

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BEYOND NUCLEAR, INC.,)	
)	
)	
Petitioner,)	
)	
v.)	Case No. <u>21-1230</u>
)	
UNITED STATES NUCLEAR)	
REGULATORY COMMISSION and the)	
UNITED STATES OF AMERICA,)	
)	
Respondents.)	
)	

PETITION FOR REVIEW

Pursuant to 42 U.S.C. § 2239, 28 U.S.C. § 2344, 5 U.S.C. § 702, 42 U.S.C. § 10139, Fed. R. App. P. 15(a), and D.C. Cir. Rule 15(a), Petitioner Beyond Nuclear, Inc., through its undersigned counsel, seeks review of the issuance by the United States Nuclear Regulatory Commission (the “NRC” or “Commission”) of a license to build and operate the WCS Consolidated Interim Storage Facility (“License Issuance”). The NRC issued the license on September 13, 2021, and published a notice at 86 Fed. Reg. 51,926 (Sept. 17, 2021).¹

The License Issuance constitutes the NRC’s last action consummating its consideration of a license application by Interim Storage Partners (“ISP”) for

¹ A copy of the Federal Register notice is attached.

construction and operation of a facility to store “spent” or used nuclear reactor fuel. Petitioner seeks review of the License Issuance on the grounds that by approving the issuance of a license to ISP, and by refusing to dismiss the licensing proceeding at its inception, the NRC violated the Nuclear Waste Policy Act (“NWPA”), 42 U.S.C. §§ 10222(a)(5)(A) and 10143, and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 706(2)(A) and (C).²

Accordingly, Petitioner respectfully requests this Court to review, reverse, and vacate the License Issuance and grant any other remedies that may be appropriate.

This filing is timely because it is made within the 60-day period established by the Hobbs Act, 28 U.S.C. § 2344, for bringing a petition for judicial review of a final agency action. The License Issuance was noticed within the last 60 days, and

² Petitioner notes that this Petition for Review is intended to substitute for an Amended Petition for Review of the same License Issuance, filed by Petitioners on November 4, 2021 in *Beyond Nuclear v. NRC*, No. 21-1056 (consolidated with Nos. 21-1048, 21-1055, and 21-1179 under the caption *Don’t Waste Michigan, et al. v. NRC*, No. 21-1048). This Petition for Review is being filed in an abundance of caution, in response to a question raised by the court in *Don’t Waste Michigan, et al.* of whether a new Petition for Review of the License Issuance is necessary to obtain review of that decision. Order at 1 (Nov. 10, 2021). In light of the statutory 60-day limit on petitions for review in the Hobbs Act, 28 U.S.C. § 2344, Petitioners are submitting this Petition for Review now. In a separate notice, Petitioner will withdraw the Amended Petition for Review from that proceeding. In the coming week, Petitioner also plans to seek consolidation of this Petition for Review with *Don’t Waste Michigan, et al.*

renders final and ripe all other orders issued against Beyond Nuclear in the underlying proceeding. Venue is appropriate within the D.C. Circuit pursuant to 28 U.S.C. § 2343.

Respectfully Submitted,

_____/signed electronically by/____

Diane Curran

Harmon, Curran, Spielberg, & Eisenberg, L.L.P.

1725 DeSales Street N.W., Suite 500

Washington, D.C. 20036

240-393-9285

Email: dcurran@harmoncurran.com

_____/signed electronically by/____

Mindy Goldstein

Turner Environmental Law Clinic

Emory University School of Law

1301 Clifton Road

Atlanta, GA 30322

404-727-3432

Email: magolds@emory.edu

Counsel for Petitioner

November 12, 2021

comments from private citizens and industry organizations. The NRC staff's evaluation and resolution of the public comments are documented in ADAMS under Accession No. ML21211A578.

III. Congressional Review Act

NUREG-1021, Revision 12, is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated: September 14, 2021.

For the Nuclear Regulatory Commission.

Christian B. Cowdrey,
Chief, Operator Licensing and Human Factors Branch, Division of Reactor Oversight, Office of Nuclear Reactor Regulation.

[FR Doc. 2021-20171 Filed 9-16-21; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2021-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 20, 27, October 4, 11, 18, 25, 2021.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of September 20, 2021

There are no meetings scheduled for the week of September 20, 2021.

