

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2023-0220]

RIN 3150-AL05

List of Approved Spent Fuel Storage Casks: FuelSolutions™ Spent Fuel Management System, Certificate of Compliance No. 1026, Renewal of Initial Certificate and Amendment Nos. 1 Through 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel regulations by revising the Westinghouse Electric Company LLC FuelSolutions™ Spent Fuel Management System listing within the “List of approved spent fuel storage casks” to renew the initial certificate and Amendment Nos. 1 through 4 to Certificate of Compliance No. 1026. The renewal of the initial certificate of compliance and Amendment Nos. 1 through 4 for 40 years would revise the certificate’s conditions and technical specifications to address aging management activities related to the structures, systems, and components important to safety of the dry storage system to ensure that these will maintain their intended functions during the period of extended storage operations.

DATES: Submit comments by May 20, 2024. 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-2023-0220, 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.

You can read a plain language description of this proposed rule at <https://www.regulations.gov/docket/NRC-2023-0220>. 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: George Tartal, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-0016, email: george.tartal@nrc.gov and Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-1018, email: yen-ju.chen@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-2023-0220 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-2023-0220. 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.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-

4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC-2023-0220 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 individual 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, 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 July 3, 2024. However, if the NRC receives any significant adverse comment by May 20, 2024, 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. In general, 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, certificate of compliance, or technical specifications (TS).

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 January 16, 2001 (66 FR 3444), that approved the FuelSolutions™ Spent Fuel Management System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No.1026.

On August 28, 2007 (72 FR 49352), the NRC amended the scope of the general licenses issued under 10 CFR 72.210 to include the storage of spent fuel in an

independent spent fuel storage installations (ISFSI) at power reactor sites to persons authorized to possess or operate nuclear power reactors under 10 CFR part 52. On February 16, 2011 (76 FR 8872), the NRC amended subparts K and L in 10 CFR part 72, to extend and clarify the term limits for certificates of compliance and revised the conditions for spent fuel storage cask renewals, including adding requirements for the safety analysis report to include time-limited aging analyses and a description of aging management programs. The NRC also clarified the terminology used in the regulations to use “renewal” rather than “reapproval” to better reflect that extending the term of a currently approved cask design is based on the cask design standards in effect at the time the certificate of compliance was approved rather than current standards.

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 (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. / WEB LINK / FEDERAL REGISTER CITATION
Proposed Certificate of Compliance	
Proposed Certificate of Compliance No. 1026, Renewed Amendment No. 0	ML22354A265
Proposed Certificate of Compliance No. 1026, Renewed Amendment No. 1	ML22354A269
Proposed Certificate of Compliance No. 1026, Renewed Amendment No. 2	ML22354A273
Proposed Certificate of Compliance No. 1026, Renewed Amendment No. 3	ML22354A277
Proposed Certificate of Compliance No. 1026, Renewed Amendment No. 4	ML22354A281
Preliminary Safety Evaluation Report for Renewed Certificate of Compliance No. 1026, Amendments Nos. 0-4	ML22354A285
Preliminary Safety Evaluation Report	
Preliminary Safety Evaluation Report for Renewed Certificate of Compliance No. 1026, Amendments Nos. 0-4	ML22354A266 (Word, draft, non-public)
Proposed Technical Specifications	
Proposed Technical Specifications Appendix A for Certificate of Compliance No. 1026, Renewed Amendment No. 0	ML22354A266
Proposed Technical Specifications Appendix B for Certificate of Compliance No. 1026, Renewed Amendment No. 0	ML22354A267
Proposed Technical Specifications Appendix C for Certificate of Compliance No. 1026, Renewed Amendment No. 0	ML22354A268
Proposed Technical Specifications Appendix A for Certificate of Compliance No. 1026, Renewed Amendment No. 1	ML22354A270
Proposed Technical Specifications Appendix B for Certificate of Compliance No. 1026, Renewed Amendment No. 1	ML22354A271
Proposed Technical Specifications Appendix C for Certificate of Compliance No. 1026, Renewed Amendment No. 1	ML22354A272
Proposed Technical Specifications Appendix A for Certificate of Compliance No. 1026, Renewed Amendment No. 2	ML22354A274
Proposed Technical Specifications Appendix B for Certificate of Compliance No. 1026, Renewed Amendment No. 2	ML22354A275

