

## RECORD OF DECISION

### **U.S. NUCLEAR REGULATORY COMMISSION RECORD OF DECISION INTERIM STORAGE PARTNERS LLC LICENSE APPLICATION FOR A CONSOLIDATED INTERIM STORAGE FACILITY, ANDREWS COUNTY, TEXAS**

#### Introduction

The U.S. Nuclear Regulatory Commission (NRC) staff prepared this record of decision (ROD) for the proposed Interim Storage Partners LLC (ISP) consolidated interim storage facility (CISF) in Andrews County, Texas. This ROD satisfies Section 51.102(a) of Title 10 of the *Code of Federal Regulations* (10 CFR), which states that “[a] Commission decision on any action for which a final environmental impact statement has been prepared shall be accompanied by or include a concise public record of decision.”

In July 2021, the NRC staff issued a final Environmental Impact Statement (FEIS) (NRC, 2021b) for ISP’s license application to construct and operate a proposed Waste Control Specialists (WCS) CISF (ISP, 2018a, 2018b, 2020a, 2020b, and 2021). In the FEIS, the NRC staff, in accordance with 10 CFR 51.91(d), sets forth its recommendation, pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), regarding the proposed action. The NRC staff recommended that, subject to the determinations in the staff’s safety review of the application, the proposed license be issued to ISP to construct and operate a CISF at the proposed location to temporarily store up to 5,000 metric tons of uranium (MTUs) [5,500 short tons] of spent nuclear fuel (SNF) for a licensing period of 40 years (NRC, 2021b). The NRC staff has prepared this ROD in accordance with NRC regulations at 10 CFR Sections 51.102(b) and 51.103(a)(1)-(4). In addition, in accordance with 10 CFR Section 51.103(c), this ROD incorporates by reference the materials contained in the FEIS (NRC, 2021b).

#### The Decision

This ROD documents the NRC staff’s decision to issue a license to ISP for the proposed WCS CISF in Andrews County, Texas (NRC, 2021a). The license authorizes ISP to construct and operate its facility as proposed in its license application and under the conditions in its NRC license.

After weighing the impacts of the proposed action and comparing them to the No-Action alternative, the NRC staff, in accordance with 10 CFR 51.91(d), set forth its NEPA recommendation regarding the proposed action. The NRC staff recommended that, subject to the determinations in the staff’s safety review of the application, the proposed license be issued to ISP to construct and operate a CISF at the proposed location to temporarily store up to 5,000 MTUs [5,500 short tons] of SNF for a licensing period of 40 years. The staff based its conclusion on (i) review of the ISP license application, which includes the Environmental Report (ER) and supplemental documents (ISP, 2018a, 2018b, 2020a, 2020b, and 2021), and ISP’s responses to the NRC staff’s requests for additional information (RAIs) (ISP, 2019a and 2019b); (ii) consultation with Federal, State, tribal, and local agencies and input from other stakeholders, including public comment on the draft EIS; (iii) independent NRC staff review; and (iv) the assessments provided in the FEIS.

In its safety and security review, the NRC staff determined that the application met the 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.” In issuing a materials license to ISP for the WCS CISF, the NRC determined 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 further determined that issuance of the license will not be inimical to the common defense and security.

### Background

In accordance with the NRC’s NEPA-implementing regulations in 10 CFR Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,” the NRC staff prepares a site-specific EIS for the issuance of a license pursuant to 10 CFR Part 72 for the storage of spent fuel in an independent spent fuel storage installation (ISFSI) at a site not occupied by a nuclear power reactor (10 CFR 51.20(b)(9)). In this instance, the NRC’s major Federal action is to decide whether to issue a license authorizing ISP to construct and operate the WCS CISF for a 40-year license term.