Week of September 27, 2021—Tentative

Thursday, September 30, 2021

9:00 a.m. Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines (Public Meeting); (Contact: Candace De Messieres: 301-415-8395)

Additional Information: Due to COVID-19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—<https://video.nrc.gov/>.

Week of October 4, 2021—Tentative

Tuesday, October 5, 2021

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Don Lowman: 301-415-5452)

Additional Information: Due to COVID-19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live

by webcast at the Web address—<https://video.nrc.gov/>.

Friday, October 8, 2021

10:00 a.m. Meeting with the Advisory Committee on Reactor Safeguards (Public Meeting); (Contact: Larry Burkhardt: 301-287-3775)

Additional Information: Due to COVID-19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—<https://video.nrc.gov/>.

Week of October 11, 2021—Tentative

There are no meetings scheduled for the week of October 11, 2021.

Week of October 18, 2021—Tentative

There are no meetings scheduled for the week of October 18, 2021.

Week of October 25, 2021—Tentative

Thursday, October 28, 2021

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting); (Contact: Celimar Valentin-Rodriguez: 301-415-7124)

Additional Information: Due to COVID-19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—<https://video.nrc.gov/>.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov. The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301-287-0745, by videophone at 240-428-3217, or by email at Anne.Silk@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the

Secretary, Washington, DC 20555, at 301-415-1969, or by email at Tyesha.Bush@nrc.gov or Betty.Thweatt@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: September 15, 2021.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2021-20296 Filed 9-15-21; 4:15 pm]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72-1050; NRC-2016-0231]

Interim Storage Partners, LLC; WCS Consolidated Interim Storage Facility; Issuance of Materials License and Record of Decision

AGENCY: Nuclear Regulatory Commission.

ACTION: License and record of decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued Materials License No. SNM-2515 to Interim Storage Partners, LLC (ISP) to construct and operate the WCS Consolidated Interim Storage Facility (CISF) as proposed in its license application, as amended, and to receive, possess, store, and transfer spent nuclear fuel and Greater-than-Class-C radioactive waste at the WCS CISF in Andrews County, Texas. ISP will be required to operate under the conditions listed in Materials License No. SNM-2515. The NRC staff has published a record of decision (ROD) that supports the NRC's decision to approve ISP's license application for the WCS CISF and to issue the license.

DATES: September 17, 2021.

ADDRESSES: Please refer to Docket ID NRC-2016-0231 when contacting the NRC about the availability of information regarding this document. You may access publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2016-0231. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly

available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the section of this document entitled, **SUPPLEMENTARY INFORMATION**.

• **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at pdr.resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John-Chau Nguyen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0262; email: John-Chau.Nguyen@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC has issued a license to ISP for its WCS CISF in Andrews County, Texas (ADAMS Package Accession No. ML21188A096). Materials License No. SNM-2515 authorizes ISP to construct and operate its facility as proposed in its license application, as amended, and to receive, possess, store, and transfer spent nuclear fuel, including a small quantity of mixed-oxide fuel, and Greater-than-Class-C radioactive waste at the WCS CISF. The license authorizes ISP to store up to 5,000 metric tons of uranium [5,500 short tons] of spent nuclear fuel for a license period of 40 years. ISP will be required to operate under the conditions listed in Materials License No. SNM-2515.

The NRC staff's ROD that supports the NRC's decision to approve ISP's license application for the WCS CISF and to issue Materials License No. SNM-2515 is available in ADAMS under Accession No. ML21222A214. The ROD satisfies the regulatory requirement in section

51.102 paragraph (a) of title 10 of the *Code of Federal Regulations* (10 CFR), which requires that a Commission decision on any action for which a final environmental impact statement (EIS) has been prepared be accompanied by or include a concise public ROD. As discussed in the ROD and the final EIS for ISP's license application for a CISF for spent nuclear fuel in Andrews County, Texas (ADAMS Accession No. ML21209A955), the NRC staff considered a range of reasonable alternatives that included the No-Action alternative, as required by the National Environmental Policy Act of 1969, as amended; storage at a government-owned CISF; alternative design and storage technologies; and alternative locations. The final EIS documents the environmental review, including the NRC staff's recommendation to issue an NRC license to ISP to construct and operate a CISF for spent nuclear fuel at the proposed location, subject to the determinations in the NRC staff's safety review of the application. The final EIS conclusion is based on the NRC staff's independent environmental review, as well as (i) the license application, which includes the environmental report and supplemental documents and ISP's responses to the NRC staff's requests for additional information; (ii) consultation with Federal, State, Tribal, and local agencies and input from other stakeholders, including members of the public; and (iii) the assessments provided in the final EIS.

