



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2016-0254]

RIN 3150-AJ88

List of Approved Spent Fuel Storage Casks:

TN Americas LLC, NUHOMS[®] EOS Dry Spent Fuel Storage System,

Certificate of Compliance No. 1042

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by adding the TN Americas LLC (TN Americas), NUHOMS[®] Extended Optimized Storage (EOS) Dry Spent Fuel Storage System to the “List of approved spent fuel storage casks” as Certificate of Compliance (CoC) No. 1042. The NUHOMS[®] EOS System provides horizontal storage of high burnup spent pressurized water reactor and boiling water reactor fuel assemblies in dry shielded canisters.

DATES: Submit comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0254. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.
- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Edward Lohr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-0253; e-mail: Edward.Lohr@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2016-0254 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0254.
- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then 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 e-mail to pdr.resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.
- **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.

B. Submitting Comments

Please include Docket ID NRC-2016-0254 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 will post all comment submissions at <http://www.regulations.gov> as well as enter 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 into ADAMS.

II. Rulemaking Procedure

This proposed rule is limited to the addition of CoC No. 1042 to the “List of approved spent fuel storage casks.” Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. However, if the NRC receives significant adverse comments on this proposed rule by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to this proposed addition in a subsequent final rule. Absent significant modifications to the proposed addition requiring republication, the

NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or technical specifications.

For additional procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that "the Secretary [of the Department of Energy] shall establish a demonstration program, in

cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the NWPA states, in part, that “[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled, “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled, “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

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

DOCUMENT	ADAMS ACCESSION NUMBER
AREVA Application for Approval of the Spent Fuel Cask Design for the NUHOMS [®] EOS System, Docket 72-1042, letter dated December, 19, 2014 (original application)	ML15005A477 (Package)
Withdrawal of December 19, 2014 AREVA Application for Approval of the Spent Fuel Cask Design for the NUHOMS [®] EOS System, Docket 72-1042, letter dated April 24, 2015	ML15114A444
Re-submittal of AREVA Application for Approval of the Spent Fuel Cask Design for the NUHOMS [®] EOS System, CoC No. 1042, letter dated June 16, 2015*	ML15173A379 (Package)
Safety Evaluation Report for AREVA NUHOMS [®] HD Horizontal Modular Storage System, CoC No. 1030	ML070160089
AREVA Submittal of Additional Information Related to Application for Approval of the Spent Fuel Cask Design for the NUHOMS [®] EOS System, CoC No. 1042, letter dated July 30, 2015*	ML15223A204
NRC Request for Additional Information Related to AREVA Application for Approval of the Spent Fuel Cask Design for the NUHOMS [®] EOS System, CoC No. 1042, letter dated October 16, 2015*	ML15287A255 (Package)
AREVA Response to NRC Request for Additional Information Related to Application for Approval of the Spent Fuel Cask Design for the NUHOMS [®] EOS System, CoC No. 1042, letter dated December 18, 2015*	ML15364A490 (Package)
NRC Request for Additional Information Related to AREVA Application for Approval of the Spent Fuel Cask Design for the NUHOMS [®] EOS System, CoC No. 1042, letter dated March 3, 2016*	ML16063A454 (Package)
AREVA Response to NRC Request for Additional Information Related to Application for Approval of the Spent Fuel Cask Design for the NUHOMS [®] EOS System, CoC No. 1042, letter dated April 7,	ML16111A670 (Package)

DOCUMENT	ADAMS ACCESSION NUMBER
2016*	
AREVA Submittal of Additional Information Related to Application for Approval of the Spent Fuel Cask Design for the NUHOMS® EOS System, CoC No. 1042, letter dated June 13, 2016*	ML16169A044 (Package)
AREVA Submittal of Additional Information Related to Application for Approval of the Spent Fuel Cask Design for the NUHOMS® EOS System, CoC No. 1042, letter dated July 28, 2016*	ML16215A026 (Package)
Name Change from AREVA to TN Americas, letter dated November 18, 2016*	ML16327A011
Preliminary Safety Evaluation Report for TN Americas NUHOMS® EOS System, CoC No. 1042*	ML16242A023
Technical Specifications for TN Americas NUHOMS® EOS System, CoC No. 1042*	ML16242A022

* The term "Amendment 0" used in the supporting documents for this proposed rule and the term "Initial Certificate" used in 10 CFR 72.214 describes the same document. Initial Certificate is the correct term and will be used henceforth when discussion involves this document.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking Web Site at <http://www.regulations.gov> under Docket ID NRC-2016-0254. The Federal Rulemaking Web Site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) navigate to the docket folder (NRC-2016-0254); 2) click the "Sign up for E-mail Alerts" link; and 3) enter your e-mail address and select how frequently you would like to receive e-mails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping

requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendment to 10 CFR part 72:

PART 72 -- LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

2. In § 72.214, Certificate of Compliance 1042 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1042.

Initial Certificate Effective Date: **[DATE 75 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

SAR Submitted by: TN Americas LLC.

SAR Title: Final Safety Analysis Report for the NUHOMS® EOS Dry Spent Fuel Storage System.

Docket Number: 72-1042.

Certificate Expiration Date: **[DATE 20 YEARS AFTER PUBLICATION IN THE FEDERAL REGISTER].**

Model Number: EOS-37PTH, EOS-89BTH.

Dated at Rockville, Maryland, this 9th day of March, 2017.

For the Nuclear Regulatory Commission.

Victor M. McCree,
Executive Director
for Operations.

[FR Doc. 2017-05897 Filed: 3/23/2017 8:45 am; Publication Date: 3/24/2017]