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| **From:** | May Va Lor |
| **To:** | RulemakingComments Resource |
| **Subject:** | [External_Sender] Comments of the Laborers" International Union of North America on Docket ID NRC-2015-0070 |
| **Date:** | Tuesday, August 30, 2022 3:05:54 PM |
| **Attachments:** | Final nuclear comments 8.30.22 final on letterhead.pdf |

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To Whom It May Concern,

On behalf of the Laborers' International Union of North America's General President, Terry O'Sullivan, please find attached our comments in the above-referenced case.

Sincerely,

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# LiUNA!

August 30, 2022

VIA E-MAIL

Chairman Christopher T. Hanson
U.S. Nuclear Regulatory Commission
Attention: Rulemakings and Adjudications Staff
Washington, DC 20555-0001
Rulemaking.Comments@nrc.gov

RE: Comments of the Laborers' International Union of North America, Docket ID NRC-2015-0070

Dear Chairman Hanson:

The Laborers' International Union of North America (LIUNA) submits these comments in response to the U.S. Nuclear Regulatory Commission (NRC) Notice of Proposed Rulemaking for the proposed rule "Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning" in NRC-2015-0070-0229.

## Introduction

LIUNA represents half a million construction workers in the United States and Canada, and is one of the largest, and most diverse construction trade unions in the country. One-third of our union's work hours are in the energy sector where members build and maintain the nation's vital energy infrastructure, including nuclear power reactors. In the nuclear industry, our members are helping to build Plant Vogtle, the first nuclear plant constructed in the last 30 years. In addition, thousands of LIUNA members are employed annually on nuclear plant outages and on decommissioning projects. Most LIUNA members are not employed directly by operators, rather, our members are employed by specialty construction contractors who work hand-in-hand with an operator's direct workforce. We estimate that LIUNA members are employed on 71% of plant outages annually, and we have members on nearly all of the major decommissioning projects underway including San Onofre Units 2 and 3, Three Mile Island Nuclear Stations Unit 1 and 2, and the Kewaunee Power Station. LIUNA members also recently completed

decommissioning the Zion units in Illinois. Construction laborers comprise the largest trade on-site during demolition and decommissioning activities.

LIUNA supports the continued operations of nuclear power reactors wherever feasible. Nuclear power is a critical piece to meeting federal and state clean energy targets while also maintaining system reliability. Nuclear energy has the highest capacity factor of any power source, 2.5 to 3.5 times more reliable than wind and solar, and its base load is needed to offset the intermittent energy generated by renewables. Nuclear power has comprised 20 percent of the nation's electricity since the 1980's, and currently produces half of the country's carbon-free electricity, avoiding 470 million metric tons of carbon each year.[1]

Moreover, the nuclear power industry supports half a million jobs, many of which are well-paid, high-quality jobs that provide a lifeline to the middle-class for workers and their families. In fact, the median hourly wage for nuclear workers is 104.8% greater than the national median wage.[2] Notably, the industry employs a greater share of veterans as compared to the national workforce as well.[3]

For our members, nuclear outages have been a consistent source of employment for multiple generations of workers, many of whom return regularly to perform scheduled outage work. For plant operators, the availability of an experienced and skilled local workforce enhances productivity and efficiency. For host communities, nuclear plants support the local and state economies by directly employing on average 700 in-house workers with wages 30% greater than the local average, and hundreds more contracted-out workers like our members. Despite these benefits, market conditions, not operational performance, is driving the closure of these vital assets. State intervention has prevented the closure of 16 reactors scheduled for retirement,[4] and it is our hope that the industry and affected communities continue to work together to find additional policy solutions. LIUNA

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[1] https://www.energy.gov/ne/articles/advantages-and-challenges-nuclear-energy#:~:text=Creates%20Jobs,higher%20than%20the%20local%20average.

[2] USENERGYJOBS.ORG, "Wages, Benefits, and Change, A Supplemental Report to the Annual U.S. Energy and Employment Report," https://static1.squarespace.com/static/5a98cf80ec4eb7c5cd928c61/t/606d1178a0ee8f1a53e66206/1617760641036/Wage+Report.pdf

[3] https://www.energy.gov/sites/default/files/2021-07/USEER%202021%20Main%20Body.pdf

[4] https://crsreports.congress.gov/product/pdf/R/R46820/3#:~:text=Diablo%20Canyon%201%20and%202,energy%20and%20energy%20efficiency%20measures.

will continue to collaborate with operators, legislators, and community stakeholders to promote the continued operations of a nuclear plant wherever possible.