The WCS CISF would store up to 5,000 MTUs [5,500 short tons] of SNF and Greater-Than-Class-C (GTCC) waste, along with a small quantity of mixed oxide (MOX) fuel (collectively referred to as SNF in the FEIS and in this ROD), which would originate from commercial nuclear reactor facilities in the United States, for a 40-year period at the site in Andrews County, Texas. During operation, the WCS CISF would receive SNF from decommissioned and decommissioning reactor sites, as well as from operating reactors prior to decommissioning (NRC, 2021b).

The WCS CISF would be built and operated on an approximately 130-hectare (ha) [320-acre (ac)] project area within a 5,666-ha [14,000-ac] parcel of land that is controlled by ISP joint venture member WCS in Andrews County, Texas. In addition, construction of the rail sidetrack, site access road, and construction laydown area would contribute an additional area of disturbed soil such that the total disturbed area for construction of the WCS CISF would be approximately 133 ha [330 ac]. The project area would be located north of WCS’s existing waste management facilities and controlled by ISP through a long-term lease from WCS (NRC, 2021b).

ISP would store SNF in six existing dual-purpose canister-based dry cask storage systems (DCSS) designed by TN Americas or NAC International. The 6 DCSS (3 from TN Americas and 3 from NAC International) consist of 11 different SNF canisters and 5 different GTCC waste canisters stored in 5 overpacks. SNF is stored horizontally in the TN Americas systems and vertically in the NAC International systems. The TN Americas and NAC International DCSS listed in the FEIS have been previously approved by the NRC for independent storage of SNF, GTCC, and a small amount of MOX fuel, pursuant to requirements in 10 CFR Part 72. In addition, the NRC approved both the TN Americas and NAC International systems for storage of SNF transported in canisters pursuant to the requirements in 10 CFR Part 71, “Packaging and Transportation of Radioactive Material.”

### Public Comments

On November 14, 2016 (81 FR 79531), the NRC staff published in the *Federal Register* a notice of intent to prepare an EIS and to conduct an environmental scoping process. The NRC staff invited potentially affected Federal, State, tribal, and local governments; organizations; and

members of the public to provide comments in the environmental scoping process and review. The initial scoping period closed on April 28, 2017. During this time, the NRC staff hosted four public scoping meetings, one in Hobbs, New Mexico, on February 13, 2017; a second in Andrews, Texas, on February 15, 2017; and two in Rockville, Maryland, on February 23, 2017 and April 6, 2017. Following a suspension of NRC's review at the applicant's request, ISP submitted a revised license application in June and July 2018 (ISP, 2018a). On September 4, 2018 (83 FR 44922), the NRC staff reopened the scoping period for the ISP license application. The reopened scoping period closed on November 19, 2018. The NRC staff issued a scoping summary report in October 2019 (NRC, 2019).

On May 4, 2020, the NRC staff issued the draft "Environmental Impact Statement for Interim Storage Partners LLC's License Application for a Consolidated Interim Storage Facility for Spent Nuclear Fuel in Andrews County, Texas" (NRC, 2020).

A 120-day comment period began on May 8, 2020, when the U.S. Environmental Protection Agency (EPA) published a Notice of Availability in the *Federal Register* (85 FR 27412) of the draft EIS to allow members of the public and agencies time to comment on the results of the draft EIS. On July 22, 2020, the NRC staff extended the comment period an additional 60 days to close on November 3, 2020 (85 FR 44330). Additionally, the NRC staff held public meetings on October 1, 6, 8, and 15, 2020, to discuss the preliminary findings in the draft EIS, with transcripts of these meetings available at the NRC public project webpage: <https://www.nrc.gov/waste/spent-fuel-storage/cis/waste-control-specialist.html>.

Responses to all public comments received during the draft EIS comment period are included in Appendix D to the FEIS.

