

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, 13, Revision 1, and 14**

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 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, Revision 1 of the initial certificate and Amendment Nos. 1 through 11, and 13, 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 and aging management programs (AMPs)) to ensure that they remain adequate for any changes to spent fuel storage cask systems, structures, and components (SSCs) within the scope of the renewal. Each general licensee using a NUHOMS® System at a reactor site must have a program to establish, implement, and maintain written procedures for each AMP

described in the AREVA Inc. (AREVA) Updated Final Safety Analysis Report (UFSAR). In addition, the renewals reflect the change in the name of the CoC holder from AREVA to TN Americas LLC, and make several other changes as described in Section IV, "Discussion of Changes," in the SUPPLEMENTARY INFORMATION section of a companion direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

DATES: Submit comments by October 27, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC staff 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-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.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then 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: Christian Jacobs, Office of Nuclear Material Safety and Safeguards, 301-415-6825; e-mail: Christian.Jacobs@nrc.gov, or Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards, 301-415-5175; e-mail: Robert.MacDougall@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-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.

- **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-2017-0138 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 through 11, 13, Revision 1, and Amendment No. 14 of CoC No. 1004. Because the NRC considers this action to be non-controversial 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 December 11, 2017. However, if the NRC receives significant adverse comments on this proposed rule by October 27, 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 December 22, 1994 (59 FR 65898) that approved the NUHOMS® System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC 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 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 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. / <i>FEDERAL REGISTER</i> CITATION
Final Rule: “General License for Storage of Spent Fuel at Power Reactor Sites”	55 FR 29181
Final Rule: List of Approved Spent Fuel Storage Casks: Addition	59 FR 65898
AREVA, Inc. - Renewal Application for the Standardized NUHOMS® System - CoC 1004	ML14309A341
AREVA, Inc. - Revision 1 to Renewal Application for the Standardized NUHOMS® System – CoC 1004, Response to First Request for Additional Information	ML15295A354
AREVA, Inc., Second Response to NRC RAI Re: Renewal Application for the Standardized NUHOMS® System - CoC 1004	ML16169A025
AREVA, Inc., Regarding Response to Re-Issue of Second Request for Additional Information – AREVA, Inc. Renewal Application for the Standardized NUHOMS® System - CoC 1004	ML16279A368
AREVA, Inc., AREVA Internal Reorganization - Effect on Certificate of Compliance Ownership	ML16327A011
Submittal of NUH-003, "Updated Final Safety Analysis Report (UFSAR) for the Standardized NUHOMS® Horizontal Modular Storage System For Irradiated Nuclear Fuel," Revision 14	ML14255A191
Preliminary Certificate of Compliance and Preliminary Technical Specifications for CoC No. 1004, Renewed Amendment Nos. 1-11, Revision 1, and Amendment Nos. 13-14, Revision 1	ML17131A006 (package)

TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System - Draft SER [Safety Evaluation Report] for Renewed CoC 1004, Amendment Nos. 1-11, 13 and 14	ML17131A121
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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-2017-0138. 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-2017-0138); 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 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995, superseded by Initial Certificate, Revision 1, on April 25, 2017, superseded by Renewed Initial Certificate, Revision 1, on December 11, 2017.

Initial Certificate, Revision 1, Effective Date: April 25, 2017.

Renewed Initial Certificate, Revision 1, Effective Date: December 11, 2017.

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 1, Revision 1, on December 11, 2017.

Amendment Number 1, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 1, Revision 1, Effective Date: December 11, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 2, Revision 1, on December 11, 2017.

Amendment Number 2, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 2, Revision 1, Effective Date: December 11, 2017.

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 3, Revision 1, on December 11, 2017.

Amendment Number 3, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 3, Revision 1, Effective Date: December 11, 2017.

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 4, Revision 1, on December 11, 2017.

Amendment Number 4, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 4, Revision 1, Effective Date: December 11, 2017.

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 5, Revision 1, on December 11, 2017.

Amendment Number 5, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 5, Revision 1, Effective Date: December 11, 2017.

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 6, Revision 1, on December 11, 2017.

Amendment Number 6, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 6, Revision 1, Effective Date: December 11, 2017.

Amendment Number 7 Effective Date: March 2, 2004, superseded by Amendment Number 7, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 7, Revision 1, on December 11, 2017.

Amendment Number 7, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 7, Revision 1, Effective Date: December 11, 2017.

Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1 on April 25, 2017, superseded by Renewed Amendment Number 8, Revision 1, on December 11, 2017.

Amendment Number 8, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 8, Revision 1, Effective Date: December 11, 2017.

Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 9, Revision 1, on December 11, 2017.

Amendment Number 9, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 9, Revision 1, Effective Date: December 11, 2017.

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 10, Revision 1, on December 11, 2017.

Amendment Number 10, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 10, Revision 1, Effective Date: December 11, 2017.

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 11, Revision 1, on December 11, 2017.

Amendment Number 11, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 11, Revision 1, Effective Date: December 11, 2017.

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 13, Revision 1, on December 11, 2017.

Amendment Number 13, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 13, Revision 1, Effective Date: December 11, 2017.

Amendment Number 14 Effective Date: April 25, 2017, superseded by Renewed Amendment Number 14, on December 11, 2017.

Renewed Amendment Number 14 Effective Date: December 11, 2017.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015.

Renewed Certificate Expiration Date: January 23, 2055.

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1, –37PTH, –52B, –61BT, –61BTH, and –69BTH.

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Dated at Rockville, Maryland, this 18th day of September, 2017.

For the Nuclear Regulatory Commission.

/RA/

Frederick D. Brown,
Acting Executive Director of Operations.