

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2016-0138]

RIN 3150-AJ78

**List of Approved Spent Fuel Storage Casks: EnergySolutions™ Corporation,
VSC-24 Ventilated Storage Cask System,
Renewal of Initial Certificate and Amendment Nos. 1–6**

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the EnergySolutions™ Corporation's (EnergySolutions or the applicant) VSC-24 Ventilated Storage Cask System listing within the "List of Approved Spent Fuel Storage Casks" to renew, for an additional 40 years, the initial certificate and Amendment Nos. 1–6 of Certificate of Compliance (CoC) No. 1007. The renewal of the initial certificate and Amendment Nos. 1–6 requires cask users to establish, implement, and maintain written procedures for aging management program (AMP) elements, including a lead cask inspection program, for VSC-24 Storage Cask structures, systems, and components (SSCs) important to safety. Users must also conduct periodic "tollgate" assessments of new information on SSC aging effects and mechanisms to determine whether any element of an AMP addressing these effects and mechanisms requires revision to encompass the current state of knowledge. In

addition, the renewal of the initial certificate and Amendment Nos. 1–6 makes several other changes, described in Section IV, “Discussion of Changes,” in the SUPPLEMENTARY INFORMATION section of the companion direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

DATES: Submit comments by August 7, 2017. 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-2016-0138. 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, 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: Robert D. MacDougall, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-5175; e-mail:

Robert.MacDougall@nrc.gov.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2016-0138 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-2016-0138.

- **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-2016-0138 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 renewal of the initial certificate and Amendment Nos. 1-6 of CoC No. 1007. 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 September 20, 2017. However, if the NRC receives significant adverse comments on this proposed rule by August 7, 2017, 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 these proposed revisions 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 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). A general license authorizes a reactor licensee to store spent fuel in NRC-approved casks at a site that is licensed to operate a power reactor under 10 CFR parts 50 or 52. 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 final rule on April 7, 1993 (58 FR 17967), that approved the VSC-24 Cask System design effective May 7, 1993, and added it to the list of

NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1007.

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 the 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. / FEDERAL REGISTER CITATION
Proposed CoC No. 1007 Renewal, Initial Issuance	ML16057A127
Proposed Technical Specification (TS), Attachment A, CoC No. 1007 Renewal, Initial Issuance	ML16057A139
Proposed CoC No. 1007 Renewal, Amendment 1	ML16057A189
Proposed TS, Attachment A, Amendment 1	ML16057A211
Proposed CoC No. 1007 Renewal, Amendment 2	ML16057A216
Proposed TS, Attachment A, Amendment 2	ML16057A322
Proposed CoC No. 1007 Renewal, Amendment 3	ML16057A333

Proposed TS, Attachment A, Amendment 3	ML16057A358
Proposed CoC No. 1007 Renewal, Amendment 4	ML16057A449
Proposed TS, Attachment A, Amendment 4	ML16057A511
Proposed CoC No. 1007 Renewal, Amendment 5	ML16057A593
Proposed TS, Attachment A, Amendment 5	ML16057A600
Proposed CoC No. 1007 Renewal, Amendment 6	ML16057A617
Proposed TS, Attachment A, Amendment 6	ML16057A630
Preliminary Safety Evaluation Report	ML16057A667
Final Safety Analysis Report for the VSC-24 Ventilated Storage Cask System	ML060810682
NUREG-1092, "Environmental Assessment for 10 CFR Part 72 - Licensing Requirements for the Independent Storage of Spent Fuel and High-Level Radioactive Waste"	ML091050510
Proposed Rule, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste"	51 FR 19106
Environmental Assessment and Finding of No Significant Impact for Proposed Rule Entitled "Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites"	54 FR 19379
Final Rule, "Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites"	55 FR 29181
Final Rule, "License and Certificate of Compliance Terms"	76 FR 8872

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-2016-0138. 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-2016-0138); 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 proposing to adopt the following amendments 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 1007 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1007.

Initial Certificate Effective Date: May 7, 1993, superseded by Renewed Initial Certificate, on September 20, 2017.

Renewed Initial Certificate Effective Date: September 20, 2017.

Amendment Number 1 Effective Date: May 30, 2000, superseded by Renewed Amendment Number 1, on September 20, 2017.

Renewed Amendment Number 1 Effective Date: September 20, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Renewed Amendment Number 2, on September 20, 2017.

Renewed Amendment Number 2 Effective Date: September 20, 2017.

Amendment Number 3 Effective Date: May 21, 2001, superseded by Renewed Amendment Number 3, on September 20, 2017.

Renewed Amendment Number 3 Effective Date: September 20, 2017.

Amendment Number 4 Effective Date: February 3, 2003, superseded by Renewed Amendment Number 4, on September 20, 2017.

Renewed Amendment Number 4 Effective Date: September 20, 2017.

Amendment Number 5 Effective Date: September 13, 2005, superseded by Renewed Amendment Number 5, on September 20, 2017.

Renewed Amendment Number 5 Effective Date: September 20, 2017.

Amendment Number 6 Effective Date: June 5, 2006, superseded by Renewed Amendment Number 6, on September 20, 2017.

Renewed Amendment Number 6 Effective Date: September 20, 2017.

SAR Submitted by: EnergySolutions™ Corporation.

SAR Title: Final Safety Analysis Report for the VSC-24 Ventilated Storage Cask System.

Docket Number: 72-1007.

Renewed Certificate Expiration Date: May 7, 2053.

Model Number: VSC-24.

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Dated at Rockville, Maryland, this 31st day of May, 2017.

For the Nuclear Regulatory Commission.

/RA/

Michael R. Johnson
Acting Executive Director
for Operations