

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2021-0124]

RIN 3150-AK66

**List of Approved Spent Fuel Storage Casks: TN Americas LLC
NUHOMS® EOS Dry Spent Fuel Storage System,
Certificate of Compliance No. 1042, Amendment No. 2**

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. 2 to Certificate of Compliance No. 1042. Amendment No. 2 would revise the certificate of compliance to add a dry shielded canister for storage, add new heat load zone configurations, and make other changes to the storage system. Amendment No. 2 also would change the certificate of compliance, technical specifications, and updated final safety analysis report for consistency and clarity.

DATES: Submit comments by September 13, 2021. 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: Submit your comments, identified by Docket ID NRC-2021-0124, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

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: Christian J. Jacobs, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-6825; email: Christian.Jacobs@nrc.gov or Andrew G. Carrera, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-1078; email: Andrew.Carrera@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-2021-0124 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 Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2021-0124. Address questions about NRC dockets to Dawn Forder, telephone: 301-415-3407, email: Dawn.Forder@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 <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. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at pdr.resource@nrc.gov or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC-2021-0124 in your comment submission. The NRC requests that you submit comments through the Federal rulemaking website at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the FOR

FURTHER INFORMATION CONTACT section of this document for alternate instructions.

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, 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 October 26, 2021. However, if the NRC receives any significant adverse comment by September 13, 2021, 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 more 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 “[t]he 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” (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. The NRC subsequently issued a final rule on March 24, 2017 (82 FR 14987), as corrected (82 FR 34387; July 25, 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, “List of approved spent fuel storage casks,” 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, 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 (63 FR 31885). 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 NO. / <i>FEDERAL REGISTER</i> CITATION
Direct Final Rule, 10 CFR Part 72, “List of Approved Spent Fuel Storage Casks: TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System, Certificate of Compliance No. 1042; [NRC-2016-0254] RIN 3150-AJ88,” March 24, 2017	82 FR 14987
Correcting Amendment, 10 CFR Part 72, “List of Approved Spent Fuel Storage Casks: TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System, Certificate of Compliance No. 1042; [NRC-2016-0254] RIN 3150-AJ88,” July 25, 2017	82 FR 34387
Initial Application from TN Americas LLC for Certificate of Compliance No. 1042, Amendment No. 2, to NUHOMS EOS Dry Spent Fuel Storage System Certificate of Compliance No. 1042, April 18, 2019	ML19114A227 (package)
Submittal of Acceptance Review of TN Americas LLC Application for Certificate of Compliance No. 1042, Amendment No. 2, to NUHOMS EOS System, Revision 1, Response to Request for Supplemental Information., August 5, 2019	ML19225C845
Acceptance Review of TN Americas LLC Application for Certificate of Compliance No. 1042, Amendment No. 2, to NUHOMS EOS System, Revision 2, Supplemental Information, October 2, 2019	ML19282A518

Acceptance Review of TN Americas LLC Application for Certificate of Compliance No. 1042, Amendment No. 2, to NUHOMS EOS System, Revision 3 - Supplemental Information, October 29, 2019	ML19311C551
TN Americas LLC, Application for Certificate of Compliance No. 1042, Amendment No. 2, to NUHOMS EOS System, Revision 5, June 30, 2020	ML20190A135
Application for Certificate of Compliance No. 1042, Amendment No. 2, to NUHOMS EOS System, Revision 6, Revised Responses to Request for Additional Information, October 29, 2020	ML20315A417
TN America, LLC - Application for Certificate of Compliance No. 1042 Amendment No. 2 to NUHOMS EOS System, Revision 7 - Revised Response to Request for Additional Information, January 27, 2021	ML21027A324
User Need Memorandum Package to T. Martinez Navedo from J. McKirgan with Proposed Certificate of Compliance No. 1042, Amendment No. 2; Associated Proposed Technical Specifications; and the Preliminary Safety Evaluation Report, June 7, 2021	ML21125A103 (package)

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at <https://www.regulations.gov> under Docket ID NRC-2021-0124.

Dated: August 4, 2021.

For the Nuclear Regulatory Commission.

/RA/

Margaret M. Doane,
Executive Director for Operations.