

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 5**

**NORTHROP GRUMMAN SHIPBUILDING, INC.¹
Employer**

and

Case 5-RC-16292

**INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS, AFL-CIO
Petitioner**

DECISION AND DIRECTION OF ELECTION

The issue in this proceeding is whether the petitioned-for unit of radiological control technicians (Monitors I, II, III, and IV, or “RCTs”) employed by the Employer at its Newport News facility is appropriate for the purposes of collective bargaining. The Employer contends that the unit must include all technicians employed at the facility.²

The Employer has two unincorporated divisions, the Newport News Division operating out of its Newport News shipyard, and the Gulf Coast Division operating out of its Gulf Coast shipyards.³ Its Newport News Division is principally engaged in the construction of nuclear-powered ships, both aircraft carriers and submarines, for the United States Navy, and the overhaul, maintenance and repair of existing Navy ships at its Newport News facility.⁴ The Employer’s Gulf Coast Division builds non-nuclear ships for the Navy at various shipyards in Louisiana and Mississippi.

¹ The Employer’s name appears as amended at the hearing.

² Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hearings on the petition were held on March 17-18, 2009, and on April 14-16, 2009, before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board, to determine an appropriate unit for collective bargaining.

³ The Employer is a subsidiary of Northrop Grumman Corporation, which prior to December 2008, operated its Newport News facility under the name Newport News Shipbuilding and Dry Dock Company. In December 2008, Northrop Grumman Corporation merged its Gulf Coast operations, operating as subsidiary Northrop Grumman Ship Systems, Inc., with the Employer.

⁴ The Newport News “facility” is comprised of the various buildings, shops, docks, ships, warehouses, and other structures located at the Newport News shipyard.

The Petitioner seeks to represent all full-time and regular part-time Monitors I, II, III, and IV in Department E85 located at the Newport News facility, excluding all office clerical employees, professional employees, managerial employees, guards, and supervisors as defined in the Act.⁵ The Petitioner contends that the Employer's approximately 140 RCTs constitute a craft unit, with distinct skills and specialized training, separate supervision, unique work functions and duties, and limited contact and little, if any, interchange with the Employer's technical employees (or "techs"). The Employer takes the position that the RCTs are not craft employees, but rather, are technical employees who must be included in a unit of all technicals at the facility. Relying on *Westinghouse Corp.*, 300 NLRB 834 (1990), the Employer argues that the smallest appropriate unit must include all 2,400 technical employees encompassing 10 classifications because the Petitioner has failed to establish that the RCTs share a community of interest sufficiently distinct as to warrant finding the petitioned-for unit appropriate, excluding other technicals.

I have carefully considered the evidence and arguments presented by the parties at the hearings and in both their briefs and supplemental briefs. As discussed below, I conclude that a unit of RCTs, with the addition of all other technicals (RCT trainees, calibration techs, and E85 lab techs) in the E85 radiological control department, is appropriate for the purposes of collective bargaining.

I. FACTS

A. Background

The Employer employs approximately 18,500 employees at its Newport News shipyard, which stretches over two miles of waterfront. The construction of nuclear powered aircraft carriers and submarines generally takes between five and six years, and entails a detailed and extensive design and manufacturing process. The need for radiological oversight begins approximately two months before delivery for submarines and five or six months before delivery for aircraft carriers. Existing aircraft carriers

⁵ The Petitioner would exclude RCT trainees from the unit and in the alternative indicated a willingness to proceed to an election in a departmental unit of technical employees. Assuming all the other technicals are not included in the unit found appropriate, the Employer would include RCT trainees.

periodically require refueling of their nuclear core; when brought back in, the Employer overhauls the carriers, a process which may take 3 1/2 years and involves the updating of computer systems, electronic and combat systems, and refurbishing of the ship, during which time there is a need for radiological control measures.

The Employer administratively divides its workforce into five categories — professional, administrative, production and maintenance, and technical employees. The largest group, production and maintenance employees, includes 8,500 electricians, welders, machinists, janitors, and riggers, among others, who primarily perform manual work, are represented by the United Steelworkers Union. Except for the guards and firefighters, who are separately represented by other unions, the remaining employees are unrepresented. There are approximately 2,000 professionals, mostly engineers, and 2,400 technical employees, such as designers, laboratory technicians, chemical handlers, quality inspectors, among others, working in various divisions. There are about 1,500 administrative employees performing office and clerical work, and 2,500 supervisory employees, including foremen, managers, superintendents, supervisors, directors, and vice presidents.

There is no bargaining history as to the petitioned-for employees. The Petitioner asserts that from the 1930s until 1975, the designers at the Newport News facility were represented by the Peninsula Shipbuilders Association in a separate unit apart from other technicals. The Petitioner currently represents two bargaining units in the Employer's Gulf Coast Division. One bargaining unit, certified in 1962, consists of technical test and inspection employees in Department 29 (Hydraulics Pre-Test), and Department 33 (Non-Destructive Test) in Pascagoula, Mississippi. The other is a unit certified pursuant to a stipulated election in August 2008, consisting of inspectors (quality and assurance as well as technical) in the quality assurance department in Pascagoula.

The Employer's organization is headed by General Manager Matt Mulherin, who heads six operating divisions:

1. **Navy Programs Division**, whose departments provide overall management and oversight over aircraft carrier and submarine construction and aircraft carrier overhaul.

2. **Operations and Manufacturing Division**, which handles the manufacture of ship components in the first phase of production for assembly on the ships.
3. **Quality and Process Excellence Division**, which audits and inspects production work and provides record reviews and ensures that contract specifications are met. Process Excellence is a performance improvement group aimed at ascertaining better methods for performing work.
4. **Waterfront Nuclear Engineering and Test Services Division (“Nuclear Services Division”)**, which provides oversight of the nuclear aspects of the Employer’s operations. This division has several operating departments, including the Nuclear Engineering and Radiological Control department, under which the petitioned-for RCTs work, and which administers and controls all radiological work at the facility. Some of the other departments are Test Engineering, which performs tests on all ship systems except those connected with the nuclear reactors; Nuclear Engineering Test, which performs tests on the reactor plants areas; Production Refueling and Nuclear Support, which defuels and refuels the ships; Nuclear Overhaul Engineering, which provides engineering and technical support for overhauling ships; Nuclear Engineering Reactor Services, which provides engineering support for the fueling and refueling in overhauling ships; Nuclear Engineering and Radiological Audit, which oversees and audits all nuclear work done at the facility, and Nuclear Construction and Material, providing technical instructions and drawings for new construction of nuclear systems for the ships.
5. **Commercial Nuclear Programs Department**, which is involved in the construction of commercial nuclear plant equipment and systems.
6. **Department of Energy Programs Office**, is involved with various programs offered by the Department of Energy.

