

with terms, conditions, and specifications of the Certificate of Compliance No. 1031, Amendment No. 7, for the Palo Verde Nuclear Generating Station to load spent fuel with a maximum pellet diameter of 0.3255 inches (0.8268 centimeters) in the MAGNASTOR® storage system using Certificate of Compliance No. 1031, Amendment No. 7.

The exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of August, 2019.

For the Nuclear Regulatory Commission.

**John B. McKirgan,**

*Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2019-18616 Filed 8-28-19; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 03039133; NRC-2019-0166]

### Order Suspending License; APINDE Inc.

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Order; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order suspending the license of APINDE Inc. (APINDE) located in Huntington, West Virginia. The NRC has determined that this action is necessary based on an ongoing review of the circumstances through which APINDE obtained and subsequently used its NRC license for industrial radiography. Specifically, the NRC has determined that APINDE submitted inaccurate information in its initial license application pertaining to the qualifications for an individual proposed to be the Radiation Safety Officer (RSO). This resulted in the NRC issuing a license to the company that was, in part, based on the inaccurate information and in APINDE maintaining an industrial radiography license without a qualified RSO. Further, after the initial RSO resigned, and APINDE submitted an application to amend the license and name a new RSO, the company submitted inaccurate information pertaining to that individual. Moreover, the NRC has information indicating that APINDE used its NRC license to procure a sealed radiography source, and may have allowed unauthorized access to the source.

As a result, the NRC has lost assurance that APINDE can conduct the

activities authorized under its license in compliance with NRC regulations and will protect the health and safety of the public. In accordance with the Order, APINDE must immediately cease all radiographic operations and return any byproduct material possessed under the license to locked, safe storage. APINDE shall not receive any NRC-licensed material while the Order is in effect. APINDE must respond to the Order within 20 days and specifically admit or deny each allegation or charge.

**DATES:** This Order takes effect immediately.

**ADDRESSES:** Please refer to Docket ID NRC-2019-0166 when contacting the NRC about the availability of information regarding this document. You may obtain 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-2019-0166. Address questions about NRC 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." 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](mailto:pdr.resource@nrc.gov). The Order is available in ADAMS under Accession No. ML19234A068.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Anne DeFrancisco, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region I, 2100 Renaissance Blvd., Suite 100, King of Prussia, PA 19406; telephone: 610-337-5078, email: [Anne.DeFrancisco@nrc.gov](mailto:Anne.DeFrancisco@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

Dated at Rockville, Maryland, this 26th day of August, 2019.

For the Nuclear Regulatory Commission.  
**George A. Wilson,**  
*Director, Office of Enforcement.*

### Attachment—Order Suspending License

### United States of America Nuclear Regulatory Commission

In the Matter of

Docket No. 03039133

APINDE Inc.

License No. 47-35507-01

Huntington, West Virginia

EA-19-090

### Order Suspending License (Effective Immediately)

#### I

APINDE Inc. (Licensee or APINDE) is the holder of Byproduct Material License No. 47-35507-01 issued on January 9, 2019, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of *Title 10 of the Code of Federal Regulations* (10 CFR). The license authorizes possession and use of iridium-192 in sealed sources for use in industrial radiography operations and depleted uranium for use as shielding. The Licensee is located in Huntington, West Virginia, but the license also authorizes the company to perform work at temporary jobsites in all areas within NRC jurisdiction. The license, originally issued on January 9, 2019, is due to expire on January 31, 2034.

#### II

As a result of a current and ongoing review of APINDE's licensed activities, the NRC identified that information submitted by APINDE in the license application and in a subsequent license amendment request, was not complete and accurate in all material respects, which is an apparent violation of regulatory requirements. Specifically, in an initial license application dated October 10, 2018 (ML18297A261; nonpublic because it contains security-related information),<sup>1</sup> and in a related correspondence dated November 26, 2018 (ML18347A473; nonpublic because it contains security-related information), APINDE submitted inaccurate information about the qualifications for an individual proposed to be named on the license as the radiation safety officer (RSO). This resulted in the NRC issuing a license to APINDE that was based on inaccurate

<sup>1</sup>Designation in parentheses refers to an Agencywide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS.

information and in APINDE maintaining an industrial radiography license without a qualified RSO. In a subsequent license amendment request dated June 12, 2019 (ML19178A216; nonpublic because it contains security-related information), APINDE requested to name a new RSO on the license, but again submitted inaccurate information. The NRC has also determined that APINDE used its NRC license to procure a sealed radiography source and may have allowed unauthorized access to the source in apparent violation of NRC regulations.

Regarding the inaccurate information, NRC regulations (10 CFR 34.13(g)) require applicants for a specific license to use licensed material in industrial radiography to identify and list the qualifications of the individual(s) designated as the RSO. As set forth in 10 CFR 34.42, the minimum qualifications, training, and experience for the RSO for an industrial radiography license are (1) completion of the training and testing requirements of 10 CFR 34.43(a); (2) 2000 hours of hands-on experience as a qualified radiographer in industrial radiographic operations; and (3) formal training in the establishment and maintenance of a radiation protection program. The NRC can consider alternatives when the RSO has appropriate training and/or experience in the field of ionizing radiation, and in addition, has adequate formal training with respect to the establishment and maintenance of a radiation safety protection program. Information provided to the Commission by licensees or applicants for a license must be complete and accurate in all material respects (10 CFR 30.9(a)).