Proposed Technical Specifications Appendix C for Certificate of Compliance No. 1026, Renewed Amendment No. 2	ML22354A276
Proposed Technical Specifications Appendix A for Certificate of Compliance No. 1026, Renewed Amendment No. 3	ML22354A278
Proposed Technical Specifications Appendix B for Certificate of Compliance No. 1026, Renewed Amendment No. 3	ML22354A279
Proposed Technical Specifications Appendix C for Certificate of Compliance No. 1026, Renewed Amendment No. 3	ML22354A280
Proposed Technical Specifications Appendix A for Certificate of Compliance No. 1026, Renewed Amendment No. 4	ML22354A282
Proposed Technical Specifications Appendix B for Certificate of Compliance No. 1026, Renewed Amendment No. 4	ML22354A283
Proposed Technical Specifications Appendix C for Certificate of Compliance No. 1026, Renewed Amendment No. 4	ML22354A284
Environmental Documents	
“Environmental Assessment and Findings of No Significant Impact for the Final Rule Amending 10 CFR Part 72 License and Certificate of Compliance Terms.” (2010)	ML100710441
Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report (NUREG-2157, Volumes 1 and 2) (2014)	ML14198A440 (package)
Westinghouse Electric Company LLC FuelSolutions™ Spent Fuel Management System Renewal Application Documents	
Westinghouse Electric Company LLC “Submittal of FuelSolutions™ Spent Fuel Management System Certificate of Compliance (CoC) Renewal Application.” Westinghouse letter LTR-NRC-20-64. (November 6, 2020)	ML20315A012 (package)
Westinghouse Electric Company LLC “Reponses to Requests for Supplemental Information for the Application for the FuelSolutions™ Spent Fuel Management System Certificate of Compliance (CoC) Renewal Application.” Westinghouse letter LTR-NRC-21-14 Revision 0. (March 30, 2021)	ML21090A201 (package)
Westinghouse Electric Company LLC “Submittal of FuelSolutions™ Spent Fuel	ML22186A053 (package)

Management System Certificate of Compliance (CoC) Renewal Application.” Westinghouse letter LTR-NRC-22-27. (June 30, 2022)	
Westinghouse Electric Company LLC “Submittal of Supplemental Response to NRC RAI A-RCS1.” Westinghouse letter LTR-NRC-22-38. (September 13, 2022)	ML22256A285 (package)
Other Documents	
“Standard Review Plan for Renewal of Specific Licenses and Certificates of Compliance for Dry Storage of Spent Nuclear Fuel.” NUREG-1927, Revision 1. Washington, DC. (June 2016)	ML16179A148
“Managing Aging Processes in Storage (MAPS) Report.” Final Report. NUREG-2214. Washington, DC. (July 2019)	ML19214A111
“General License for Storage of Spent Fuel at Power Reactor Sites.” (July 18, 1990)	55 FR 29181
“List of Approved Spent Fuel Storage Casks: FuelSolutions Addition.” (January 16, 2001)	66 FR 3444
“License and Certificate of Compliance Terms.” (February 16, 2011)	76 FR 8872
“Agreement State Program Policy Statement; Correction.” (October 18, 2017)	82 FR 48535
Nuclear Energy Institute NEI 14-03, Revision 2, “Format, Content and Implementation Guidance for Dry Cask Storage Operations-Based Aging Management.” (December 2016)	ML16356A210
Regulatory Guide 3.76, Revision 0, “Implementation of Aging Management Requirements for Spent Fuel Storage Renewals.” (July 2021)	ML21098A022
“Licenses, Certifications, and Approvals for Nuclear Power Plants.” (August 28, 2007)	72 FR 49352
Presidential Memorandum, “Plain Language in Government Writing.” (June 10, 1998)	63 FR 31885

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-2023-0220. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) navigate to the docket folder (NRC-2023-0220); 2) click the "Subscribe" link; and 3) enter an email address and click on the "Subscribe" link.

Dated: April 8, 2024.

For the Nuclear Regulatory Commission.

/RA/

Raymond Furstenau,
Acting Executive Director for Operations.