B. Technical Employees employed at Newport News

There are 10 classifications designated by the Employer as “technical” — designers, test technicians, engineering technicians, dimension control technicians, planners, quality inspectors, chemical handlers, laboratory technicians, calibration technicians, and RCTs. The employees in almost all of these classifications work in various divisions and departments and work at various locations within the shipyard. The RCTs and calibration techs are only assigned to one department, Department E85. Technical employees are salaried, have their own labor and salary grades separate from all other employees and are paid under the same biweekly payroll system. They are covered by the same personnel policies and are eligible for the same pension, 401(k), medical, dental, insurance, and sick leave plans and other benefits programs, as are all unrepresented salaried employees. They all perform non-manual work of a technical nature, requiring the exercise of specialized training, some on-the-job and others requiring additional extensive coursework. Seven of the ten technical classifications have some limited radiation worker training.⁶

1. Technical classifications sought to be added by the Employer:

a. **Quality Inspectors:** Twenty-four quality inspectors are in the Operations and Manufacturing Division, overseeing the work done in the shops, and about 150 to 200 inspectors are in the Quality and Process Excellence Division. They take specialized mechanical, structural and electrical inspection courses. Their responsibilities are to ensure the quality and accuracy of the work performed to meet the expected standards once the product components and/or assembly have been completed. They do various types of visual inspections to perform their work. They rely on designer drawings in performing their inspections, sign off that processes that are specified in the Technical Work Document (TWD) have been followed, and if there is a problem, the quality inspector will write a discrepancy report. When encountering design problems, they often work directly with designers to resolve problems. They often need to

⁶ Aside from the RCTs, who have extensive radiological control training, designers, test technicians, quality inspectors, laboratory technicians, calibration technicians, and chemical handlers all are given dosimetry training of two to five days because their duties require that they enter radiological controlled areas.

coordinate inspections with test technicians. Those in the Quality and Process Excellence Division spend 50 percent of their time on the ship and 50 percent in the office.

b. **Test Technicians:** In the Nuclear Services Division, the Test Engineering Department has about 100 test technicians who are responsible for testing the various components on the ship other than the reactor portion, including propulsion and combat systems, using electrical and mechanical knowledge of the systems; there are about 80 test techs who work in Nuclear Engineering Test performing the same type of testing, but on the nuclear systems, using the same type of knowledge. They run proof-of-product testing, e.g., on mechanical systems to make sure the system is not leaking, or on electrical systems, including initial energization and calibration. They use information from drawings by the designers to write up their test procedures and deal with designers frequently when they encounter problems with drawings or diagrams. The Director of Test Engineering (non-nuclear testing) James O'Brien stated that the test techs spend on average 50 percent of their time on the ship, and 50 percent off the ship.

c. **Designers:** These technicals are located in several different departments, including the technical, aircraft carrier construction, carrier overhaul, and submarine construction departments of the Navy Programs Division, and the nuclear overhaul and nuclear engineering reactor services of the Nuclear Services Division. Most designers are in the Navy Programs Division, where they number at least 1,400. There are about 40 designers in Nuclear Engineering Reactor Services and 9 designers in the Nuclear Overhaul Engineering Department, among others, on the Nuclear Services side. Designers in some departments may move between other departments, depending on need.

The designers create drawings and blueprints that are used in the manufacture of ship components, such as valves, and the assembly of the ship. The Employer recruits designers from other companies and graduates of associate degree programs, either mechanical or electrical engineering technology or nuclear design. They typically undergo a one-year training program involving classroom and on-the-job training and employment as a trainee. There is also a four-year apprentice program during which those interested in design spend their last year doing design work.

Designers generally work about 80 to 90 percent of the time in their offices and 10 to 20 percent in the field doing site checks, although this may vary depending on the program and stage of production. They often work with engineering techs side-by-side resolving technical issues, and as stated above, regularly work with quality inspectors and test techs.

d. Engineering Technicians: They are dispersed in different departments, often with designers. In the Navy Programs Division, the ratio of designers to engineering techs is 10 to 1; in Nuclear Services, there are 40 engineering techs. O'Brien, Director of Test Engineering (non-nuclear), states that the engineering techs spend 80 percent of their time in trailers, and 20 percent routing documentation through checkpoints. Director of Nuclear Overhaul Engineering William Fletcher testified that the engineering techs spend 80 to 90 percent of their time at offices and 10 to 20 percent on the waterfront. The engineering techs serve as the interface between the engineers and designers and the trades employees in building systems and components. They perform engineering calculations and write technical procedures. They typically have a highly skilled technical background from prior Navy experience and Navy schools, and the Employer requires that they take specialized coursework to, inter alia, acquaint them with shipyard work and how it works with the Employer's procedures and to acquaint them with design tools.

e. Dimensional Control Technicians: There are about between 60 and 80 dimensional control techs in the Operations and Manufacturing Division. Their duties are to measure spaces and material in connection with components. They map material using photogrammetry cameras and laser trackers, and receive extensive apprenticeship training of 22 weeks. They spend about 75 percent of their time at their desk. They work side-by-side with designers and engineers, and have frequent contact with quality inspectors who sometimes back-check their work with manual methods, and when the dimensional control techs perform surveys for them. They also have some limited work-related contact with the lab techs and even less with test techs. Only 8 techs in the Dimensional Control department (of 125 employees) are radiological control ("radcon") qualified.

