

SAFEGUARDS EVALUATION REPORT

DOCKET NO: 70-1257

LICENSE NO: SNM-1227

LICENSEE: Framatome Inc.
2101 Horn Rapids Road
Richland, WA 99354-0130

SUBJECT: REQUEST FOR EXEMPTION FROM TITLE 10 OF THE CODE OF
FEDERAL REGULATIONS, PARAGRAPHS 74.17 AND 75.35

REQUEST

By letter dated April 2, 2020 (Agencywide Documents Access and Management Systems (ADAMS) Accession Number ML20093D162), Framatome, Inc. (Framatome) requested a 30-day extension for submitting the physical inventory reports as required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 74, "Material Control and Accounting of Special Nuclear Material," and 10 CFR Part 75, "Safeguards on Nuclear Material – Implementation of Safeguards Agreements Between the United States and the International Atomic Energy Agency." The NRC regulations in 10 CFR 74.17(a), (b), and (c) require that certain licensees use NRC Form 327 to report inventory differences, and associated information needed to evaluate inventory differences, found in any physical inventory required by 10 CFR 74.31(c)(5), 74.33(c)(4), 74.43(c)(7), or 74.59(f). Specifically, Framatome is required by 10 CFR 74.17(a) to submit U.S. Nuclear Regulatory Commission (NRC) Form 327, "Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report," not later than 60 calendar days from the start of each physical inventory required by 10 CFR 74.31(c)(5). Framatome, as a licensee selected by the International Atomic Energy Agency (IAEA), and subject to 10 CFR Part 75, it is required by 10 CFR 75.35 to submit the U.S. Department of Energy (DOE)/NRC Form 742, "Material Balance Report," and DOE/NRC Form 742C, "Physical Inventory Listing," no later than 30 days after the start of the physical inventory.

Licensees use DOE/NRC Form 742 to report a summary of activity for a specified material within a given time period. The report conveys information such as the beginning balance, shipments and receipts involving other facilities, how much material has decayed, how material has been downblended, and the ending balance. This information is useful to validate a facility's ending inventory. Licensees use DOE/NRC Form 742C to report a facility's inventory as of a specified date. The report lists, for each material type category, the amount of material in the facility's possession or in transit to the facility at the time of the inventory process. The form can show each individual batch or summarize totals of "like" batches. The totals for each material type category must match the ending balance in the corresponding material balance report (DOE/NRC Form 742). Framatome stated that, if the 30-day extension is granted, the DOE/NRC Forms 742 and 742C would be submitted within 60 calendar days from the start of the inventory and the NRC Form 327 reports submitted within 90 days of the start of inventory. In the submittal letter, Framatome stated that the annual physical inventory was initiated on March 16, 2020, and completed the item reconciliation (i.e., all items on the book inventory were physically verified to be present). Framatome further stated that there is no indication of any inventory anomalies or any identified reason that would prevent the reports from being completed. However, a key employee who completes the majority of the work required to

submit the inventory reports has been unavailable to work on them. Framatome stated that this is due to the combination of the key employee's current respiratory illness and the facility's protocols associated with the recent novel coronavirus (COVID-19) pandemic. Framatome stated it will work aggressively to complete the required reports as soon as possible, but may not be able to meet the requirement for submission under 10 CFR 74.17 and 10 CFR 75.35 under the current circumstances. Therefore, Framatome requested an additional 30 days to complete the required physical inventory reports.

DISCUSSION- NRC STAFF REVIEW PURSUANT TO 10 CFR 74.7 AND 10 CFR 75.3

By requesting an additional 30 days to submit the required reports for the March 16, 2020, physical inventory, Framatome is requesting temporary exemptions to the reporting requirements in 10 CFR 74.17 and 75.35. The NRC staff evaluated the information provided by Framatome, and for the reasons discussed below, determined that granting the exemptions is authorized by law, and will not result in a violation of the Atomic Energy Act of 1954, as amended, other laws, or the Commission's regulations.

