



[7590-01-P]

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 72**

**[NRC-2019-0224]**

**RIN 3150-AK40**

**List of Approved Spent Fuel Storage Casks: TN Americas LLC**

**NUHOMS® EOS Dry Spent Fuel Storage System,**

**Certificate of Compliance No. 1042, Amendment No. 1**

**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 revising the TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System listing within the “List of approved spent fuel storage casks” to include Amendment No. 1 to Certificate of Compliance No. 1042. Amendment No. 1 makes the following changes: adds a new basket type (Type 4) to allow for the loading of intact, damaged, or failed fuel; adds another new basket type (Type 5) with low conductivity poison basket plates and low emissivity coated steel basket plates; accepts fuel assemblies with a minimum two-year cooling time, in selected locations within the basket; adds the NUHOMS® MATRIX design as an alternative to the EOS horizontal storage module design for the storage of spent fuel; and makes additional revisions to the certificate of compliance and the technical specifications for consistency and clarity.

**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 NRC 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 <https://www.regulations.gov> and search for Docket ID NRC-2019-0224. When preparing and submitting your comments, see “Tips for Submitting Effective Comments” at [https://www.regulations.gov/docs/Tips\\_For\\_Submitting\\_Effective\\_Comments.pdf](https://www.regulations.gov/docs/Tips_For_Submitting_Effective_Comments.pdf). Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** [Rulemaking.Comments@nrc.gov](mailto: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 Section I, “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** Christian Jacobs, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-6825; e-mail: [Christian.Jacobs@nrc.gov](mailto:Christian.Jacobs@nrc.gov) or Nicole Fields, Office of Nuclear Material Safety and Safeguards; telephone: 630-829-9570; e-mail: [Nicole.Fields@nrc.gov](mailto:Nicole.Fields@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:**

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### **I. Obtaining Information and Submitting Comments**

#### **A. Obtaining Information**

Please refer to Docket ID NRC-2019-0224 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 <https://www.regulations.gov> and search for Docket ID NRC-2019-0224.

- **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 e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in Section V, "Availability of Documents," of this document.

- **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-2019-0224 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 <https://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

Because the NRC considers this action to be non-controversial, 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*. 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 any significant adverse comment 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 in a subsequent final rule. Absent significant modifications to the proposed revisions

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 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.

(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 to make a change (other than editorial) to the rule.

For a detailed discussion of the proposed rule changes and associated analyses, 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 of 1982, as amended, requires that “[t]he 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 Nuclear Waste Policy Act 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 that 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.” 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. The NRC subsequently issued a direct final rule on March 24, 2017, that approved the TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1042.

#### **IV. Plain Writing**

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. 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. 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 through one or more of the following methods, as indicated.

DOCUMENT	ADAMS ACCESSION NO. / <i>FEDERAL REGISTER</i> CITATION
Proposed Certificate of Compliance No. 1042, Amendment No. 1	ML19290H608
Proposed Technical Specifications, Certificate of Compliance No. 1042, Amendment No. 1, Appendix A	ML19290H605
Preliminary Safety Evaluation Report, Certificate of Compliance No. 1042, Amendment No. 1	ML19290H606
Application for Amendment 1 to the NUHOMS EOS System, Revision 0, dated February 15, 2018	ML18053A220 (package)
Acceptance Review of TN Americas, LLC Application for Certificate of Compliance No. 1042, Amendment 1 to NUHOMS EOS System, Rev. 1 - Response to Request for Supplemental Information, dated June 14, 2018	ML18178A029 (package)
Acceptance Review (Continued) of TN Americas LLC Application for Certificate of Compliance No. 1042, Amendment No. 1, to the NUHOMS EOS System, Revision 2 - Response to Second Request for Supplemental Information, dated August 30, 2018	ML18255A124 (package)
Application for Amendment 1 to NUHOMS EOS Certificate of Compliance No. 1042, Rev. 3 - Response to Request for Additional Information, dated February 19, 2019	ML19058A410 (package)
Application for Amendment 1 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 4 - Computer Files Associated with Certain CoC 1042 Amendment 1 Request for Additional Information Items (Docket No. 72-1042, CAC No. 001028, EPID: L-2018-LLA-0043), dated March 21, 2019	ML19084A054
Submittal of Amendment 1 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 5 - Revised Responses to Request for Additional Information, dated June 19, 2019	ML19176A315 (package)
Application for Amendment 1 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 6 - Revised Responses to Request	ML19204A228 (package)

for Additional Information, dated July 16, 2019	
E-Mail from G. Mathues/Orano TN to C. Jacobs/NRC re: EOS Amendment 1 CoC Clarifications, dated July 17, 2019	ML19220A177 (package)
Transmittal Letter Regarding Application for Amendment 1 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 7 - Technical Specifications Table 3 Editorial Correction, dated August 29, 2019	ML19248C254 (package)
Orano USA - Application for Amendment 1 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 8 - Appendix 3.9.7 Editorial Correction, dated October 1, 2019	ML19274B914
Agreement State Program Policy Statement, dated October 18, 2017	82 FR 48535
Plain Language in Government Writing, dated June 10, 1998	63 FR 31885
Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites: Final Rule, dated July 18, 1990	55 FR 29181
List of Approved Spent Fuel Storage Casks: TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System, Certificate of Compliance No. 1042: Direct Final Rule, dated March 24, 2017	82 FR 14987
Certificate of Compliance No. 1042, Initial Certificate, Corrected	ML17215A161

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking web site at <https://www.regulations.gov> under Docket ID NRC-2019-0224. 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-2019-0224); 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, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting

and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

Dated at Rockville, Maryland, this 18th day of March, 2020.

For the Nuclear Regulatory Commission.

Margaret M. Doane,  
Executive Director for Operations.

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