f. Laboratory Technicians: Twenty laboratory techs work in the Nuclear Services Division in the Nuclear Engineering and Radiological Control department while other laboratory techs work in the Quality and Process Excellence Division sampling and testing materials and performing calibrations. Most laboratory techs performing radiological control lab work have a background as an RCT. The other non-radcon lab techs mostly have fairly extensive backgrounds in environmental and corporate responsibility with respect to, inter alia, the legal limits on the release of various chemicals into the atmosphere. The vast majority of lab techs' time, 90 percent, is spent in labs. Some of the lab techs go to the ships to collect samples, occasionally going to receiving areas for pick up, and sometimes the non-radcon lab techs would go to the RSF to test samples that needed to be tested in a controlled environment. Murdock testified that his lab techs have the same instrument qualifications as the RCTs and may take radiation and contamination surveys. Quality inspectors and others may bring samples to the lab techs.

g. Chemical Handlers: Several chemical handlers work in Nuclear Services as part of the production refueling and nuclear support department.⁷ They handle radioactive waste or other hazardous materials which need to be moved or disposed. They perform some surveys on the trailers they use to transport their materials. Other chemical handlers in other department(s) handle non-nuclear hazardous waste material.

h. Calibration Technicians: Approximately three calibration techs work in Nuclear Engineering and Radiological Control maintaining the equipment used by RCTs. They work in the calibration lab.

i. Planners: Numerous planners are dispersed among different departments, including 20 to 25 planners in Nuclear Services in Nuclear Overhaul Engineering, 4 to 5 in the Test Engineering department, 8 to 10 in Engineering Reactor Services, and about a couple dozen located in various Navy Programs departments. They review ship designs and drawings to determine the sequence of work and what material

⁷ Robert Lee, a human resources manager, testified that there are also about a dozen chemical handlers handling non-nuclear waste, and about 18 to 20 handling nuclear waste.

will be needed for each phase, and when materials must be ordered and delivered. They take specialized coursework dealing with how the material system works. They spend almost all of their time in their offices, with the rest of the time spent going to the warehouse or purchasing.

2. The petitioned-for Radiological Control Technicians: The RCTs all work in Department E85-Engineering which is under the Nuclear Engineering and Radiological Control Department in the Nuclear Services Division. Department E85 also employs employees in other technical classifications. According to the Director of Radiological Control Joe Murdock, 20 lab techs and 3 calibration (or instrument) techs work in the department. They essentially provide support for the RCTs' work. Additionally, there are approximately 60 RCT trainees. There are also 15 dosimetry techs (classified as administrative employees), and approximately 18 health physics techs, who neither party seeks to include in the unit.⁸

a. Supervision: Director Murdock reports to Rolf Bartschi, the vice president of the Nuclear Services Division. Murdock has a deputy manager, 7 managers, 8 section supervisors, and 26 supervisors under him. Twenty-one of the 26 supervisors supervise RCTs. The remaining supervisors supervise other technicals and employees in the department.

b. Specialized Training: RCTs are required to have extensive specialized training. They first undergo one month of preliminary training at the shipyard and then must attend a 22-week training course at the U.S. Navy's Radiological Control Technician Qualification School in Norfolk, Virginia in order to comply with the U.S. Department of Energy regulations. Their training requires an aptitude in math and physical sciences. After they graduate, they must have at least 5 weeks of on-the-job

⁸ According to the Petitioner's witness, Department E85 includes 11 dosimetry techs, about 28 health physics techs, and 59 monitor trainees. Although Director of Compensation Benefits and HR Information Systems Gary Lewis testified that the health physics techs are currently classified as lab techs, Murdock testified that they are not the same as lab techs. The health physics techs work in the main RADCON building working on radiation health issues (reviewing the readings from the dosimetry tests and radiation surveys), performing mostly paperwork. The dosimetry techs also work in the main RADCON building, where they process the dosimetry, which measures how much radiation exposure each individual receives.

training at the Employer's facility and then pass a full-day oral examination. In addition, they must undergo requalification training and testing every 30 months. No other employees have this type of intensive radiological control ("radcon") training. Some other technicals must be requalified periodically, such as quality inspectors, designers, and test technicians to maintain their particular certifications. Like most other employees, RCTs are required to possess government security clearances at a confidential level or higher.

c. Work Locations: The RCTs report to various locations throughout the shipyard, depending on what projects they are working on. For example, Murdock testified that at the time of the hearings, 50 RCTs were working out of a trailer near the Enterprise (where they perform most of their work), 20 were at the Radiological Support Facility (RSF), 30 were at the consolidated refueling facility (CRF), and others at various trailers and buildings spread over more than a one-mile stretch. The lab techs work out of the RSF, at the radiological lab at Pier 6, and at the calibration facility with the calibration techs. At the labs, the radcon lab techs test and analyze water samples and solid samples to determine the constituency of the material being used or produced as waste. At the RSF, the Employer stores radiological equipment and components that have been removed from ships and that are worked on in the RSF during repair or overhaul. Those items are subject to radiological controls. At the CRF, similar work is done except it is in connection with refueling equipment. The radiological control office at the CRF is next to a quality inspector's office.

d. Job Duties: The RCTs' basic job duties are to ensure that the requirements of the radiological control program are followed by employees working in radiological areas. This is necessary to protect all employees who work in such areas because work on nuclear reactors and related components can generate contaminated material or radiation. The RCTs usually report to their supervisors at the beginning of their varying shifts to ascertain what problems might be happening in the shipyard, what happened during previous shifts, and what work needs to be done, and then proceed to their worksite onboard a ship or in a shop. Based on Technical Work Documents (TWDs), which detail instructions prepared by engineers, engineering techs, and test technicians, and drawings prepared by the designers, RCTs may prepare survey maps and

