate to safety and compliance with Title 10 of *the Code of Federal Regulations* (10 CFR) Part 55 and with the conditions in your license. Within these areas, the inspection consisted of an examination of selected procedures and representative records, observations of activities, and interviews with personnel. The inspectors discussed the preliminary inspection findings with C. Jackson, General Plant Manager, of your staff at the conclusion of the on-site portion of the inspection. A final exit briefing was conducted (telephonically) with you and members of your staff on January 18, 2023.

Based on results of the investigation, the NRC identified one apparent violation that is being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. During the inspection, the NRC identified an apparent violation involving failure of the facility licensee to ensure that an individual operating the controls of the facility was licensed as required in 10 CFR Part 50.54(i) and provided in 10 CFR Parts 55.53 and 55.59. The circumstances surrounding the apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with you and members of your staff at the inspection exit meeting on January 18, 2023.

In addition, since your facility has not been the subject of escalated enforcement actions within the last 2 years, and based on our understanding of your corrective actions, a civil penalty may not be warranted in accordance with section 2.3.4 of the Enforcement Policy. The final decision will be based on you confirming on the license docket that the corrective actions previously described to the NRC staff have been or are being taken.

Before the NRC makes its enforcement decision, we are providing you with the opportunity to: (1) provide a written response to the apparent violation addressed in this inspection report within 30 days of the date of this letter, or (2) request a Predecisional Enforcement Conference (PEC). If a PEC is held, the NRC will issue a press release to announce the time and date of the conference. A PEC should be held within 30 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violation in NRC Inspection Report 05000346/2022091; EA-23-002," and should include: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence if the correspondence adequately addresses the required response. Additionally, your response should be sent to the NRC's Document Control Center, with a copy mailed to Julio Lara, Director, Division of Operating Reactor Safety, Region III, U.S. Nuclear Regulatory Commission, Suite 210, 2443 Warrenville Road, Lisle, IL 60532-4352, within 30 days of the date of this letter. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on these matters and any other information that you believe the NRC should take into consideration before making an enforcement decision. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be conducted to obtain information to assist the NRC in making an enforcement decision. The topics discussed during the conference may include: (1) information to determine whether the violation occurred; (2) information to determine the significance of the violation; (3) information related to the identification of the violation; and (4) information related to any corrective actions taken or planned.

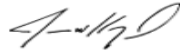
**Please contact April Nguyen at 630-829-9587 within 10 days from the issue date of this letter to notify the NRC of how you intend to respond to the apparent violation.**

Please be advised that the number and characterization of apparent violations may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If you have any questions concerning this matter, please contact Ms. April Nguyen of my staff at 630-829-9587.

Sincerely,



Kozal, Jason signing on behalf  
of Lara, Julio  
on 02/10/23

Julio Lara, Director  
Division of Operating Reactor Safety

Docket No. 50-346  
License No. NPF-3

Enclosure:  
Inspection Report

cc: Distribution via **LISTSERV**<sup>®</sup>

Letter to Terry Brown from Julio Lara dated February 10, 2023.

SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION – NRC INSPECTION REPORT  
05000346/2022091 AND APPARENT VIOLATION

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**U.S. NUCLEAR REGULATORY COMMISSION  
Inspection Report**

Docket Number: 05000346

License Number: NPF-3

Report Number: 05000346/2022091

Enterprise Identifier: I-2022-091-0004

Licensee: Energy Harbor Nuclear Corp.

Facility: Davis-Besse Nuclear Power Station

Location: Oak Harbor, OH

Inspection Dates: November 27, 2022 to December 3, 2022

Inspectors: Jim Nance, Operations Engineer  
Randy Baker, Senior Operations Engineer  
Greg Roach, Senior Operations Engineer  
Bryan Bergeon, Senior Operations Engineer

Approved By: April M. Nguyen, Chief  
Operations Branch  
Division of Operating Reactor Safety

Enclosure

## SUMMARY

The U.S. Nuclear Regulatory Commission (NRC) continued monitoring the licensee’s performance by conducting an NRC inspection at Davis-Besse Nuclear Power Station, in accordance with the Reactor Oversight Process. The Reactor Oversight Process is the NRC’s program for overseeing the safe operation of commercial nuclear power reactors. Refer to <https://www.nrc.gov/reactors/operating/oversight.html> for more information.

### List of Findings and Violations

Apparent Violation of 10 CFR 50.54(i)			
Cornerstone	Severity	Cross-Cutting Aspect	Report Section
Not Applicable	Apparent Violation AV 05000346/2022091-01 Open EA-23-002	Not Applicable	71111.11B
<p>The inspectors identified an apparent violation of Title 10 of <i>the Code of Federal Regulations</i> (10 CFR) 50.54(i) for the facility licensee permitting a licensed operator to manipulate the controls of its facility when the licensed operator did not meet a condition of the license. Specifically, a licensed operator was excused from participating in the facility licensee’s NRC-approved requalification program and permitted to perform licensed duties. The individual stood watch as the At-the-Controls (ATC) Operator on seven shifts and as the Balance of Plant (BOP) Operator on twelve shifts, between September 27, 2022 and December 2, 2022. Since the licensed operator was no longer continuously participating in the facility licensee’s NRC-approved requalification program, the licensed operator did not meet a condition of the license as described in 10 CFR 55.53(h) and, therefore, was no longer permitted to perform the functions of a licensed operator.</p>			

### Additional Tracking Items

None.

