

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2017-0138]

RIN 3150-AK05

**List of Approved Spent Fuel Storage Casks: TN Americas LLC,
Standardized NUHOMS® Horizontal Modular Storage System,
Certificate of Compliance No. 1004, Renewal of Initial Certificate and
Amendment Nos. 1 Through 11 and 13, Revision 1, and 14**

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of December 11, 2017, for the direct final rule that was published in the *Federal Register* on September 27, 2017. This direct final rule amended the NRC's spent fuel storage regulations by revising the Standardized NUHOMS® Horizontal Modular Storage System (NUHOMS® System) listing within the "List of approved spent fuel storage casks" to renew, for an additional 40-year period, the initial certificate and Amendment Nos. 1 through 11 and 13, Revision 1, and Amendment No. 14 of Certificate of Compliance (CoC) No. 1004. These changes require, among other things, that all future amendments and revisions to this CoC include evaluations of the impacts to aging management activities (i.e., time-limited aging analyses (TLAAs) and aging management programs (AMPs)) to ensure that they remain adequate to timely identify any changes to

spent fuel storage cask systems, structures, and components (SSCs) within the scope of the renewal.

DATES: Effective date: The effective date of December 11, 2017, for the direct final rule published September 27, 2017 (82 FR 44879), is confirmed.

ADDRESSES: Please refer to Docket ID NRC-2017-0138 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-2017-0138. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals 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 <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. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time it is mentioned in the SUPPLEMENTARY INFORMATION 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.

FOR FURTHER INFORMATION CONTACT: Christian Jacobs, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-6825; email: Christian.Jacobs@nrc.gov, or Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-5175; email: Robert.MacDougall@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

On September 27, 2017 (82 FR 44879), the NRC published a direct final rule amending its spent fuel storage regulations in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) by revising the NUHOMS® System listing within the “List of approved spent fuel storage casks” to renew, for an additional 40-year period, the initial certificate and Amendment Nos. 1 through 11 and 13, Revision 1, and Amendment No. 14 of CoC No. 1004. These changes require, among other things, that all future amendments and revisions to this CoC include evaluations of impacts on TLAAs and AMPs to ensure that they remain adequate to timely identify any changes to spent fuel storage cask SSCs within the scope of the renewal.

II. Public Comments on the Companion Proposed Rule

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on December 11, 2017. The NRC received one comment submission on the companion proposed rule (82 FR 44971). An electronic copy of this submission can be obtained from the Federal Rulemaking Web site, <http://www.regulations.gov>, by searching for Docket ID NRC-2017-0138. The comment submission also is available in ADAMS under Accession No. ML17303A026. For the reasons discussed in more detail in Section III, “Public Comment Analysis,” of this document, none of the comments contained in the submission are considered significant adverse comments.

III. Public Comment Analysis

The NRC received one comment submission on the proposed rule from FirstEnergy Nuclear Operating Company (FENOC). The submission contained three comments styled as “comment/questions.” As explained in the September 27, 2017, direct final rule, the NRC would withdraw the direct final rule only if it received a “significant adverse comment.” This is a comment where the commenter explains why the rule would be inappropriate, challenges its underlying premise or approach, or shows why it 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; or

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

In this instance, the NRC determined that none of the comments submitted on the proposed rule are significant adverse comments. The comments either were already addressed by the NRC staff's safety evaluation report (SER) (ADAMS Accession No. ML17131A121), or did not oppose the rule. The NRC has not made any changes to the direct final rule as a result of the public comments. However, the NRC is taking this opportunity to respond to the comments in an effort to clarify information about the direct final rule. The comments and the NRC's responses follow.

Comment 1

The commenter questioned why the proposed renewal of CoC No. 1004 includes a timeframe of 180 days for each general licensee (GL) to establish and implement its AMP procedures, which is shorter than the timeframe of 300 days that was granted for the renewal of CoC No. 1007. The commenter stated that the 180-day implementation period poses a hardship upon GLs with older spent fuel storage systems.