may set up radiological control areas. On most day-to-day jobs when they set up such restricted areas, they perform “control watches” monitoring the nuclear reactor area. No employee in such instances may enter or leave the area without the permission of the RCT. The RCT will issue employees a device (dosimeter) to monitor how much radiation they pick up and record that dose, question employees as to what work will be done and what materials will be taken into the area, inform them of what areas to stay away from, and then assist them on exiting in assuring that the radiological control requirements are met, including monitoring all materials that leave the area to be sure they are free of contamination. On other jobs, they may leave roped off areas with signs that designate what the requirements are for entry into that area. When performing their various surveys on a daily basis, they may conduct contamination surveys, where they use a swipe to wipe a surface, or radiation surveys, where they may hold a probe and take contact readings, or air sample surveys.⁹ Surveys take between 15 minutes to two hours, depending on the job. Some jobs, e.g., initial entry into a compartment, may require a survey using a team of 3 to 5 RCTs. Most of the RCTs’ time is spent in or around the reactor on the ship. At the RSF and CRF, they may set up radiological control areas around the storage of radioactive materials and monitor work performed on nuclear equipment and components. They can order work stopped if control procedures require it. These duties are essentially performed solely by the RCTs; only some of their work may be performed by others, and only on a very limited basis. For example, environmental lab techs may occasionally perform environmental surveys and air monitoring, and take contamination and radiation surveys of drainage ditches and outfalls to ensure contamination is not spread to the environment, although how often this occurs is not clear. Chemical handlers (over a dozen) also are qualified to do radiation and contamination surveys on their vehicles, but their primary duties are to transport materials and there is no evidence as to how much of their time is spent surveying.¹⁰

⁹ From time to time, when swipes are needed on contamination surveys, the trades may take a swipe in particular areas since they are already in the area, in the presence of the RCTs.

¹⁰ Remote survey teams (employees not at issue here) who work outside of the shipyard gates are qualified to take air samples, radiation and contamination surveys, although it is

RCT trainees, as set forth more fully below, may also perform some routine surveys while they are receiving on-the-job training. However, the duties of performing surveys and setting and monitoring control points in controlling contamination and radiation in the shipyard are the primary functions of RCTs and no other technical employees. They wear hard hats with “E85 RADCON” on them.

e. Specialized equipment and tools: In order to perform their work, the RCTs use specialized tools which they obtain from the calibration lab.¹¹ The lab verifies the equipment is working properly and then has it delivered to the RCTs’ trailers or office areas. RCTs also wear a special kit bag containing certain supplies, e.g., wipes, laws, tweezers, and bags, used in their work. Other employees do not have such bags. A few other classifications are qualified to use some or all of the equipment utilized by the RCTs, for example, some of the lab techs and chemical handlers who occasionally may perform surveys, as discussed above. Calibration techs are qualified on and operate all of the instruments; trainees have qualifications to operate several of the instruments.¹²

f. Permanent and temporary interchange: RCTs do not interchange on a temporary basis with other employees. As for permanent transfers, there are several lab techs, designers, test techs, engineering techs and others who were formerly RCTs. There was no evidence as to the exact number of these transfers, except as to the RCT lab techs, the majority of whom previously were RCTs.

g. Contact with other employees: The RCTs have daily work-related contact with employees in other classifications, primarily with production employees such as painters, machinists, and pipefitters, inasmuch most of the employees entering the control point areas are trade employees or other non-technical employees and

unclear how often this occurs. It appears that this occurs when there is a casualty outside the shipyard.

¹¹ According to the testimony of an RCT II, there are 27 radiation detection instruments and sensors used by RCTs, including teletector, E-140, AN/PDR-70, and E530, among other detection equipment.

¹² There is record testimony that some employees who work in radiological areas are qualified to “self-frisk out,” reading the instruments used by the RCTs. There is no evidence, however, that these same employees are qualified to use all of the specialized tools of the RCTs. There is also testimony that there are certain limited control work performed by production employees, e.g., taking swipes while RCTs are present, or using a probe.

supervisors. At certain stages during the overhauling of ships and during the final months of new construction on carriers and submarines,¹³ the RCTs have more contact with employees in some of the technical classifications, mostly with quality inspectors and test techs, with no showing of any substantial contact with such technicals as lab techs, dimensional control techs, calibration techs, chemical handlers, or planners.

Thus, lab techs,¹⁴ calibration techs, and planners have little or no contact with the RCTs as they spend almost all of their time in their own offices/labs. Occasionally, lab techs may test samples in radiological control areas under the monitoring of RCTs, although it does not appear that this occupies a significant amount of time. As stated above, dimensional control techs spend 75 percent of their time at the desk (and the rest in radcon and non-radcon areas) and only 8 techs out of the department of 125 employees are radcon-qualified. RCT Taylor stated that calibration techs pick up faulty instruments from RCTs about twice a week. RCT Lawrence stated that he did not have frequent contact with lab techs or calibration techs, and when he did have contact, it was only in passing.

Contact with chemical handlers may vary; at the time of the hearing, RCT Section Supervisor Doug Wolkowich testified that there was not much contact; but at other times, it might be as much as two or three times a day, depending on the type or stage of work. RCT Taylor testified that his contacts with respect to handling waste for transport twice a week for pickup was usually with the trade employees rather than the chemical handlers.

David Pickwick, manager for the Dimensional Control Department, stated that RCT contact with the dimensional control techs is not very frequent, with only one percent of their work requiring regular interface with them during rehaul work when they

¹³ It is unclear how much of the Employer's labor force is used for overhauling ships and how much is used for new construction. Bartschi testified that 3000 employees are working on one ship construction at peak times, with 1000 of those working in radiological areas. He did not know how many of these would be technical employees. He also testified that the volume of submarine and carrier new construction business is greater than the volume of business of overhauling a carrier at the facility, but overhaul work is more "labor-intensive."

¹⁴ Wolkowich testified that the frequency with which samples are sent for testing by the lab techs varies; it appears samples may be taken by trade employees, RCTs (once or twice a week), or others and may be picked up by chemical handlers for delivery to the lab. The results normally come back to the supervisors, not to the RCTs.

are required to do surveys of the reactor compartment space envelope for the refueling equipment, which is in a radcon-controlled area. RCT Michael Taylor stated that he never had contact with dimensional control techs. RCT Section Supervisor Doug Wolkowich testified that at the beginning of availability of the ship, the dimensional control techs are working onboard for two or three weeks, and then unless there were an issue, they might not see them for awhile.