## INSPECTION SCOPES

Inspections were conducted using the appropriate portions of the inspection procedures (IPs) in effect at the beginning of the inspection unless otherwise noted. Currently approved IPs with their attached revision histories are located on the public website at <http://www.nrc.gov/reading-rm/doc-collections/insp-manual/inspection-procedure/index.html>. Samples were declared complete when the IP requirements most appropriate to the inspection activity were met consistent with Inspection Manual Chapter (IMC) 2515, "Light-Water Reactor Inspection Program – Operations Phase." The inspectors reviewed selected procedures and records, observed activities, and interviewed personnel to assess licensee performance and compliance with Commission rules and regulations, license conditions, site procedures, and standards.

## INSPECTION RESULTS

Apparent Violation of 10 CFR 50.54(i)			
Cornerstone	Severity	Cross-Cutting Aspect	Report Section
Not Applicable	Apparent Violation AV 05000346/2022091-01 Open EA-23-002	Not Applicable	71111.11B
<p>The inspectors identified an apparent violation of Title 10 of <i>the Code of Federal Regulations</i> (10 CFR) 50.54(i) for the facility licensee permitting a licensed operator to manipulate the controls of its facility when the licensed operator did not meet a condition of the license. Specifically, a licensed operator was excused from participating in the facility licensee's NRC-approved requalification program and permitted to perform licensed duties. The individual stood watch as the At-the-Controls (ATC) Operator on seven shifts and as the Balance of Plant (BOP) Operator on twelve shifts, between September 27, 2022 and December 2, 2022. Since the licensed operator was no longer continuously participating in the facility licensee's NRC-approved requalification program, the licensed operator did not meet a condition of the license as described in 10 CFR 55.53(h) and, therefore, was no longer permitted to perform the functions of a licensed operator.</p>			
<p><u>Description:</u></p> <p>During biennial requalification baseline inspection activities, the inspectors identified a potential issue when a licensed operator had been excused from the facility's requalification training cycle activities. When questioned, the facility licensee stated that the licensed operator was excused from attending requalification training and evaluation activities from September 20, 2022 through December 2, 2022, because the individual was scheduled to retire on December 9, 2022. However, the facility continued to allow the individual to perform licensed activities during that same time period.</p> <p>After further review, the inspectors determined that by not attending requalification classroom activities, the operator was not in compliance with a condition of the license. NRC regulations require continuous participation in the requalification program, including participation in preplanned lectures on a regular and continuing basis, throughout the effective license period. On December 2, 2022, the operator was administratively restricted from performing further licensed duties for not completing the required training (for the past requalification cycle) with no plans established to make-up the training. The facility subsequently requested to terminate the operator's license, effective on December 6, 2022.</p>			

Corrective Actions: The licensee will revise procedure, NOBP-TR-1271, Operator License Administration, to clarify the requirements for the continuous training process that is part of the requalification program to ensure appropriate implementation.

Corrective Action References: CR-2022-09503, "2022 NRC 71111.11 inspection: continuous training participation."

Performance Assessment: None

Enforcement:

The ROP's significance determination process does not specifically consider the regulatory process impact in its assessment of licensee performance. Therefore, it is necessary to address this violation which impedes the NRC's ability to regulate using traditional enforcement to adequately deter non-compliance.

Severity: The NRC has not made an enforcement decision.

Apparent Violation:

10 CFR Part 50.54(i) states, in part, that, except as provided in 55.13 of this chapter, the licensee may not permit the manipulation of the controls of any facility by anyone who is not a licensed operator or senior operator as provided in Part 55 of this chapter.

Title 10 CFR 55.53(h) states that the licensee shall complete a requalification program as described by Part 55.59 of this chapter.

Title 10 CFR 55.59(c)(1) states that the requalification program must be conducted for a continuous period not to exceed 2 years, and upon conclusion must be promptly followed, pursuant to a continuous schedule, by successive requalification programs.

Title 10 CFR 55.59(c)(2) states, in part, that the requalification program must include preplanned lectures on a regular and continuing basis throughout the license period.

From September 27, 2022 through December 2, 2022, the licensee permitted the manipulation of the controls of the facility by a licensed operator that had not adequately completed the requalification program. Specifically, from September 20 – December 2, 2022, the licensee excused a licensed operator from attending requalification training and evaluation activities due to the individual's pending retirement on December 9, 2022. Between September 27, 2022 and December 2, 2022, the individual performed licensed duties as the At-the-Controls (ATC) Operator on 7 shifts and as the Balance of Plant (BOP) Operator on 12 shifts. Since the licensed operator was no longer continuously participating in the facility licensee's NRC-approved requalification program, the individual did not meet a condition of the license as described in 10 CFR 55.53(h) and, therefore, was no longer permitted to perform the functions of a licensed operator.

Enforcement Action: This issue is being treated as an apparent violation.



## **EXIT MEETINGS AND DEBRIEFS**

The inspectors verified no proprietary information was retained or documented in this report.

- On January 18, 2023, the inspectors presented the NRC inspection results to Terry Brown, Site Vice President, and other members of the licensee staff.