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Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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Dear Secretary:

I am writing today to express my support for proposed rules intended to protect Americans from fatigued nuclear workers, who through no fault of their own could potentially cause problems in their work environments. I am also writing in support of workers who raise safety concerns.

As you are no doubt aware, a nuclear power plant accident can hurt thousands of people and cause long-lasting harm to the environment. The workers at these plants are the first line of defense against such a disaster. The workers test and inspect safety equipment and follow emergency procedures when equipment malfunctions to lessen the consequences of an accident.

The two proposed rules to help encourage a climate of safety at our nuclear plants:

* Proposed Rule #1 - Establish limits on employee working hours at nuclear power plants. This rule will make the NRC guard against human performance degradation from fatigue just as it has done for drug and alcohol use since the mid 1980s. With the onset of electric utility restructuring, nuclear power plant owners face pressure to slash operating costs, forcing plant owners to reduce staffing levels. The remaining staff members must work longer and longer hours. Numerous studies have concluded that fatigue impairs human performance. Human performance problems contributed to the nuclear accidents at Three Mile Island and Chernobyl. Despite this evidence, the NRC currently has no regulations against excessive overtime.

The Union of Concerned Scientists released a report in March 1999 on the nuclear industry's overtime problems. This report, which is available on the Internet at <http://www.tirednukes.org>, documented scientific studies which have shown that being awake for 17 hours has the same adverse effect on human performance as having a blood alcohol level of 0.05%. Regulation implemented by the NRC in the 1980s ban workers with a blood alcohol level greater than 0.04% from nuclear power plants.

The NRC introduced guidelines on working hour limits in 1982. The NRC's guidelines limit workers to 16 hours per day and 72 hours per week. But these guidelines only specifically apply to control room operators and key maintenance personnel. Managers, safety inspectors, engineers, and other plant workers are not explicitly covered by these NRC's guidelines. In addition, the NRC lacks the ability to force plant owners to adhere to these working hour limits – for control room operators and other workers – because they were issued as mere guidelines. It is my belief that it is time for the NRC to update these guidelines to cover all personnel working in a nuclear plant, and to give them the force of law, which would allow the NRC to actually enforce them.

Worse still, the NRC recently opted to consider the guidelines to apply only when a nuclear power plant is running. Thus, plant owners force workers to put in 12 and 16 hour days for weeks on end during refueling outages. The NRC allows fatigued workers during outages because the plants are shut down at the time. The NRC's logic is dumbfounding. ALL of the maintenance on jet airliners is performed when the planes are on the ground. But the FAA would not permit this maintenance to be performed by drunken maintenance crews – which is the state the workers at nuclear power plants find themselves in, according to the study referenced above. The Federal government imposes working hour limits on truck drivers and airline pilots to protect the public from fatigued workers. It is time for the government to implement the same rules on those

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who work at critical facilities like power plants, for their safety as well as our collective well-being, and these rules should be applied regardless of whether or not a plant is operating.

* Proposed Rule #2 - Training on employee protection regulations to supervisors, managers, and directors. The second proposed rule will protect nuclear "whistleblowers" - the plant workers who conscientiously raise safety concerns. The NRC's regulations are supposed to protect these workers from harassment and intimidation. However, I am informed that the agency consistently fails to enforce these regulations based on the flimsy rationale that the individuals who fire and discriminate against whistleblowers don't know that these actions are illegal. The rule removes this "ignorance of the law" excuse by requiring nuclear plant owners to train supervisors and managers on the employee protection regulations.

The NRC's regulations protect nuclear workers from harassment and intimidation. When these regulations are violated, the NRC can take actions against the worker's employer and also against the responsible individual(s). Unfortunately, the NRC is only doing half its job.

After determining who harassed and intimidated a nuclear worker for raising a safety concern, the NRC limits its sanctions to the company. In 1999 alone, the NRC imposed fines of \$110,000 on the owners of the Perry and Zion nuclear plants and \$80,000 fines on the owners of the Seabrook and Millstone plants. In each of these cases, and in very few of the dozens of similar cases since 1996, the NRC elected not to take sanctions against the individuals doing the illegal actions. By regulation, the NRC can take actions against individuals up to and including banning them from the nuclear industry. By practice, the NRC rarely holds individuals accountable for breaking employee protection regulations – *a serious flaw*.

The NRC maintains that it cannot impose sanctions against the people it determines have broken the employee protection regulations unless it can prove that these individuals knew that their actions were illegal. Thus, "ignorance of the law," which is not a viable defense in *any other US legal proceeding*, is a valid excuse in the NRC's short-sighted eyes.

By claiming to be ignorant of the employee protection regulations, nuclear power plant supervisors and managers can fire workers who raise safety concerns -- and thereby silencing all surviving workers in the future -- with the implicit blessing of the NRC. If caught taking illegal action against a whistleblower, the NRC will -- at worst -- impose a \$110,000 fine on the company. Considering that each day that a nuclear power plant is shut down can cost the company \$249,000 to \$330,000 in lost revenue, a \$110,000 fine is hardly an effective deterrent. Today, the risk/reward balance is heavily tilted towards law-breaking managers at the expense of law-abiding workers. That's nonsensical. It is high time for the NRC to force the industry to train all its management employees on employee protection regulations. A single new rule would eliminate once and for all the "ignorance of the law" excuse. In the future, NRC would have no reason to set aside sanctions against individuals breaking the employee protection regulations.

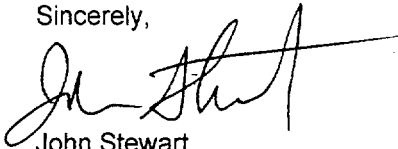
The Union of Concerned Scientists believes that personal accountability will be far more effective in reducing harassment and intimidation against nuclear workers than the NRC's past practice of the occasional fine against companies.

It is my belief that **both** of the above rules are essential, in order to:

- prevent fatigue from impairing nuclear plant worker performance
- prevent fatigued workers from repairing, inspecting, and testing safety equipment when nuclear power plants are operating or shut down
- prevent fear from causing nuclear plant workers to remain silent about safety problems
- prevent supervisors, managers, and directors from using "ignorance of the law" as a shield for their illegal actions
- protect the public and the environment from a nuclear power plant accident

I urge the Commission to adopt both proposed rules at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "John Stewart", with a long horizontal flourish extending to the right.

John Stewart
941 25th Ave.
Seattle, WA 98122