

# Proposed Rules

Federal Register

Vol. 88, No. 190

Tuesday, October 3, 2023

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

[NRC–2023–0131]

RIN 3150–AL03

#### List of Approved Spent Fuel Storage Casks: TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, Certificate of Compliance No. 1004, Renewed Amendment No. 18

**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 TN Americas, LLC (TN) Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel listing within the “List of approved spent fuel storage casks” to include Renewed Amendment No. 18 to Certificate of Compliance No. 1004. Because this amendment was submitted subsequent to the renewal of the TN Americas, LLC Standardized NUHOMS Horizontal Modular Storage System for Irradiated Nuclear Fuel Certificate of Compliance No. 1004 and, therefore, subject to the Aging Management Program requirements of the renewed certificate, NRC is referring to it as “Renewed Amendment No. 18.” Renewed Amendment No. 18 amends the certificate of compliance to provide an improved basket design, revise technical specifications, and incorporate administrative controls during short duration independent spent fuel storage installation handling operations. The amendment also includes a change to the horizontal storage module concrete to allow use of a blended Portland cement that meets the requirements of American Society for Testing and Materials standards.

**DATES:** Submit comments by November 2, 2023. 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–2023–0131, 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:** Rodnika Murphy, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–7153, email: [Rodnika.Murphy@nrc.gov](mailto:Rodnika.Murphy@nrc.gov); and Christian Jacobs, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–6825, email: [Christian.Jacobs@nrc.gov](mailto:Christian.Jacobs@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents:

- I. Obtaining Information and Submitting Comments
- II. Rulemaking Procedure
- III. Background
- IV. Plain Writing
- V. Availability of Documents

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC–2023–0131, 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–2023–0131. Address questions about NRC dockets to Dawn Forder, telephone: 301–415–3407, email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov). For technical questions contact the individual 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](mailto: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](mailto: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–2023–0131, 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 December 18, 2023. However, if the NRC receives any significant adverse comment by November 2, 2023, 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.

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 December 22, 1994 (59 FR 65897) that approved the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1004.

### 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./web link/ <b>Federal Register</b> citation
<b>Proposed Certificate of Compliance and Proposed Technical Specifications</b>	
Proposed NUHOMS 1004 Amendment No. 18 Certificate of Compliance .....	ML23058A330
Proposed NUHOMS 1004 Amendment No. 18 Technical Specification Appendix A .....	ML23058A332
Proposed NUHOMS 1004 Amendment No. 18 Technical Specification Appendix B .....	ML23058A334
Proposed NUHOMS 1004 Amendment No. 18 Technical Specification Appendix C .....	ML23058A336
Proposed NUHOMS 1004 Amendment No. 18 Safety Evaluation Report .....	ML23058A328
<b>Other Documents</b>	
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® Horizontal Modular Storage System for Irradiated Nuclear Fuel, Certificate of Compliance No. 1004: Direct Final Rule, dated December 22, 1994 .....	59 FR 65897

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–2023–0131. 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–2023–0131); (2) click the “Subscribe” link; and (3) enter an email address and click on the “Subscribe” link.

Dated: September 26, 2023.

For the Nuclear Regulatory Commission.

**Scott A. Morris,**

*Acting Executive Director for Operations.*

[FR Doc. 2023–21828 Filed 10–2–23; 8:45 am]

**BILLING CODE 7590–01–P**