The amount of RCT contact with quality inspectors, test techs, designers, and engineering techs is more regular, but the frequency varies, depending on the stage and type of work being conducted at the time, and the particular responsibilities of the different departments. For the most part, the nature of these contacts involves the RCTs' brief interaction at control point areas in monitoring employees and permitting entrance to and exit from those areas, rather than working together with other techs in the actual performance of those employees' functions.

For new construction projects, there is a long period of planning and construction (5 years or more) before nuclear components are involved requiring control measures. In rehauling and refueling projects, there is more extensive contact with designers, engineering techs, test techs, and quality inspectors throughout the period of availability of the ship, although the frequency of such contacts varies depending on the particular stage of production. Monitor III Aaron Lawrence testified that while he interfaces with the trades on a daily basis, he has no interface with planners (or designers). He testified that he hasn't seen too many engineering techs, quality inspectors, test techs—perhaps once a week or once every two months, depending on the job, and he interfaced only “rarely” or “from time to time” with the quality inspectors (maybe once a month or quarter). When working at the facilities, he deals mostly with the trade employees, e.g., the insulators, painters, electricians, and pipefitters. He stated that if there were questions regarding any drawings, he goes to his supervisor rather than to the designer. RCT Michael Taylor testified that he had no contact with designers, engineering techs, or planners and that he viewed his job as supporting the production trades. Edward Guteski, Director of Aircraft Carrier Engineering in the Navy Programs Division, testified that there was not much RCT contact early in the design phase, but there were going to be more once the plant became operational and the RCTs were going to be

required to do shield surveys (the shielding is required to be designed around the propulsion plant.) He estimated that the designers would be in the yard 10 percent of the time but that it would increase to 40 percent as the production progressed, and then lessen again. They go aboard ships to perform ship checks when they analyze systems which they are designing and to investigate problems with the trades, or attending production meetings. According to Glenn Morgan, Director of Nuclear Engineering Reactive Services, among the 40 designers in his department, there is one designer who is out daily in the shipyard doing site checks. Some, not all designers, receive radiation worker training because those who are assigned to do the ship checks may be required to examine systems in and around radiological control areas.

Quality inspectors generally do not interact with the RCT once they enter the controlled area, although they might work behind an RCT conducting surveys when work is done on controlled materials in the storage facilities. The amount of work contact between RCTs and quality inspectors varies according to the phase and type of operations; there is daily contact when the systems are returned to normal and put back on line in a rehaul operation. There was also testimony that the RCTs monitor the trade employees and also inspections by quality inspectors when valves are cut out during certain phases of the ship's availability. Their oversight would be needed for about 10 to 15 minutes to an hour per valve (with 130 valves cut on one of the refueling projects (the U.S.S. Enterprise)). Monitor II Michael Taylor testified that he would occasionally provide monitoring in valve repairs, during which time he would have contact with quality inspectors twice a week, but that at other stages of production, contacts were infrequent.

RCTs' contacts with designers appear to be of a limited nature, inasmuch as the designers generally spend 80 to 90 percent of their time in their offices, but at times there is regular contact. The engineering director for CVN-78 class aircraft carrier, Craig Byrum, testified that the designers were not interacting with the RCTs at the time of the hearing but that in the future there would be daily contact for a year, as they would be entering controlled areas. Other Employer witnesses stated that RCTs have more frequent interface with designers when they are developing the refueling complex for the ship at the beginning of availability, when they build a complex to keep people out of

certain areas, and provide input when the designers needed to resolve what type of curtains or shields were needed. It is unclear how often this occurs or how much time this takes.¹⁵

Kent Williams, Director of Nuclear Engineering Test, testified that his test techs have day-to-day contact with the RCTs on overhauls during busy periods, up to 25 to 30 percent of the time, but very little contact on new construction. Director of Test Engineering James O'Brien testified that only 6 of his over 100 techs (non-nuclear) are radcon qualified and interface with the RCTs. RCT Section Supervisor Doug Wolkowich stated that the amount of contact between the RCTs and test techs varies on the stage of availability (on rehaults and refueling), e.g., on a daily basis when temporary systems are first hooked up and at the end of availability, but less contact, perhaps two to three times a week, at other times.

h. RCT trainees: After their hiring, the RCT trainees spend about a month or so in a training course in the training building, brushing up on their math skills, and spending time on the ships and at the various buildings to become familiarized with the facilities and how they operate. They sometimes are allowed to work on the deck plates but their duties are limited. For example, they perform routine type surveys with oversight by qualified RCTs, using some of the same equipment. Some of the RCT trainees have the qualification to be a limited control point, which means they could set the point and allow certain jobs to go on inside. Above a certain level, they have to have an RCT present. Trainees are qualified to become RCTs when they graduate from their coursework and pass the oral board. If they fail to pass the board, they may be permitted to take it again. If they fail again, they may be able to find trade

¹⁵ Director of Aircraft Carrier Engineering Edward Guteski stated that at the end of production, RCTs go through drawings with engineers and designers, but he did not specify how much time this entailed. Guteski stated that at the time of the hearing, there was not much interface between designers and RCTs, but that once the plant becomes operational, the RCTs would be doing shield surveys for the shielding required around the propulsion plant, and if there are any shielding questions or shield survey issues, they would pull in the engineers and designers to go through drawing issues. There is no indication how much time this would take.

employment in production and maintenance. It is not clear how many trainees fail to become RCTs and their progression is not guaranteed by the Employer.¹⁶

II. ANALYSIS

Technical employees are defined as employees who do not meet the strict requirements of the term “professional employees” but whose work is of a technical nature, involving the use of independent judgment and requiring the exercise of specialized training usually acquired in colleges or technical schools, or through special courses. *Folger Coffee Co.*, 250 NLRB 1 (1980); *Augusta Chemical Co.*, 124 NLRB 1021 (1959). The evidence establishes that the RCTs are technical employees, based on their specialized training in a 22-week program of courses and on-the-job training, the nature of their skills, and their use of independent judgment in performing their radiological control functions.¹⁷ As to the remaining nine classifications alleged by the

¹⁶ There was testimony that many trainees do not succeed in becoming RCTs; in the Employer’s monthly publication, an article about the RCTs asserts that 50 percent do not pass the U.S. Navy’s 22-week RCT training course.

