

### B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website: <https://www.regulations.gov>. Please include Docket ID NRC-2020-0255 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <https://www.regulations.gov> as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

### II. Additional Information

The NRC is issuing for public comment a DG in the NRC's "Regulatory Guide" series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

This DG, titled, "Implementation of Aging Management Requirements for Spent Fuel Storage Renewals," is temporarily identified by its task number, DG-3055 (ADAMS Accession No. ML20282A298). This draft guide is a proposed new regulatory guide (RG) 3.76. Regulatory Guide 3.76 describes an approach that is acceptable to the staff of the NRC by endorsing, with clarifications, the Nuclear Energy Institute (NEI) guidance in NEI 14-03, Revision 2, "Format, Content and Implementation Guidance for Dry Cask Storage Operations-Based Aging Management," issued December 2016.

This new RG provides guidance to industry for complying with and implementing the requirements for spent fuel storage renewals in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR), "Licensing

Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste." This guidance addresses renewal of ISFSI specific licenses and CoCs for spent fuel storage cask designs in 10 CFR 72.42, "Duration of license; renewal," and 10 CFR 72.240, "Conditions for spent fuel storage cask renewal," respectively.

The guidance specifically addresses the format and content of spent fuel storage renewal applications and the implementation of aging management programs (AMPs). The guidance uses an operations-focused approach to aging management, in which operating experience is shared through an industry database and continually assessed to adjust AMPs, as needed and within regulatory limits, to ensure the effectiveness of aging management activities during the period of extended operation and the continued safe storage of spent fuel.

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML20282A299). The staff develops a regulatory analysis to assess the value of issuing this new regulatory guide as well as alternative courses of action.

### III. Backfitting, Forward Fitting, and Issue Finality

This proposed regulatory guide, RG 3.76, proposes to endorse, with clarifications, NEI 14-03, which provides guidance on the format and content of spent fuel storage renewal applications and implementation of aging management programs under 10 CFR part 72. As explained in the proposed RG 3.76, licensees are not required to comply with the positions set forth in this regulatory guide. Therefore, proposed RG 3.76 does not constitute backfitting as defined in 10 CFR 72.62, "Backfitting," and as described in NRC Management Directive (MD) 8.4, "Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests;" or constitute forward fitting as that term is defined and described in MD 8.4. If, in the future, the NRC were to impose a position in this proposed RG 3.76 in a manner that would constitute backfitting or forward fitting, then the NRC would address the backfitting provision in 10 CFR 72.62 or the forward fitting provision of MD 8.4, respectively.

Dated: December 8, 2020.

For the Nuclear Regulatory Commission.

**Meraj Rahimi,**

*Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-9075; NRC-2012-0277]

### Updated Record of Decision for Powertech (USA) Inc.; Dewey-Burdock In Situ Uranium Recovery Facility

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Record of Decision; update.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) staff has issued an updated Record of Decision (ROD) related to the license for Powertech (USA) Inc. (Powertech), Dewey-Burdock in situ uranium recovery (ISR) facility in Custer and Fall River Counties, South Dakota. Powertech's request for a source and byproduct materials license to construct and operate the Dewey-Burdock ISR facility was contested through the NRC's adjudicatory process. On October 8, 2020, the Commission denied a petition for review of the Atomic Safety and Licensing Board Panel's (ASLBP) Final Initial Decision issued on December 12, 2019, and two interlocutory orders, thus terminating the adjudicatory proceeding. The ROD has been updated to account for the ASLBP's decision and the Commission's ruling.

**DATES:** The ROD was updated on December 3, 2020.

**ADDRESSES:** Please refer to Docket ID NRC-2012-0277 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-2012-0277. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301-287-9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@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 obtain 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.” The updated ROD can be found by searching for ADAMS Accession No. ML20321A051. 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*.

- 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 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Diana Diaz-Toro, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone: 301–415–0930; email: *Diana.Diaz-Toro@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Discussion**

The NRC staff issued a license to Powertech for the construction and operation of its Dewey-Burdock ISR facility in Custer and Fall River Counties, in South Dakota in April 2014. Along with the issuance of the license, the NRC staff published a ROD in April 2014 that supported its decision to approve Powertech’s license

application for the Dewey-Burdock ISR facility.