Pursuant to 10 CFR 74.7, the NRC may grant an exemption from the requirements in 10 CFR Part 74 if the staff determines that the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Pursuant to 10 CFR 75.3, the NRC may grant an exemption to requirements in 10 CFR Part 75 if the staff determines the exemption is authorized by law, is consistent with safeguards agreements, is not inimical to the common defense and security, and is otherwise in the public interest

The NRC has determined that the exemptions are authorized by law. Further, the NRC staff has determined that temporarily exempting Framatome from the reporting requirements for the physical inventory will not endanger life or property or the common defense and security. The exemptions would give Framatome a 30-day extension to file the NRC-required reports of the results of the physical inventory required by 10 CFR 74.31(c)(5) (DOE/NRC Forms 742 and 742C and NRC Form 327). Under 10 CFR 74.31(c)(5), licensees are required to adjust the book inventory to the physical inventory, and resolve or report an inability to resolve any inventory difference which is rejected by a statistical analysis. Framatome has completed the physical inventory, and found no indication of any inventory anomalies. Framatome is still committed to performing a statistical analysis of the inventory difference, and if necessary, investigating, resolving, and reporting any statistically significant inventory differences, as required by 10 CFR 74.31(c)(5). The 30-day relief from the required timeframes to report the physical inventory-related information in DOE/NRC Forms 742 and 742C as required by 10 CFR 74.17 and NRC Form 327 as required by 10 CFR 75.35 is consistent with the safeguards agreements, and therefore will not result in any significant impact from a safety or safeguards perspective. Furthermore, the exemptions are necessary to allow Framatome the ability to complete the reports under the current circumstances.

The NRC staff determined that granting Framatome the requested exemptions is otherwise in the public interest because it promotes public health and safety by allowing Framatome to follow guidance from Federal and State Government agencies and company protocols regarding the COVID-19 pandemic. For the March 16, 2020, physical inventory, the requested additional 30 days would extend the due date for the DOE/NRC Forms 742 and 742C from April 15, 2020, to May 15, 2020; and the due date for the NRC Form 327 from May 15, 2020, to June 14, 2020.

ENVIRONMENTAL REVIEW

Pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25)(vi)(B), the granting of an exemption from the requirements of any regulation in Chapter I of 10 CFR is a categorical exclusion, provided that (i) there is no significant hazards consideration; (ii) there is no significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve, as relevant here, reporting requirements.

Framatome's exemption request meets the criteria for a 10 CFR 51.22(c)(25) categorical exclusion. Framatome is not a reactor, and this exemption request is limited to the information collection and reporting requirements for physical inventory, so there are no significant hazards considerations. Because the exemption request relates to information and collection reporting requirements related to the physical inventory, there are no effluents or offsite releases or significant increase in radiation exposure to workers or members of the public associated with this request. There are no construction activities associated with this request, so there is no significant construction impact. There is no significant increase in the potential for any radiological accidents associated with this request because the request for exemption from information collection and reporting requirements related to the physical inventory does not affect the facility's operations. Therefore, pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25)(vi)(B), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

CONCLUSION

Based on its review above, the NRC staff concludes that extension of the time for submitting the physical inventory forms to be authorized by the issuance of these exemptions is in compliance with law, is consistent with safeguards agreements, will not endanger life or property, and is not inimical to the common defense and security. The staff also concludes that granting these exemptions is in the public interest. Accordingly, the NRC staff recommends granting Framatome temporary exemptions from the requirements in 10 CFR 74.17 and 75.35 pertaining to the timeframes associated with submitting the physical inventory reports for the March 16, 2020, physical inventory.

The SNM-1227 materials license should be amended to include the following new Safeguards License Conditions to reflect the exemptions as follows:

- SG-1.5 Notwithstanding the reporting requirement in 10 CFR 74.17, the licensee shall have until June 14, 2020, to submit the physical inventory summary reports (i.e., NRC Form 327, Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report) for the March 16, 2020, physical inventory.
- SG-1.6 Notwithstanding the reporting requirement in 10 CFR 75.35, the licensee shall have until May 16, 2020, to submit the material status reports ((i.e., DOE/NRC Form 742, Material Balance Report, DOE/NRC Form 742C, Physical Inventory Listing) for the March 16, 2020, physical inventory.

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