**Summary**

The NRC is proposing to amend its regulations related to the decommissioning of production and utilization facilities. NRC noted in its 1988 Final Rule that "the number and complexity of facilities that would require decommissioning was expected to increase, and inadequate or untimely consideration of decommissioning, specifically in the areas of planning and financial assurance, could result in significant adverse health, safety, and environmental impacts." (53 FR 24019). Indeed, there are 24 reactors undergoing decommissioning,[5] and at least seven more slated for closure through 2025.[6] LIUNA recognizes that an update to the rules may be needed to reflect the current status of the nation's nuclear fleet.

LIUNA generally agrees with the NRC's stated purpose for this rulemaking: As plants are closed, defueled, and no longer operational, the associated risks of a radiological release decrease. LIUNA also agrees that the industry and stakeholders would benefit from the establishment of clear and transparent requirements for future decommissioning that reflect lessons learned from past decommissioned plants, as well as best practices for community engagement. We do urge caution against proposed rules that reduce the amount or level of training or qualifications for personnel on decommissioning projects. In addition, we caution against proposed rules that relax requirements for license transfers that could potentially result in unqualified companies acquiring and decommissioning plants, and controlling ratepayer-funded decommissioning trust funds. In recognition of the immense role nuclear plants have in supporting family-sustaining jobs, LIUNA recommends rules that strike a balance between local input and federal oversight of the decommissioning process. Lastly, we offer several observations of best practices related to workforce transition issues, and employment practices on decommissioned projects. Our recommendations below apply to the contracted-out construction and decommissioning laborers at nuclear plants and not direct employees of nuclear facilities or other construction trades.

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[5] https://www.nrc.gov/info-finder/decommissioning/power-reactor/index.html
[6] https://crsreports.congress.gov/product/pdf/R/R46820/3#:~:text=Diablo%20Canyon%201%20and%202,energy%20and%20energy%20efficiency%20measures.

**Specific Recommendations**

(1) The rulemaking asks for public feedback on the appropriateness of maintaining the three existing options for decommissioning (DECON, SAFSTOR, and ENTOMB), and the timeframes associated with these options. LIUNA supports and urges the NRC to prefer accelerated decommissioning whenever possible to help blunt the immediate economic losses following a plant shutdown, and to help expedite release of the site to the local community for productive use. Similar to license transfers at Vermont Yankee, Zion, and Crystal River plants, the NRC should view an accelerated decommissioning timeline as a public benefit.

Demolition and nuclear waste storage companies are buying older reactors, and promising to decommission them in significantly less time than their previous owners (in some instances 8 years instead of 60). This presents an immediate opportunity to employ displaced construction laborers, and help preserve the local tax base. But, in order to maximize the public benefits associated with accelerated decommissioning, there needs to be some assurance that 1) contracted-out construction laborers who performed outages and maintenance activities at the nuclear plant are prioritized for decommissioning employment opportunities, and 2) their wages and benefits for decommissioning are equivalent to their earnings during operations. LIUNA urges the NRC to propose a rule that asks licensees to certify in their Post Shutdown Decommissioning Activities Report (PSDAR) that they have made a concerted effort to fill decommissioning laborers jobs with incumbent contractor construction laborers at equivalent wages and benefits.

(2) The NRC poses the following question: As part of this rulemaking, should the NRC require approval of the PSDAR, a site-specific environmental review, and hearing opportunity before a licensee undertakes any decommissioning activity? Currently, within two years after submission of a certification of permanent closure, the plant operator must submit a PSDAR to the NRC. After receiving the report, the NRC publishes a notice in the *Federal Register*, and makes the report available for public review and input. The NRC also holds a public meeting in the affected community. The NRC does not approve a PSDAR, and a licensee can begin major decommissioning without NRC approval. Elected officials and community leaders have criticized this approach, and have called on the NRC to do more to involve states and local communities in the decommissioning process and timeline.

As an affected workforce in many communities, we participate in public input activities, as well as directly engage with the plant operator and contractors on

workforce development and employment opportunities. In many cases, we have been able to find common ground and secure employment solutions that support the incumbent unionized local laborer workforce. In some instances, however, the licensee or its decommissioning contractor, has reversed course and reneged on pre-hire agreements for union decommissioning laborers touted by the licensee during the license transfer application process, or whose rates were included in the formulation of labor costs in a PSDAR.