The NRC staff prepared a final safety evaluation report that documents the staff's safety and security review of the application (ADAMS Accession No. ML21188A101). The staff's safety and security review found that the application met applicable NRC regulations in 10 CFR part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste."

Documents related to the application carry Docket ID NRC-2016-0231. These documents for the ISP license include the license application, the applicant's safety analysis report, emergency plan, physical security plan, environmental report, updates to these documents, and applicant supplements and responses to NRC staff requests for additional information, and the NRC staff's final

safety evaluation report, final EIS, and ROD.

ISP's request for a materials license was previously noticed in the **Federal Register** on November 14, 2016 (81 FR 79531). A notice of docketing with an opportunity to request a hearing and to petition for leave to intervene was published in the **Federal Register** on January 30, 2017 (82 FR 8773). Four groups of petitioners filed petitions to intervene. An Atomic Safety and Licensing Board considered petitions and admitted one contention. The Board subsequently dismissed the contention as moot after ISP supplemented its application with information that the contention had noted was missing, and the Board subsequently terminated the adjudicatory proceeding. Intervenor's appealed the decisions to the Commission, and the Commission affirmed the Board decisions, with one new contention remanded to the Board for consideration. The Board subsequently dismissed the remanded contention, and the Commission denied an appeal of the Board decision.

In issuing a materials license to ISP for the WCS CISF, the NRC has determined based on its review of this application that there is reasonable assurance that: (i) The activities authorized by the license can be conducted without endangering the health and safety of the public; and (ii) these activities will be conducted in compliance with the applicable regulations of 10 CFR part 72. The NRC has further determined that the issuance of the license will not be inimical to the common defense and security.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," the details with respect to this action, including the final safety evaluation report and accompanying documentation and license, are available electronically in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. From this site, you can access ADAMS, which provides text and image files of the NRC public documents.

II. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No.
1. Initial application, safety analysis report (SAR) and environmental report (ER), dated April 28, 2016	ML16133A070 (Package).
2. Application Revision 1, SAR Revision 1, and ER Revision 1, dated March 16, 2017	ML17082A021 (Package).
3. Application Revision 2, SAR Revision 2, and ER Revision 2, dated July 19, 2018	ML18206A595 (Package).
4. ER Revision 3, dated February 17, 2020	ML20052E144 (Package).