¹⁷ The Petitioner claims that the RCTs are craft employees. I find that the RCTs are not a craft unit, as they are not a homogeneous group of skilled journeymen who, together, with helpers or apprentices, are primarily engaged in the performance of tasks which require the use of substantial “craft” skills. *MGM Mirage*, 338 NLRB 529, 532 (2002); *Reynolds Electrical & Engineering*, 133 NLRB 113 (1961). Generally, employees found by the Board to be “craft” employees are “the type ordinarily associated with journeymen craftsmen or other manual workers” (see *Reynolds Electrical & Engineering*, supra at 114), such as sheet metal workers, tool & die workers, printing pressmen, etc. See, e.g., *Anheuser-Busch*, 170 NLRB 46 (1968) (electricians found to have craft status were required to be licensed with 3 to 4 years of electrical experience); *Kennecott Copper Corp.*, 138 NLRB 118 (1962) (machinists found to be craft employees underwent 4-year apprenticeship program; painters were craft employees who had to prove journeyman status). Cf. *Union Fishermen’s Co-Op Packing Co.*, 52 NLRB 541 (1943) (watchmen who maintain and monitor the temperature of cold storage equipment are not craft employees); *Reynolds Electrical*, supra (first aid attendants found not to be craft employees); *Proctor & Gamble*, 251 NLRB 492 (1980) (electrical support techs found not to be craft employees); *Timber Products Co.*, 164 NLRB 1060 (1967) (maintenance electricians were essentially no more than specialized workmen with limited skills and training adapted to the particular processes of the Employer’s operation); *In re Bartlett Collins Co.*, 334 NLRB 484 (2001) (2001)(mold repair employees did not perform functions traditionally associated with either the mold craft or any other “craft”). The Petitioner cites no cases to persuade me that employees performing the type of work using the particular skills and training of the RCTs are akin to journeymen or manual workers who have achieved craft status.

Employer to be technical employees, the Petitioner does not dispute they are technical employees as the Board defines that term, and there is evidence to support a finding that most, if not all, are technicals. I therefore shall assume that the nine classifications are technical employees.

The Board has held that when technical employees work in similar jobs and have similar working conditions and benefits, the smallest appropriate unit for a group of technicals must include all technicals similarly employed. *Western Electric*, 268 NLRB 351 (1983); *TRW Carr Division*, 266 NLRB 326, (1983); *Aerojet General Corporation*, 131 NLRB 1094 (1961). While the Board has therefore found units of some, but not all, “similarly situated” technical employees to be inappropriate, it has also found a smaller unit to be appropriate when the petitioned-for technical classification possesses a sufficiently distinct community of interest apart from other technicals to warrant their establishment as a separate appropriate unit. See *Pratt & Whitney*, 327 NLRB 1213 (1999). The Board therefore examines traditional community of interest factors such as bargaining history, supervision, interchange, functional integration, contact with other employees, skills, training, job functions, and terms and conditions of employment to determine the appropriateness of such units.

The evidence establishes that the RCTs possess a distinct community of interest from all other technicals outside of the radiological control department. As set forth more fully below, the RCTs, inter alia, possess unique skills, undergo intensive, lengthy, and strikingly specialized training, have distinct job functions, utilize special tools and equipment, do not temporarily interchange with other technicals, and have separate supervision. Further, the level of functional integration and contact with non-radiological control technicals is not so substantial as to negate their separate and distinct community of interest. See *New Orleans Public Service*, 215 NLRB 834 (1974) (less than all-technical department unit found appropriate where functions were sufficiently distinct); *Ochsner Clinic*, 192 NLRB 1059 (1971) (radiological technologists, or x-ray techs, found to constitute a separate appropriate unit apart from other technicals).

Thus, the RCTs are administratively grouped in only one department, the Nuclear Engineering and Radiological Control department, which solely administers and controls

all radiological work at the facility. By contrast, the other technical classifications – the designers, engineering techs, planners, quality inspectors, dimensional control techs, test techs, and the non-radiological control lab techs – are not in the same department, but rather are dispersed among different departments performing different functions, under separate supervision, e.g., designers work in many different departments, with different supervisors.

Further, it is undisputed that the RCTs receive specialized radiological control training, and have skills and job functions using specialized tools generally not shared by other technicals outside of the department. They must undergo extensive on-the-job radiological control training, complete a 22-week course of instruction from the U.S. Navy in order to comply with U.S. Department of Energy regulations, and pass an oral board. The other technicals (aside from most of the radiological control lab techs) have not had such training. Most of the other technicals receive only limited radiation worker training of a few days, as do other non-technical employees. The RCTs use specialized tools and equipment, which except in certain limited circumstances, are not used by other technicals. RCTs are the only techs responsible for assuring that radiological control procedures are followed, including monitoring and securing radiological areas where radioactive materials are used or stored, and they perform work solely in areas involving radioactive materials. The duties and functions of the RCTs are essentially unique to them, with only limited survey work performed by others.

While there is some voluntary permanent interchange with other techs, the frequency with which this occurs is not clear (except that the majority of radiological control lab techs were previously RCTs). It is evident that there is no temporary interchange between the RCTs and other techs. See *Bashas, Inc.*, 337 NLRB 710, 711 n.7 (2002) (permanent interchange is a less significant indicator of community of interest, and thus is given less weight by the Board in deciding unit scope issues); *Red Lobster*, 300 NLRB 908, 911 (1990).

The Employer contends that the unit must include all other technicals because all technicals receive the same benefits, are classified with the same salary structure, and are subject to the same personnel policies, and because there is extensive contact and functional integration among the technical employees. Notwithstanding that the RCTs do

share such terms and conditions of employment in common with other technicals, I find that the RCTs' level of contact with other technicals and the amount of functional integration, at least with respect to those techs outside of their department, are not so substantial as to require that they be included with all other technicals. By contrast, many of the excluded techs exhibit a greater functional integration in their related job duties with other excluded, non-RCT techs.

