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FINAL REPLY:

Marvin S. Fertel  
Nuclear Energy Institute (NEI)

TO:

Chairman Diaz

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 06-0086

DESC:

NRC's Safety Culture Initiative

ROUTING:

Reyes  
Virgilio  
Kane  
Silber  
Dean  
Cyr/Burns  
Dyer, NRR

DATE: 02/17/06

ASSIGNED TO:

CONTACT:

OE

Johnson

SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

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**ACTION OFFICE:** EDO

**AUTHOR:** Mr. Marvin Fertel  
**AFFILIATION:** NEI  
**ADDRESSEE:** CHRM Nils Diaz  
**SUBJECT:** Concerns NRC staff's ongoing Safety Culture Initiative

**ACTION:** Appropriate  
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NUCLEAR ENERGY INSTITUTE

**Marvin S. Fertel**  
SENIOR VICE PRESIDENT AND  
CHIEF NUCLEAR OFFICER

February 16, 2006

Mr. Luis A. Reyes  
Executive Director of Operations  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Mr. Reyes:

I am writing in regard to the NRC staff's ongoing safety culture initiative. The industry believes significant progress has been made in addressing this very important issue. We appreciate the NRC staff's willingness to listen and act upon productive input, both from the nuclear industry and other stakeholders. The staff should be commended on the progress that has been made toward achieving an oversight process that credits existing industry efforts to promote safety culture while maintaining staff ability to independently assess it.

The industry shares the NRC's interest in ensuring a healthy safety culture at each licensee, and we are committed to work with the staff on achieving the stated goals of this initiative. The industry has devoted substantial resources to participate in developing a workable regulatory approach to the oversight of safety culture. To date we have participated in seven public meetings with the staff and other stakeholders. We remain committed to continuing our interactions with the NRC staff throughout implementation of this initiative.

As you know, the industry has demonstrated its commitment to safety culture through numerous self-initiated activities following the Davis Besse event. For example, each licensee has completed a minimum of one safety culture assessment, implemented training on Davis Besse lessons-learned, and performed a focused evaluation to identify and document abnormal plant conditions or indications at each licensee facility that cannot be readily explained. These initiatives were carried out as a part of individual licensee response to the Institute of Nuclear Power Operations (INPO) Significant Operating Experience Report (SOER) 02-4. The industry, through INPO, also completed development of *Principles for a Strong Nuclear Safety Culture*, which provides fundamental principles and attributes

necessary for a strong safety culture. This document has been shared with the NRC staff and other stakeholders and is publicly available on the NRC's safety culture web page. On January 27, 2006, INPO revised SOER 02-4 to specify the *Principles for a Strong Nuclear Safety Culture* document as the basis for the conduct of ongoing industry self-assessments described in the document.

In addition to the industry actions noted above, INPO, like NRC, undertook a review of its own lessons-learned from the Davis Besse event. As a result, sixteen recommendations were identified and implemented, affecting each of the four INPO cornerstone activities (evaluation, assistance, operating experience, and training and accreditation). The focus of these recommendations was to improve the industry's ability to communicate openly about safety culture issues and enhance the evaluation process to more effectively assess organizational effectiveness and safety culture at each station.

Although the INPO plant evaluation process is not transparent to the public, the results of these evaluations are provided to the NRC staff in accordance with the existing memorandum of agreement between the NRC and INPO. In addition, licensee-performed self-assessments, including those associated with safety culture, are routinely reviewed by the NRC during Problem Identification & Resolution (PI&R) inspections. The results of these inspections are made publicly available as a part of the inspection process.

The industry also believes it is important to note that changes made to the ROP, including the cross-cutting areas, as a result of the Davis Besse lessons-learned task force, provide significant, meaningful insights into one of the most fundamental elements of a licensee's safety culture -- its ability to identify, evaluate, and fix problems consistent with their safety significance. The staff's proposed changes further enhance its ability to more accurately assess the health of a licensee's safety culture.

Since the industry and other stakeholders were given the opportunity to meaningfully engage in the development of a safety culture oversight process in November 2005, the industry has promoted, and is now seeing, a proposed oversight process that better complements the actions the industry and the NRC have taken since the Davis Besse head corrosion issue was identified. The January 18, 2006 meeting helped provide a more thorough understanding of several concerns we have had with the proposed process. Although significant progress has been made, the industry has some remaining concerns.

A significant concern relates to ensuring continued effective stakeholder input as the final product is developed. While we agree it is possible to meet the timetable established in the December 21, 2005 SRM response to SECY-05-0187, we are concerned that the July 1, 2006 implementation date is causing unrealistic dates to be imposed on the participating stakeholders with respect to our review of proposed

changes to implementation documents. At the February 14, 2006 meeting, for example, all stakeholders at the meeting agreed that the review schedule requested by the staff was impractical. Although some additional time was given for commenting on the available procedures, the time provided to submit comments does not allow us to get full industry participation in developing our comments. In addition, one procedure (IP 95003) remains unavailable for public comment, with no date provided for its publication. The quality of the final product with effective stakeholder input should be the priority even if it impacts the schedule.