51928

Federal Register / Vol. 86, No. 178 / Friday, September 17, 2021 / Notices

Document	ADAMS accession No.
5. SAR Revision 3, dated May 22, 2020	ML20150A337 (Package).
6. Application Revision 3, dated August 24, 2020	ML20237F470.
7. SAR Revision 4, September 2, 2020	ML20261H419 (Package).
8. Application Revision 4 and SAR Revision 5, dated April 12, 2021	ML21105A766 (Package).
9. Applicant response to request for additional information, dated July 19, 2018	ML18208A437.
10. Applicant response to request for additional information, dated January 7, 2019	ML19009A099.
11. Applicant response to request for additional information, dated March 22, 2019	ML19085A055.
12. Applicant response to request for additional information, dated May 31, 2019	ML19156A048 (Package).
13. Applicant response to request for additional information, dated June 26, 2019	ML19197A044.
14. Applicant response to request for additional information, dated June 28, 2019	ML19184A159 (Package).
15. Applicant response to request for additional information, dated June 28, 2019	ML19190A227 (Package).
16. Applicant response to request for additional information, dated July 31, 2019	ML19217A231 (Package).
17. Applicant response to request for additional information, dated August 20, 2019	ML19235A157 (Package).
18. Applicant response to request for additional information, dated September 18, 2019	ML19270E399.
19. Applicant submittal of supplemental information, dated September 20, 2019	ML19268A113 (Package).
20. Applicant response to request for additional information, dated November 21, 2019	ML19337B502 (Package).
21. Applicant response to request for additional information, dated January 6, 2020	ML20015A448 (Package).
22. Applicant response to request for additional information, dated January 17, 2020	ML20028E843 (Package).
23. Applicant response to request for additional information, dated January 22, 2020	ML20028D890 (Package).
24. Applicant response to request for additional information, dated February 14, 2020	ML20052D995 (Package).
25. Applicant response to request for additional information, dated February 14, 2020	ML20052E047 (Package).
26. Applicant submittal of supplemental information, dated March 5, 2020	ML20071F152 (Package).
27. Applicant response to request for additional information, dated March 16, 2020	ML20083J964 (Package).
28. Applicant response to request for additional information, dated April 7, 2020	ML20105A133 (Package).
29. Applicant response to request for additional information, dated April 7, 2020	ML20105A171 (Package).
30. Applicant response to request for additional information, dated May 18, 2020	ML20139A173 (Package).
31. Applicant response to request for additional information, dated June 11, 2020	ML20163A008.
32. Applicant submittal of supplemental information, dated July 21, 2020	ML20203M040.
33. Applicant submittal of supplemental information, dated January 27, 2021	ML21027A147.
34. Draft Environmental Impact Statement, dated May 2020	ML20122A220.
35. Overview of the Draft Environmental Impact Statement, dated May 2020	ML20121A016.
36. Overview of the Draft Environmental Impact Statement (Spanish language version), dated May 2020	ML20136A148.
37. Final Environmental Impact Statement, dated July 2021	ML21209A955.
38. Overview of the Final Environmental Impact Statement, dated July 2021	ML21200A050.
39. Final Safety Evaluation Report, dated September 2021	ML21188A101.
40. NRC Staff's Record of Decision, dated September 13, 2021	ML21222A214.
41. Materials License for ISP, dated September 13, 2021	ML21188A096 (Package).

Dated: September 13, 2021.

For the Nuclear Regulatory Commission.

Shana R. Helton,

Director, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021-20092 Filed 9-16-21; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020-171; CP2020-172; CP2020-179; CP2020-182; CP2020-196]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: Comments are due: September 21, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.

Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal

Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

CERTIFICATE OF SERVICE

I, Diane Curran, hereby certify that on November 12, 2021, I posted Petitioner's Petition for Review and Rule 26.1 Disclosure Statement on the Court's ECF website. I also sent copies of those documents to the following by first-class mail:

Merrick B. Garland, Atty. Genl. (by registered mail, return receipt requested)
United States Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530-0001

Marian Zobler, General Counsel
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Annette L. Vietti-Cook, Secretary (by registered mail, return receipt requested)
U.S. Nuclear Regulatory Commission
Mail Stop O-16G4
Washington, D.C. 20555-0001

Paul Bessette, Esq.
Ryan Lighty, Esq.
Timothy Matthews, Esq.
Morgan, Lewis and Bockius, L.L.P
1111 Pennsylvania Ave. N.W.
Washington, D.C. 20004

Terry J. Lodge, Esq.
316 N. Michigan Street, Suite 520
Toledo, OH 43604-5627

Wallace L. Taylor, Esq.
4403 1st Avenue, Suite 402
Cedar Rapids, IA 52404

Monica R. Perales, Esq.
6101 Holiday Hill Road
Midland, TX 79707

Allan Kanner, Esq.
Annemieke M. Tennis, Esq.
Kanner & Whiteley, LLC
701 Camp Street
New Orleans, LA 70130

Karen D. Hadden, Executive Director,
Sustainable Energy and Economic Development (SEED) Coalition
605 Carismatic Lane
Austin, TX 78748

Diane D'Arrigo
Nuclear Information and Resource Service (NIRS)
6930 Carroll Avenue
Suite 340
Takoma Park, MD 20912

Chris Hebner, Esq.
City of San Antonio, TX
P.O. Box 839966
San Antonio, TX 78283

Respectfully Submitted,

 /signed electronically by/

Diane Curran
Harmon, Curran, Spielberg, & Eisenberg, L.L.P.
1725 DeSales Street N.W., Suite 500
Washington, D.C. 20036
240-393-9285
Email: dcurran@harmoncurran.com