Thus, although the RCTs have daily work-related contact with other employees, most of this contact is with the trade employees, rather than other technicals. Further, certain technical classifications, e.g., planners, dimensional control techs, lab techs, among others, spend most of their time in their offices and have very little regular contact with the RCTs. Contacts with other classifications, such as designers, engineering techs, test techs, and quality inspectors are somewhat more regular, but only at certain times and only involving a portion of these techs, as many do not work on nuclear components. Specifically, such contact varies according to the stage and type of work performed, and the department in which the employee works. Thus, with regard to new construction on carriers and submarines, the RCTs do not have significant contact with technical employees until the final months of the five to six years' duration of these projects, when radiological areas need monitoring. On overhaul and refueling projects, some test techs may have daily contact with the RCTs, but only during certain busy periods; the designers and engineering techs may occasionally have more frequent contact with the RCTs, such as when they are developing the refueling complex for a ship at the beginning of availability, but the fact remains that such technicals overall spend 80 to 90 percent of their time in their offices. Further, significant numbers of technicals are in non-nuclear related departments, and therefore may have little or no contact with the RCTs, e.g., only 6 of over 100 test techs in the Test Engineering department are radcon qualified and interact with RCTs. The vast majority of the test techs (including all types of test techs) are not assigned to test components of the nuclear portion of the ships. According to Director of Nuclear Engineering Reactive Services Morgan, among the 40 designers in his department, there is only one designer who is out daily in the shipyard doing site checks; designers also work on non-nuclear components, and indeed, only some of the designers receive radiation worker training. Additionally, not all nuclear

areas require on-site monitoring by RCTs, depending on the nature of work performed and the level of radiation or contamination control needed. Finally, for the most part, the nature of the contacts when other techs are required to go into radiological control areas involves the RCTs' brief and incidental interaction with employees entering and exiting a control point area, rather than their working with other technicals in the performance of their job functions. By comparison, for example, the work of designers, quality inspectors, and test techs are much more directly related to the production processes and are correspondingly more functionally integrated, e.g., test techs use drawings of designers to write their test procedures and must work with them when encountering problems with the drawings/diagrams.

The Employer argues that the Board's decision in *Westinghouse Electric Corp.*, 300 NLRB 834 (1990),¹⁸ is controlling. There, the petitioner sought a unit of radiological control technicians, and the Board found that the unit was not appropriate because it did not include other technicals.¹⁹ The Board reasoned that the petitioned-for technicians provided direct support services for and had close contact with other technicals, and their tasks were "not discrete from the Employer's major service." 300 NLRB at 835. Thus, the Board found that the technicals' functions, including the RCTs' functions, at the nuclear reactor facility were "thoroughly integrated and interdependent." *Id.*²⁰ The Employer contends that the RCTs here perform a very similar radiological safety and oversight function as the radiological control technicians in *Westinghouse*, and that the

¹⁸ See also, *Westinghouse Electric Corp.*, 137 NLRB 332 (1962).

¹⁹ The Board included inspectors, instrument specialists and instrument technicians, irradiated components examination technicians and irradiated components controllers, chemistry technicians, operations technicians, technical designers, refueling equipment technicians, reactor test technicians, and technical specialists in the unit found appropriate.

²⁰ The Board relied on this finding from a prior *Westinghouse* case, 137 NLRB 332 (1962), involving the same facilities, and presenting facts which the Board found "strikingly similar" to the facts in the subsequent case thirty years later. The units at issue in the prior *Westinghouse* case were different than the petitioned-for unit of radiological control techs in the 1990 case, or the unit at issue in the present case, inasmuch as the petitioner had sought to represent, inter alia, several technical classifications assigned to only certain groups, to the exclusion of others in the same classifications assigned to other groups. The Board found that the units petitioned for did not constitute "functionally distinct or homogeneous groups of employees, nor administrative or departmental units, such as the Board might recognize."

RCTs' integration with other techs in the Newport News' business operations is at least as strong as that shown in the nuclear reactor facility involved in *Westinghouse*.

Contrary to the Employer, I find *Westinghouse* to be distinguishable. Unlike here, the employer operated nuclear reactor plants and a material handling facility, receiving expended nuclear fuel from naval ships and other material to be processed for disposal, and two prototype nuclear reactor plants for training civilian and navy personnel. As such, the "major service" of the Employer's operations in *Westinghouse* was almost exclusively directed at handling and processing nuclear material and operating the nuclear plants. By contrast, as set forth above, the primary purpose of the Employer's operations involves new carrier and submarine construction that does not require radiological control work until the last months of several years of production. Even during these final months, a significant part of the Employer's overall operations are not directly involved in working on nuclear components, and the RCTs' tasks are discrete from these functions. In the Employer's rehaul and refueling operations, while there are some stages during which there are regular, though brief, contacts with certain other techs, there are significant stages during which there is little need for other techs to interact with RCTs. In addition, the radiological control techs in *Westinghouse* constituted a much larger percentage of the technical employees at the facility (51 out of 217 technicals); by contrast, there are over 2,000 technicals that the Employer seeks to include, the vast majority of whom do not interact with the RCTs on a significant, regular basis. Finally, assuming the facts of both *Westinghouse* cases are "strikingly similar", as found by the Board, it is significant that, unlike here, the industrial hygiene techs/radiological control techs in the *Westinghouse* cases temporarily interchanged with another technical classification (inspectors). Therefore, I conclude that the nature of operations and the level of functional integration and RCT contact with other techs are distinct in meaningful respects from the facts in *Westinghouse*.²¹

²¹ *Woodland Park Hospital*, 205 NLRB 888 (1973), cited by the Employer, is likewise distinguishable. There, the Board found that a separate unit of X-ray technicians in a general hospital was not appropriate. The technicians at issue were required at times to work with other classifications to accomplish the x-rays, and sometimes worked in the same operating room with other employees in coordination with procedures performed by others. The Board found that this type of frequent contact and functional integration (the

Accordingly, and in the absence of any significant bargaining history,²² I find that the RCTs have a distinct community of interest separate and apart from those technicals outside of the radiological control department. The record further establishes that the RCTs share a community of interest with the trainees, calibration techs and radcon lab techs in the department sufficient to require their inclusion. Thus, these techs are in the same department, have job duties functionally related and integrated in that all are responsible for radiological control at the facility, are trained to use the same specialized equipment, work out of radcon facilities, and are under the same departmental supervision hierarchy. In addition, most of the lab techs in the department have progressed from the RCT classification. The radcon lab techs generally do not interact with those lab techs outside of the department. Therefore, the radcon lab techs possess a community of interest with the RCTs not shared by the lab techs outside of the department. The calibration techs, while not required to possess the same training or perform the same duties as the RCTs, work on and operate the instruments and equipment used by the RCTs, and are responsible for ensuring that these instruments and equipment are in working order.