For example, in its bid to acquire the Indian Point, Pilgrim, Oyster Creek, and Palisades licenses, Holtec promoted the National Labor Agreement (NLA) in place with ours and two other trade unions. In support of the NLA, in New York for example, Holtec stated, "Working through these unions, local union halls near Indian Point have been identified to provide the necessary skilled labor needed to safely execute and complete decommissioning."[7] Holtec, however, has removed hundreds of our members on decommissioning projects with no recourse or opportunity for community input. This is just one of several examples we have observed of licensees breaking commitments to the local community because the NRC has a limited role in PSDAR approvals. It is precisely broken promises like these that sow distrust between affected communities and a plant operator.

In order to balance actions by licensees with needs of the host community, LIUNA supports an expanded NRC role in the decommissioning process, which we believe includes NRC approval of PSDARs, in a manner that does not make the process significantly more time-intensive or inefficient. We believe this balance can be accomplished by establishing a detailed approval process with specific time frames at each step to assure the approval process does not significantly delay the accelerated decommissioning timeline. In addition, we believe that if community advisory boards or state officials are empowered in the decommissioning process, it becomes more likely that the PSDAR will win public support, and decommissioning will not be delayed. Therefore, we encourage the NRC to adopt rules that give state or local governments a limited role in the decommissioning process. We believe a middle path can be found that balances the needs of diverse stakeholders and accomplishes the shared goals of safe and efficient decommissioning, while also being responsive to local concerns.

(3) NRC asks, other than NRC review and approval of the PSDAR, are there other activities that could help to increase transparency and public trust in the NRC

[7] https://holtecinternational.com/company/divisions/hdi/our-fleet/indian-point/

regulatory framework for decommissioning? Should the rule provide a role for the states or local governments in the process? What should that role be? What are the advantages or disadvantages of various roles? Please provide an explanation for your response.

The decommissioning process is often not fully understood by the public and local officials. Guidance focused on increasing transparency, and promoting public education at various stages of decommissioning may help communities better prepare for plant retirement, identify local impacts, troubleshoot future problems, and build trust during the process. One tool to promote community engagement is the formation of Community Advisory Boards (CAB). A 2020 NRC report to Congress outlining best practices for community engagement speaks to the importance of Community Advisory Boards during the decommissioning process.[8] The NRC should require the formation of a CAB at all affected sites, and adopt the report's main recommendations which supported: 1) early formation of CABs in the decommissioning process, and 2) designation of a funding stream to promote community input and board activities. To adequately reflect the diversity of constituents, Community Advisory Boards should also include representatives of contracted-out union laborers. For example, the Palisades Community Advisory Panel includes in its charter representatives of affected labor organizations including the Utility Workers Union of America, LIUNA, and the United Government Security Officers of America.[9]

Moreover, the NRC should encourage as a best practice empowering Community Advisory Boards to work with licensees to jointly develop a workforce transition plan for displaced contracted-out unionized construction laborers that prioritize their employment with equivalent wages and benefits, and append that plan to a PSDAR. Licensees should not be able to claim as proprietary basic wage and benefit data for workers performing decommissioning, or which contractors they are employing on the project. Express support by the NRC could provide greater transparency around employment opportunities created by decommissioning, and help mitigate the loss of high quality jobs in the community. LIUNA encourages the NRC to adopt as a best practice the development of a workforce transition plan

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[8] US Nuclear Regulatory Commission, "Best Practices for Establishment and Operation of Local Community Advisory Boards Associated with Decommissioning Activities at Nuclear Power Plants," https://www.nrc.gov/docs/ML2011/ML20113E857.pdf.
[9] https://www.vanburencountymi.gov/DocumentCenter/View/2542/PCAP-Charter-Document?bidId=

that includes contractor laborers, and representation of contractor laborers on community advisory boards.

**Conclusion**

Unlike the building of a solar or wind farm where developers routinely import an out-of-state workforce for construction activities, local incumbent construction laborers are best equipped for nuclear decommissioning. Employment for incumbent contracted-out laborers not only preserves local job opportunities, but it benefits the operator in several ways. Decommissioning is costly, labor-intensive, and performed over a ten-year time frame. The availability of an experienced local workforce for decontamination and demolition activities can expedite labor procurement, training, and keep decommissioning activities on schedule. And, in the case of a unionized contractor workforce, the wages, benefits, and working conditions have been collectively bargained, providing some labor cost certainty for licensees.

Included in these plans should be a workforce transition plan which includes contractor laborers. There is often a misconception that only an operator's direct employees are adversely affected by plant closures, but there are thousands more contractor laborers who rely on the plant for continuous employment, and who have developed significant experience working at the plant over several years. These workers are a valuable asset who should be prioritized for employment opportunities during decommissioning.

We appreciate the opportunity to provide these comments, and thank you for your attention.

With kind regards, I am

Sincerely yours,

TERRY O'SULLIVAN
General President

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