A second concern involves the intervention proposed for those plants in the Regulatory Response Column (Column 2) of the Reactor Oversight Process (ROP) Action Matrix. As you know, a single white indicator or finding, which by definition has low to moderate safety significance, results in a licensee being placed in Column 2 of the Action Matrix. The ROP was established with the premise that plants will occasionally enter this area of the Action Matrix, and that this area of the action matrix does not indicate significant performance degradation. The existing ROP dictates that licensees conduct a root cause evaluation of the performance deficiency, and that the staff reviews that evaluation during its follow-up inspection. Management and organizational issues are assessed as a part of a typical root cause evaluation, which is the subject of the staff's follow-up inspection. Given industry efforts to periodically assess safety culture, coupled with INPO evaluation efforts, the industry does not believe that a single performance issue with low to moderate safety significance warrants any change to the way the NRC currently addresses licensees in Column #2 of the ROP Action Matrix.

Furthermore, we believe that this intervention is in direct conflict with the Commission's December 2005 Staff Requirements Memorandum, which directed the staff to develop a process for determining whether an evaluation of safety culture is warranted when a plant falls into the degraded cornerstone column of the ROP Action Matrix.

Thirdly we are also concerned that all bins developed for identifying substantive issues in the ROP cross-cutting areas of Human Performance, Problem Identification & Resolution, and Safety Conscious Work Environment (SCWE) would all be characterized as components of safety culture. This creates two potential problems. It could inappropriately result in every substantive cross-cutting issue potentially being viewed as a "safety culture" problem even when the issue has not resulted in a significant performance decline. It also is not consistent with the holistic look at performance upon which the ROP was developed. A balanced look at cross-cutting issues by those members of the NRC staff and stakeholders knowledgeable in the ROP is necessary to ensure that a more complete evaluation is made of what could give rise to substantive cross-cutting issues in the ROP. We recognize that in the end this could still result in no change to what is being proposed but we feel that it is important that we not rush to judgment.

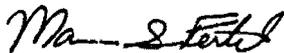
Mr. Luis A. Reyes  
February 16, 2006  
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Finally, as you noted in your May 17, 2005 letter to the Commissioners regarding comments from the 2005 Regulatory Information Conference, some areas in the ROP associated with existing cross-cutting areas need attention. Planned changes you identified included defining a minimum threshold for including a cross-cutting element to a finding, better definitions of the human performance bins, and re-visiting the exit criteria for substantive cross-cutting issues. The industry believes that these existing cross-cutting issues need to be addressed on a priority basis if changes to the cross-cutting areas are to be a prominent part of the safety culture initiative. Without these changes, we believe that unnecessary subjectivity may be introduced into the process, and the predictability of the cross-cutting area assessments undermined. We strongly urge that this initiative not be implemented until this is done. To do so could be inappropriate for licensees and misleading to stakeholders.

I want to reiterate our appreciation for the staff's work and let you know that the industry will continue to fully participate in the development of an appropriate regulatory framework that credits industry initiatives for ensuring the existence of a healthy safety culture throughout the industry. We also believe it is important that all stakeholders are given the opportunity to voice their concerns in a collegial atmosphere as we finalize this initiative.

If you have any concerns regarding this letter or our participation in this important matter, please contact me at 202-739-8125.

Sincerely,



Marvin S. Fertel

c: The Honorable Nils J. Diaz, Chairman, NRC  
The Honorable Edward McGaffigan, Jr., Commissioner, NRC  
The Honorable Jeffrey S. Merrifield, Commissioner, NRC  
The Honorable Peter B. Lyons, Commissioner, NRC  
The Honorable Gregory B. Jaczko, Commissioner, NRC  
William F. Kane, Deputy Executive Director for Reactor and Preparedness Programs, NRC  
James E. Dyer, Director, Office of Nuclear Reactor Regulation, NRC  
Michael R. Johnson, Director, Office of Enforcement, NRC

**From:** "FERTEL, Marvin" <msf@nei.org>  
**To:** <lar1@nrc.gov>, <chairman@nrc.gov>, <exm@nrc.gov>, <jmer@nrc.gov>, <pbl@nrc.gov>, <gbj@nrc.gov>, <wfk@nrc.gov>, <jed2@nrc.gov>, <mrj1@nrc.gov>  
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**Subject:** Safety Culture Initiative

I am writing in regard to the NRC staff's ongoing safety culture initiative. The industry believes significant progress has been made in addressing this very important issue. We appreciate the NRC staff's willingness to listen and act upon productive input, both from the nuclear industry and other stakeholders. The staff should be commended on the progress that has been made toward achieving an oversight process that credits existing industry efforts to promote safety culture while maintaining staff ability to independently assess it.

Marvin S. Fertel

Senior Vice President and Chief Nuclear Officer

Nuclear Generation Division

202.739.8125

msf@nei.org

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**From:** "FERTEL, Marvin" <msf@nei.org>

**Created By:** msf@nei.org

**Recipients**

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