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Building and Construction Trades Department

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SENT VIA CERTIFIED MAIL

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September 14, 2006

Mr. Luis A. Reyes
Executive Director for Operations
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20852

**Re: Supplemental Comments Concerning NRC Fitness for Duty Rule, 10 C.F.R.
Part 26, Subpart I, Fatigue Management**

Dear Mr. Reyes:

I understand that the Nuclear Regulatory Commission has been considering changes in its regulations that would establish, among other things, clear and enforceable requirements for the management of worker fatigue at nuclear power plants. The Building and Construction Trades Department, AFL-CIO, and its affiliated national and international unions represents approximately three million workers employed or seeking employment in the building and construction industry throughout the United States. Licensees that operate nuclear power plants regulated by the NRC, as well as contractors hired by NRC licensees to perform work during outages, employ many of these workers.

A fundamental characteristic of the building and construction industry is that the length of employment for a particular contractor is relatively short. Consequently, the typical construction worker is employed during a year by more than one contractor (if he or she is lucky) on a full-time temporary basis. The transient character of employment in the building and construction industry creates a state of affairs in which the most highly skilled and efficient workers in the industry are in constant demand because they are the most reliable and productive. The dwindling supply of skilled and experienced mechanics in many building and construction trades exacerbates this state of affairs.

Workers represented by the Building and Construction Trades Department, AFL-CIO, have worked millions of hours at various nuclear power plants without one injury resulting in lost time. This demonstrates that outside contractors and building trades people have performed at a high level of productivity without sacrificing health and safety under the current guidelines. Therefore, we are concerned that the proposed fatigue management rules, as currently drafted, will discourage the most highly qualified and skilled workers represented by our affiliated unions from accepting offers of employment by contractors at nuclear power plants. This is because these workers will be more likely to accept offers of employment from contractors retained to perform construction and repair work at unregulated facilities, which offer greater opportunity to earn substantially more overtime compensation than they would earn working at nuclear power plants under the proposed fatigue management rules. As a result, outside contractors are more likely to employ less skilled and less experienced workers during outages at nuclear power plants causing unintended consequences such as higher rates of work-related injuries, poorer quality work and lengthier outages.

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Accordingly, the Building and Construction Trades Department, AFL-CIO, vigorously objects to the newly-proposed provision that employees of outside contractors hired to work during outages, must nevertheless have at least three days off in each successive 15-day period during the first 60 days of an outage. Instead, we urge the NRC seriously to consider modifications of the proposed fatigue management rules, which are overly restrictive, while still ensuring that worker fatigue does not adversely affect public health and safety.

The NRC can make practical changes in the proposed rules that will protect against worker fatigue and maintain public health and safety without unnecessarily impeding the recruitment and productivity of outside contractor personnel during outages. Specifically, we recommend that in lieu of the newly proposed "three-day off" requirement, the NRC adopt a requirement that employees of outside contractors hired during outages must have a minimum number of "off hours" per day of work. Scientific evidence indicates that this kind of requirement will prevent fatigue while preserving the ability of temporary employees of outside contractors to maximize their earning ability during outages.

The Building and Construction Trades Department, AFL-CIO, enthusiastically supports development of a meaningful and effective fatigue management program for nuclear power plants, based on a common sense approach that is not inconsistent with staffing needs and the economic realities of the construction industry. Such a program would promote the health and safety of workers employed at such facilities, as well as the public health and safety.

With kind regards, I am

Sincerely yours,



Edward C. Sullivan
President

ECS/wcy

cc: Building and Construction Trades Department General Presidents
State and Local Building and Construction Trades Councils