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**Dr. Walter Grant**  
**German-English Translations**

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

Dear Sir:

I am writing concerning proposals soon to be acted on by the NRC, designed to protect Americans from misoperation by fatigued nuclear workers and from the intimidation of such workers to voice safety concerns.

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. In the next few months, the Nuclear Regulatory Commission (NRC) will reach decisions on two proposed rules intended to make sure that nuclear workers are an effective line of defense.

\* 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 has no regulations against excessive overtime and frequently looks the other way when plant owners abuse the agency's overtime guidelines.

\* Proposed Rule #2 - Training on employee protection regulations to supervisors, managers, and directors: The second proposed rule will protect nuclear "whistle blowers" - the plant workers who conscientiously raise safety concerns. The NRC's

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regulations are supposed to protect these workers from harassment and intimidation. Unfortunately, the agency consistently fails to enforce these regulations based on the flimsy rationale that the individuals who fire and discriminate against whistle blowers 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.

These two rules are essential 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

A report released in March 1999 on the nuclear industry's overtime problems. documented that scientific studies 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%. This report is available on the web at <http://www.tirednukes.org>. Regulations 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.

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. Further information on nuclear worker fatigue is available at [www.tirednukes.org](http://www.tirednukes.org).

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 federal government to

impose working hour limits on employees at nuclear power plants that can be enforced whether plants are running or not. The proposed rule was published in the Federal Register on December 1, 1999.

**WHISTLE BLOWER PROTECTION:** From Karen Silkwood in 1974 to George Galatis in 1996, there is a long history of nuclear workers stepping forward to raise safety concerns. Their efforts forced repairs to broken safety equipment at nuclear powerplants such as Millstone, Watts Bar, Vermont Yankee, DC Cook, Nine Mile Point, Vogtle, Palo Verde, WolfCreek, Diablo Canyon, Perry, South Texas Project, and Susquehanna. Safety concerns raised by whistleblowers led to the premature closure of the Yankee Rowe and Maine Yankee nuclear power plants.

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 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.

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.

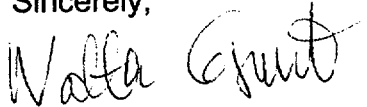
By claiming to be ignorant of the employee protection regulations, nuclear power plant supervisors and managers can fire workers who raise safety concerns --and thereby silencing all surviving workers in the future -- with the implicit blessing of the NRC. If caught taking illegal action against a whistleblower, 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.

The NRC has been petitioned to adopt a rule requiring supervisors, managers, and directors in the nuclear industry to be trained on employee protection regulations. This

new rule would eliminate once and for all the "ignorance of the law" excuse. In the future, the NRC would have no reason to set aside sanctions against individuals breaking the employee protection regulations. The proposed new rule was published in the Federal Register on October 27, 1999.

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.

Sincerely,

A handwritten signature in cursive script that reads "Walter Grant". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Walter Grant