During the NRC staff’s licensing review, the NRC’s ASLBP, an independent, trial-level adjudicatory body, granted a hearing request from the Oglala Sioux Tribe and Consolidated Intervenor (consisting of a group of individuals and organizations). The ASLBP held an evidentiary hearing in Rapid City, South Dakota, from August 19–21, 2014, on seven admitted contentions. On April 30, 2015, the ASLBP issued a Partial Initial Decision (LBP–15–16) resolving all but two of the admitted contentions in favor of the NRC staff: Contentions 1A and 1B, regarding historic and cultural resources, were resolved in favor of the Oglala Sioux Tribe and Consolidated Intervenor. Subsequently, on October 19, 2017, the ASLBP granted the NRC staff’s motion for summary disposition of Contention 1B and determined that the NRC staff’s efforts satisfied the National Historic Preservation Act (NHPA) requirement that the NRC staff consult with the Oglala Sioux Tribe. On April 29, 2019, the ASLBP granted the NRC staff’s motion to set a schedule for an evidentiary hearing. The hearing was held on August 28 and 29, 2019, in Rapid City, South Dakota. On December 12, 2019, the ASLBP issued the Final Initial Decision (LBP–19–10) finding that the staff satisfied its National Environmental Policy Act (NEPA)

obligation to take a reasonable hard look at potential impacts to cultural resources. The ASLBP also found that, consistent with the Council on Environmental Quality regulations at section 1502.22 of the title 40 of the *Code of Federal Regulations*, the information necessary to complete the NEPA review is effectively unavailable and that no further supplemental environmental impact statement is necessary in this case. The ASLBP also included a new condition to Powertech’s license. It provides that, prior to appointing a Tribal Monitor pursuant to Stipulation 13(c) of the NHPA Programmatic Agreement, Powertech shall notify the NRC of the identity of the Monitor, and the NRC will in turn distribute that information to the signatories and consulting Tribes to the Programmatic Agreement for a 30-day review and comment period. On October 8, 2020, the Commission denied a petition for review (CLI–20–09) of the ASLBP’s final initial decision in LBP–19–10 and two interlocutory ASLBP orders, which terminated the adjudicatory proceeding. The updated ROD accounts for the ASLBP’s decisions and the Commission’s ruling.

**II. Availability of Documents**

The documents identified in the following table are available to interested persons as indicated.

Document description	ADAMS Accession No.
Powertech Dewey-Burdock Application, February 28, 2009 .....	ML091200014 (package).
Generic Environmental Impact Statement for In Situ Leach Uranium Milling Facilities, May 2009	ML091530075 (package).
Resubmission of Application, August 10, 2009 .....	ML092870160 (package).
Response to Request for Additional Information, August 12, 2010 .....	ML102380530 (package).
Revised Response to Request for Additional Information, June 28, 2011 .....	ML112071064 (package).
Ground Water Model, February 27, 2012 .....	ML120620195 (package).
Clarification of Oxidation-Reduction Potential Measurement, April 11, 2012 .....	ML121030013.
Clarification of Regional Meteorological Data, June 13, 2012 .....	ML12173A038.
Clarification of Response to Request for Additional Information, June 27, 2012 .....	ML12179A534.
Supplemental Sampling Plan and Responses to Comments Regarding Draft License, October 19, 2012.	ML12305A056.
Comments on Draft Supplemental Environment Impact Statement, January 8, 2013 .....	ML13022A386.
Supplemental Environmental Impact Statement for the Dewey-Burdock ISR Facility in Fall River and Custer Counties, South Dakota (NUREG-1910, Supplement 4, Volumes 1 and 2), January 31, 2014.	ML14024A477
	ML14024A478.
NHPA Programmatic Agreement for Protection of Cultural Resources, Executed April 7, 2014 ..	ML14066A344 (package).
NRC Safety Evaluation Report, April 8, 2014 .....	ML14043A347 (package).
Source Materials License for Dewey-Burdock, April 8, 2014 .....	ML14043A392.
NRC Record of Decision, April 8, 2014 .....	ML14066A466.
NRC Updated Record of Decision, December 3, 2020 .....	ML20321A051.

Dated: December 8, 2020.

For the Nuclear Regulatory Commission.  
**Jessie M. Quintero,**  
*Chief, Environmental Review Materials Branch, Division of Rulemaking, Environmental and Financial Support, Office of Nuclear Material Safety, and Safeguards.*  
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**POSTAL REGULATORY COMMISSION**

[Docket Nos. MC2021–41 and CP2021–42; Docket Nos. MC2021–42 and CP2021–43]

**New Postal Products**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.