In its initial license application dated October 10, 2018, and in a subsequent response to an NRC reviewer's questions dated November 26, 2018, APINDE management attested that the proposed RSO had completed all required training. However, the NRC determined that the individual did not complete the required training. On June 12, 2019, following the resignation of the RSO named on APINDE's license, the Licensee submitted a license amendment application to the NRC to name a new RSO on the license. In the license amendment application, APINDE submitted inaccurate information pertaining to the new proposed RSO.

Regarding the unauthorized possession of and access to a radiography source, NRC regulations (10 CFR 37.21) require that licensees shall subject any individual, whose assigned duties require unescorted access to such

material, to an access authorization program to ensure that the individuals are trustworthy and reliable. The NRC identified that, in early February 2019, APINDE procured a sealed radiography source from QSA Global Inc. and that APINDE may have allowed unauthorized access to the source, in violation of 10 CFR 37.21.

### III

Based on the above, the NRC has determined that the Licensee provided inaccurate information concerning the proposed RSO that resulted in the NRC issuing a license based, in part, on inaccurate information. Submission of incomplete and inaccurate information in an NRC license application that is material to the NRC's decision to grant a license is grounds for revocation, suspension, or modification of the license (10 CFR 30.61). Additionally, the NRC has information that the Licensee used its license to obtain a source containing a significant quantity of radioactive material and that the Licensee may have permitted unauthorized access to the source in violation of NRC regulations. The Commission must be able to rely on its licensees to provide complete and accurate information and to conduct licensed operations in a manner that protects public health, safety, and security.

Consequently, I lack the requisite reasonable assurance that the Licensee's current operations can be conducted under License No. 47-35507-01 in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that License No. 47-35507-01 be suspended. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violations and conduct described above is such that the public health, safety, and interest require that this Order be immediately effective, and remain in place until the NRC obtains sufficient information to restore reasonable assurance that the Licensee is capable of safely conducting licensed activities.

### IV

Accordingly, pursuant to Sections 81, 161b., 161i., 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, it is hereby ordered, effective immediately, that:

A. The authority to perform radiographic operations under License No. 47-35507-01 is hereby suspended pending further notice by the NRC.

B. The Licensee shall not receive any NRC-licensed material while this Order is in effect. If the Licensee currently possesses any NRC-licensed material, the Licensee shall return it to locked, safe storage at the Licensee's facilities. All other requirements of the license and applicable Commission requirements, including those in 10 CFR part 20 remain in effect.

C. All records related to licensed activities shall be maintained in their current form and must not be altered in any way.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind this order upon demonstration by the Licensee of good cause.

### V

In accordance with 10 CFR 2.202, the Licensee must submit an answer within 20 days of the date of this Order under written oath or affirmation. The answer shall specifically admit or deny each allegation or charge made within the Order, and shall set forth matters of fact and law on which the Licensee relies, and, if the Order is not consented to, the reasons as to why the Order should not have been issued. The response should be clearly marked as a "Reply to Order, (EA-19-090)," and sent to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406.

In addition, the Licensee may demand, and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended by 77 FR 46562, August 3, 2012), codified in pertinent part at 10 CFR part 2, subpart C. The E-Filing process requires participants to submit and serve all adjudicatory documents

over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public website at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the website, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, web-based submission form. In order to serve documents through EIE, users will be required to install a web browser plug-in from the NRC website. Further information on the web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene through the EIE. Submissions should be in Portable

Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time (ET) on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html>, by email at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., ET, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail

as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the

provisions specified in Section IV above shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. *An answer or a request for hearing shall not stay the immediate effectiveness of this order.*

For the Nuclear Regulatory Commission.

/RA/

George A. Wilson,  
Director, Office of Enforcement.

Dated this 22 day of August 2019.

[FR Doc. 2019-18645 Filed 8-28-19; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86752; File No. SR-NYSEArca-2019-60]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the KFA Global Carbon ETF Under NYSE Arca Rule 8.600-E

August 23, 2019.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”) <sup>2</sup> and Rule 19b-4 thereunder, <sup>3</sup> notice is hereby given that, on August 14, 2019, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the KFA Global Carbon ETF under NYSE Arca Rule 8.600-E (“Managed Fund Shares”). The proposed change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of the KFA Global Carbon ETF (“Fund”) under NYSE Arca Rule 8.600-E, which governs the listing and trading of Managed Fund Shares <sup>4</sup> on the Exchange. The Fund will be an actively managed exchange-traded fund.

The Shares will be offered by KraneShares Trust (the “Trust”), which was established as a Delaware statutory trust on February 3, 2012. The Trust is registered with the Securities and Exchange Commission (“SEC” or “Commission”) as an open-end management investment company. <sup>5</sup>

Krane Funds Advisors, LLC (“Krane” or “Adviser”) will serve as the investment adviser to the Fund. Climate Finance Partners LLC (“Sub-Adviser”) will serve as the non-discretionary

investment sub-adviser to the Fund. SEI Investments Global Funds Services (“Administrator”) will serve as administrator for the Fund. SEI Investments Distribution Co. (“Distributor”), an affiliate of the Administrator, will serve as the Fund’s distributor. Brown Brothers Harriman & Co. (“BBH”) will serve as custodian and transfer agent for the Fund.

Commentary .06 to Rule 8.600-E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. <sup>6</sup> In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio. The Adviser and Sub-Adviser are not registered as broker-dealers, but the Adviser is affiliated with broker-dealers, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliates regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its

<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2-E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>5</sup> The Trust is registered under the 1940 Act. On June 11, 2019, the Trust filed with the Commission its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-180870 and 811-22698) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. See Investment Company Act Release No. 32455 (January 27, 2017) (File No. 812-14675).

<sup>6</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.