

March 6, 2006

Marvin S. Fertel  
Senior Vice President and  
Chief Nuclear Officer  
Nuclear Energy Institute  
1776 I Street, NW, Suite 400  
Washington, DC 20006

Dear Mr. Fertel:

Thank you for your letter of February 16, 2006. In your letter you note the progress that has been made toward achieving a regulatory oversight process that credits existing industry efforts to promote safety culture while maintaining the agency's ability to independently assess it. We have greatly benefitted from the diverse views and experiences of the industry and other external stakeholders who supported this progress by their participation in developing an approach to enhance the oversight process; we appreciate your commitment to continued involvement. Separate from industry's involvement in this initiative, we acknowledge the increased efforts by the industry since the Davis-Besse event to ensure that a healthy safety culture exists.

Your letter also raised concerns related to the opportunity for stakeholder input as the final products are developed; the changes proposed for those plants in the regulatory response column of the Reactor Oversight Process (ROP) Action Matrix; the potential for changes within the three cross-cutting areas to result in all substantive cross-cutting issues being viewed as safety culture problems; and the need for continued attention on the existing cross-cutting areas such as defining a minimum threshold for including a cross-cutting element to a finding, better definitions of the human performance bins, and revisiting the exit criteria for substantive cross-cutting issues. The following is a response to these concerns.

We recognize the importance of dialogue with external stakeholders and providing the opportunity for stakeholder input as final products are developed. In order to encourage meaningful dialogue and input, the staff took the unusual step of providing for comment, draft changes to inspection procedures and manual chapters. The staff placed draft versions of these inspection procedures and manual chapters on the NRC safety culture web page, held a public telephone conference call with stakeholders on February 2, 2006 to highlight major changes, and conducted a public meeting on February 14 to answer questions and discuss comments or concerns. It was a particularly productive meeting. The comments we received from industry and other stakeholders during the meeting, and from NEI by e-mail dated February 21, were beneficial and are currently undergoing staff review. With regard to Inspection Procedure 95003, which has not yet been provided, the staff plans to complete the draft by early March and will provide sufficient opportunity for external stakeholder comment.

As the staff is considering the comments we are moving forward to address key follow-on activities, such as the development of training in order to ensure completion of the challenging but realistic goal of finalizing the changes to the inspection procedures and manual chapters by May 2006 and begin implementation of the enhanced ROP by July 2006.

Based on consideration of the issues and input received from all external stakeholders, we believe the planned adjustments to the cross-cutting areas are appropriate. Consistent with the ROP's graded approach to plant performance issues and consistent with the ROP framework, the treatment of cross-cutting issues will not result in findings specific to "safety culture." As is currently the case, performance deficiencies (i.e., green or greater findings) would be evaluated for cross-cutting aspects within the cross-cutting areas of Problem Identification and Resolution, Human Performance, and Safety Conscious Work Environment. The performance deficiencies that have cross-cutting aspects would be evaluated during the mid-cycle and end-of-cycle assessments and may result in agency identification of a substantive cross-cutting issue based, for the most part, on the same criteria currently used. Further, we do not expect significant changes in the number of substantive cross-cutting issues. Consistent with the graded approach, we have added the option that in cases where the NRC issues a third consecutive assessment letter to a licensee identifying the same substantive cross-cutting issue, the NRC may also request that the licensee perform an assessment of safety culture in order that we may determine whether their inability to address the cross-cutting concerns was due to underlying weaknesses in safety culture. This change in the ROP, as well as others, will be monitored during the initial implementation period.

Regarding plants in the regulatory response column of the ROP Action Matrix, the planned enhancements do not provide for any intervention beyond that which currently exists in the ROP for these plants. The licensee is currently expected to place the identified deficiency in its corrective action program and perform an evaluation of the root and contributing causes of the risk significant issue and implement corrective actions. The inspection procedure would be enhanced to verify that the licensee's root cause, extent of condition evaluation, or extent of cause evaluations considered and addressed, where appropriate, components of safety culture. We believe this is an appropriate approach to ensure that the licensee is addressing early indications of safety culture issues.

We have recognized the need for improvement in the existing process for treatment of substantive cross-cutting issues and made changes in November 2005 which resulted in clarification in the threshold for cross-cutting aspects of findings, improved definitions of the human performance cross-cutting area "bins" and in clearer expectations regarding exit criteria. We believe that these changes, in conjunction with the additional enhancements in cross-cutting area bin or component descriptions, supports greater consistency and predictability in the assessment of substantive cross-cutting issues. However, we will monitor these changes during the initial implementation period of the revised procedures and manual chapters.

In summary, significant progress has been made as evidenced by staff and stakeholder convergence on what's important to safety culture as reflected in the safety culture components and in the jointly developed approach for enhancing the ROP. This will better focus the agency

and licensees on potential safety culture weaknesses, such as those that existed at Davis-Besse, in advance of significant performance decline. As part of the Agency's annual self-assessment of the ROP for CY 2007, we will evaluate stakeholder feedback and make appropriate changes based on lessons learned from the initial implementation of the ROP enhancements from the safety culture initiative.

Again, we thank you for the industry's involvement to date and look forward to continued dialogue with our stakeholders.

Sincerely,

**/RA/**

Luis A. Reyes  
Executive Director  
for Operations

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