As for the trainees, it is undisputed that they receive the same training as the RCTs in order for them to become monitors in the next step of their job progression; they perform some of the same duties using some of the same equipment and tools; and the

degree to which is not found here) was sufficient to require the inclusion of other classifications, and noted in particular that to do otherwise would “lead to severe fragmentation of units in the health care industry,” a consideration not present in this case.

²² Contrary to the Petitioner’s position, the fact that the designers may have been separately represented more than 30 years ago is not controlling. See *Macy’s San Francisco*, 120 NLRB 69, 71 (1958). Further, bargaining history of one group of organized employees in a plant does not control the unit determination of another group. *Big Y Foods*, 238 NLRB 855 (1978); *Miller & Miller Motor Freight Lines*, 101 NLRB 581 (1953). As to the less-than-all-technical units in the Gulf Coast division, such bargaining history does not govern the instant petition inasmuch as it involves a different facility, different classifications, and different type of operations, and the Board does not consider itself in any event bound by a collective-bargaining history resulting from a consent election conducted pursuant to a unit stipulated by the parties rather than one determined by the Board. *Laboratory Corp. of America Holdings*, 341 NLRB 1079 (2004); *Mid-West Abrasive Co.*, 145 NLRB 1665 (1964); *Macy’s San Francisco*, 120 NLRB 69, 71 (1958).

Employer does not dispute their inclusion in a departmental unit. The fact that employees may be given a classification such as beginner, trainee, or probationary employee, and that permanent tenure is subject to a satisfactory completion of an initial trial period, has been held by the Board not to warrant their exclusion from the unit. See *Johnson's Auto Springs Service*, 221 NLRB 809 (1975). The proportion of trainees who succeed in their training requirements does not contravene their inclusion. *Id.* at 810.

Accordingly, I find a departmental unit of technical employees – RCTs, RCT trainees, E85 lab techs, and calibration techs, excluding all other technicals to constitute a functionally distinct grouping with a sufficiently distinct community of interest as to warrant a separate unit appropriate for the purposes of collective bargaining. See *Bally's Park Place*, 255 NLRB 63 (1981)(slot machine department found appropriate); *Herron Testing Laboratories, Inc.*, 182 NLRB 508 (1970)(departmental unit of drillers found appropriate, excluding inspectors and soil sample lab testers); *Rayonier, Inc.*, 110 NLRB 1191 (1954)(powerhouse employees found not to be craftsmen, but constituted an appropriate departmental unit).

III. CONCLUSION

At the hearing, the Petitioner stated its willingness to proceed to an election in the unit I have found appropriate. Since the unit that I find appropriate is broader than the petitioned-for unit, the Petitioner is granted fourteen (14) days from the date of this Decision to make an adequate showing of interest, if necessary.²³ Should the Petitioner not wish to proceed to an election in the broader unit it will be permitted, upon request, to withdraw its petition without prejudice.

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

²³ There are approximately 140 employees in the unit sought by Petitioner, and approximately 60 RCT trainees, 20 lab techs, and 3 calibration techs in Department E85 who I find must be included in the appropriate unit.

2. The Employer is an employer as defined in Section 2(2) of the Act and is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner, International Association of Machinists and Aerospace Workers, AFL-CIO, is a labor organization as defined in Section 2(5) of the Act.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
5. The parties stipulated that Northrop Grumman Shipbuilding, Inc., a Virginia corporation, with an unincorporated division located in Newport News Virginia, is engaged in the construction of nuclear-powered ships, both aircraft carriers and submarines, for the United States Navy, and the overhaul, maintenance and repair of existing Navy ships. During the preceding 12 months, a representative period, the Employer, in conducting its business operations described herein, purchased and received goods valued in excess of \$50,000 directly from points outside the State of Virginia.
6. There is no relevant history of collective bargaining between the Employer and the Petitioner for the petitioned-for unit.
7. I find the following employees of the Employer constitute a unit appropriate for the purpose of collective-bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time radiological control technicians, radiological control technician trainees, laboratory technicians, and calibration technicians employed in Department E85 at the Employer's facility in Newport News, Virginia, but excluding all other employees, all office clerical employees, professional employees, managerial employees, guards, and supervisors as defined in the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by **International Association of Machinists and Aerospace Workers, AFL-CIO**. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are: (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing

the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, National Labor Relations Board, Region 5, 103 South Gay Street, 8th Floor, Baltimore, MD 21202, on or before **June 5, 2009**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (410) 962-2198. Since the list will be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

D. Notice of Electronic Filing

In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, D.C. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the

Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" on the National Labor Relations Board web site: www.nlr.gov

RIGHT TO REQUEST REVIEW

Pursuant to the provisions of Section 102.67 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, you may obtain review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570-0001.

Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, the request for review must be received by the Executive Secretary of the Board in Washington, DC by close of business on **June 12, 2009**, at 5 p.m. (ET), unless filed electronically. Consistent with the Agency's E-Government initiative, parties are encouraged to file a request for review electronically. If the request for review is filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is accomplished by no later than 11:59 p.m. Eastern Time on the due date. Please be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of a request for review by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, select the E-Gov tab and then click on E-filing link on the pull down menu. Click on the "File Documents" button under Board/Office of the Executive Secretary and then follow the directions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be

Re: Northrop Grumman Shipbuilding, Inc. 29
Case 5-RC-16292

May 29, 2009

excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

(SEAL)

/s/WAYNE R. GOLD

Dated: May 29, 2009

Wayne R. Gold, Regional Director
National Labor Relations Board, Region 5
103 S. Gay Street, 8th Floor
Baltimore, Maryland 21202