### Alternatives Considered

In its environmental review, the NRC staff evaluated the environmental consequences of the proposed action (i.e., authorizing the construction and operation of the WCS CISF), and the environmental consequences of the No-Action alternative (i.e., not licensing the WCS CISF). FEIS Chapter 2, "Proposed Action and Alternatives," and Chapter 4, "Environmental Impacts," present the NRC staff's evaluation and analysis of the environmental impacts of the proposed action and the No-Action alternative that were considered, as well as those alternatives that were eliminated from detailed study (NRC, 2021b). The NRC staff discusses the reasons for eliminating these alternatives in Section 2.3 of the FEIS. These alternatives included (1) storage of SNF at a government-owned CISF operated by the U.S. Department of Energy (Section 2.3.1); (2) alternative design or storage technologies (Section 2.3.2); and (3) alternative CISF locations (Section 2.3.3).

After weighing the impacts of the Proposed Action, comparing them to the No-Action alternative, and conducting a safety and security review of the Proposed Action, the NRC staff determined that the NRC should issue a license for the proposed WCS CISF project. The NRC staff based its decision on: (i) review of ISP's license application (ISP, 2018a, 2018b, 2020a, 2020b, and 2021), which includes the ER and supplemental documents, and ISP's responses to the NRC staff RAs (ISP, 2019a and 2019b); (ii) consultation with Federal, State, tribal, and local agencies and input from other stakeholders, including public comment on the draft EIS (see Appendix D in the FEIS); (iii) independent NRC staff review; (iv) the assessments in the FEIS (NRC, 2021b); and (v) the NRC staff's assessments in the Final Safety Evaluation Report (NRC, 2021c) for the WCS CISF.

## Mitigation Measures

The NRC has taken all practicable measures within its jurisdiction to avoid or minimize environmental harm from the proposed action (license issuance). The applicant has committed to a number of mitigation measures as described in Table 6.3-1 of the FEIS (NRC, 2021b). As documented in the FEIS, the NRC determined that impacts to most resource areas would be SMALL (i.e., not detectable or minor), with SMALL to MODERATE beneficial impacts for local finance and MODERATE impacts (i.e., sufficient to alter noticeably, but not to destabilize, important attributes of the resource) for vegetation, population growth, and employment (NRC, 2021b). The NRC is not imposing any license conditions in connection with mitigation measures for the licensing of the WCS CISF. ISP is subject to requirements including permits, authorizations, and regulatory orders imposed by other Federal, State, and local agencies governing facility construction and operation. ISP's monitoring programs for the proposed project are described in Chapter 7 of the FEIS (NRC, 2021b).

## References

10 CFR Part 51. Code of Federal Regulations, Title 10, Energy, Part 51, "Environmental Protection Regulation for Domestic Licensing and Related Regulatory Functions." Washington, DC: U.S. Government Publishing Office.

10 CFR Part 71. Code of Federal Regulations, Title 10, *Energy*, Part 71, "Packaging and Transportation of Radioactive Material." Washington, DC: U.S. Government Publishing Office.

10 CFR Part 72. Code of Federal Regulations, Title 10, *Energy*, Part 72. "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste." Washington, DC: U.S. Government Publishing Office.

85 FR 44330. *Federal Register*. Vol. 85, No. 141, pp. 44,330–44,332. "Interim Storage Partners Consolidated Interim Storage Facility Project." July 22, 2020.

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NRC. "Materials License SNM-2515, Interim Storage Partners, WCS Consolidated Interim Storage Facility ISFSI." ADAMS Accession No. ML21188A099. September 13, 2021; Washington, DC: U.S. Nuclear Regulatory Commission. 2021a.

NRC. NUREG-2239, "Environmental Impact Statement for Interim Storage Partners LLC's License Application for a Consolidated Interim Storage Facility for Spent Nuclear Fuel in Andrews County, Texas – Final Report." ML21209A955. July 2021; Washington, DC: U.S. Nuclear Regulatory Commission. 2021b.

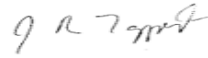
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Dated at Rockville, MD, this 13<sup>th</sup> day of September 2021,

APPROVED BY:



Signed by Tappert, John  
on 09/13/21

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