NRC Response

This comment did not raise an issue that was previously unaddressed by the NRC staff. During its review of the renewal application for CoC No. 1004, the NRC staff considered the appropriate timeframe for implementation of the AMP procedures. As stated in the SER, “[t]he timeframe [of 180 days] in the condition is to ensure operating procedures are developed in a timely manner and is consistent with conditions placed in specific licenses that have been renewed.” Specifically, the 180-day timeframe was successfully used for the renewals of the specific licenses under 10 CFR part 72 for the Prairie Island and Calvert Cliffs Independent Spent Fuel Storage Installations (ISFSIs).

The 180-day timeframe is also consistent with the guidance in NUREG-1927, Rev. 1, “Standard Review Plan for Renewal of Spent Fuel Dry Cask Storage System Licenses and Certificates of Compliance.” The commenter points to a statement in the NUREG that “the development of the infrastructure for AMP implementation generally should be no later than one year,” from the date of renewal; however, this does not preclude a shorter timeframe. The cask vendor, TN Americas LLC (TN), is preparing the AMP procedures for the GLs as an update to TN’s Final Safety Analysis Report, and plans to provide these procedures within 90 days after the effective date of the renewal. This will allow at least an additional 90 days for the affected GLs to implement the procedures. Accordingly, the comment has not caused the NRC to reevaluate its position that a timeframe of 180 days is sufficient for AMP implementation.

The comment questions why the AMP implementation timeframe for the renewed NUHOMS® CoC is shorter than that for the renewal of CoC No. 1007 for the EnergySolutions™ Corporation's VSC-24 Ventilated Storage Cask System (82 FR 31433). During the NRC’s review of the CoC No. 1007 renewal application, the cask

vendor requested that the NRC consider an implementation timeframe of 300 days instead of 180 days after the effective date of the renewal. In that case, the NRC determined that the additional time for implementation was reasonable because CoC No. 1007 was the first CoC to go through the CoC renewal process for GLs. During its review of the renewal application for CoC No. 1004, the NRC staff was aware that the renewed CoC No. 1007, as the first-of-its-kind GL CoC renewal, included more time for AMP implementation. The staff determined that the special circumstances considered for CoC No. 1007 were not present for CoC No. 1004. Accordingly, this comment does not raise a relevant issue that was not previously addressed or considered by the NRC staff.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment did not cause the NRC staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs. To the extent that the comment can be interpreted as requesting a change to the rule, i.e., a longer timeframe for implementation of the AMP procedures, the comment does not show that the rule would be ineffective or unacceptable without incorporation of the change.

Comment 2

The commenter questioned whether the words “implement these written procedures within 180 days” mean that all required AMP inspections must be performed and the results reported within 180 days.

NRC Response

The answer to the commenter’s question is no. Implementing the written

procedures does not mean that an affected GL must perform all the SSC inspections required by its AMP and report the results of its inspections within the 180-day implementation period.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment does not oppose the rule, and it did not cause the NRC staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs.

Comment 3

The commenter asked if the language in the revised TSs that “[e]ach general licensee shall have a program to establish, implement, and maintain written procedures...” applies to all GLs, including those that have only recently begun loading casks under CoC No. 1004. The commenter further asked if a site that began loading casks in 2014 would be required to have the ISFSI AMP procedure in place after 180 days.

NRC Response

Under the renewed CoC, each GL using NUHOMS® systems will be required to have a program with approved written AMP procedures in place within 180 days after the effective date of the renewal, or 180 days after the 20th anniversary of the loading of the first dry storage system at its site, whichever is later. Thus, if a particular ISFSI has casks that were loaded in 2014, these casks would not be required to have AMP procedures in place until 2034 at the earliest.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment did not oppose the rule, and it did not cause the NRC

staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs.

Therefore, because no significant adverse comments were received, this direct final rule will become effective as scheduled on December 11, 2017. The final CoC, TS, and SER can be viewed in ADAMS under Accession No. ML17338A091.

Dated at Rockville, Maryland, this 5th day of December 2017.

For the Nuclear Regulatory Commission.

/RA/

Cindy K. Bladey, Chief,
Regulatory Analysis and Rulemaking Support Branch,
Division of Rulemaking,
Office of Nuclear Material Safety and Safeguards.