

NUCLEAR REGULATORY COMMISSION

[Docket No. 52-020; NRC-2020-0182]

Framatome Inc.

Application for Standard Design Certification of the U.S. EPR

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a June 30, 2020, letter from Framatome Inc. (Framatome), which requested an exemption from regulatory requirements regarding the annual reports required by regulations (hereafter “required report”) for the U.S. EPR standard design certification application for the years 2020 – 2024. The regulation for which exemption is sought covers emergency core cooling systems (ECCS) for light-water nuclear power reactors. Framatome committed to submit the required report before any request to reactivate the U.S. EPR review. Framatome further committed to providing an update to the required report, or taking other appropriate action, as necessary, no later than December 31, 2024.

Staff review of the U.S. EPR standard design certification application was suspended in April 2015 at the request of the applicant. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption in accordance with the regulations as the request does not present an undue risk to public health or safety and is consistent with the common defense and security; furthermore, special circumstances exist.

DATE: The exemption is effective on September 29, 2020.

ADDRESSES: Please refer to Docket ID **NRC-2020-0182** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2020-0182**. Address questions about Docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@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 reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

FOR FURTHER INFORMATION CONTACT: George Wunder, Senior Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC, 20555-0001; telephone: 301-415-1494; e-mail: George.Wunder@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: September 29, 2020.

For the Nuclear Regulatory Commission.

/RA/

Anna H. Bradford, Director,
Division of New and Renewed
Licenses,
Office of Nuclear Reactor Regulation.

Attachment – Exemption.

NUCLEAR REGULATORY COMMISSION

Docket No. 52-020

Framatome Inc.

Application for Standard Design Certification of the U.S. EPR

I. Background

By letter dated December 11, 2007, Areva NP Inc. (Areva) (now Framatome Inc.(Framatome)) submitted to the NRC an application for standard design certification of the U.S. EPR (ADAMS Accession No. ML073520305). Following an acceptance review, the NRC docketed the application (Docket No. 52-020) in a letter dated February 25, 2008 (ADAMS Accession No. ML080380357). By letter dated July 17, 2014 (ADAMS Accession No. ML14209A053), Areva submitted Revision 7 to the standard design certification application. By letter dated February 25, 2015 (ADAMS Accession No. ML15061A130), Areva requested that the NRC suspend review of the U.S. EPR standard design certification application. By letter dated June 30, 2020 (ADAMS Accession No. ML20188A219), Framatome requested an exemption from the annual reporting requirements of 10 CFR 50.46(a)(3)(iii) stating in part that “...given that the NRC’s review of the U.S. EPR DCA [design certification application] has been suspended and remains suspended, Framatome requests an exemption from the requirement to submit annual reports required by 10 CFR 50.46(a)(3)(iii) for the next five years (2020 – 2024).”

II. Request/Action

Section 50.46(a)(1)(i) in part provides requirements for models used in calculations regarding ECCS performance following postulated loss of coolant accidents. Section 50.46(a)(3)(iii) requires that an applicant for a standard design certification report any change or error found in such ECCS performance models, including the nature of the change or error and its estimated effect on the limiting ECCS analysis, at least annually.

In a letter dated June 30, 2020 (ADAMS Accession No. ML20188A219), Framatome requested an exemption from the reporting requirements of 10 CFR 50.46(a)(3)(iii) for the years 2020 – 2024. Framatome has committed to submit the required report before requesting to reactivate the U.S. EPR review. They have committed to updating the required report, or taking other appropriate action, no later than December 31, 2024.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, including 10 CFR 50.46(a)(3)(iii), when: (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if (1) application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)), or (2) compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation

was adopted, or that are significantly in excess of those incurred by others similarly situated (10 CFR 50.12(a)(2)(iii)).

The purpose of 10 CFR 50.46(a)(3)(iii) is to provide timely reporting to the NRC regarding the nature and estimated effect of any change or error in the limiting ECCS analysis. Because the NRC suspended its review of the U.S. EPR standard design certification application at the applicant's request, any submittal by Framatome under the requirements of 10 CFR 50.46 would not be reviewed by the staff until such time as the design certification review is reactivated. The preparation of a 10 CFR 50.46 report requires expenditure of resources by, and cost to, the applicant. Framatome has committed to providing a 10 CFR 50.46 report before any request to reactivate the review of the design certification application. Framatome is seeking the exemption for the years 2020 – 2024. Framatome has committed to updating the 10 CFR 50.46 report or taking other appropriate action, as necessary, no later than December 31, 2024.

No Undue Risk to Public Health and Safety

The purpose of 10 CFR 50.46(a)(3)(iii) is to provide for timely notification of the nature and estimated effect of any errors or changes in the limiting ECCS analysis. Because the review of the U.S. EPR standard design certification application has been suspended at the applicant's request, any report submitted under 10 CFR 50.46 would not be reviewed by the staff until such time as the review of the design certification is reactivated. The requested exemption is administrative and deals only with the schedule for reports which would not be reviewed. Because the exemption applies only to an application, not to a licensed entity, this exemption has no safety implications and introduces nothing that could adversely impact public health. Under the proposed exemption, any further review of the U.S. EPR standard design

certification application will not resume until Framatome submits the required report. The request for an exemption has no bearing on public health and safety and, therefore, poses no undue risk to public health and safety. Design certification cannot occur until the NRC's review of the application is completed and a final safety evaluation report is issued. Additionally, based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; therefore, neither the probability nor the consequences of postulated accidents are increased and there is no undue risk to public health and safety.

Consistent with Common Defense and Security

The requested exemption would relieve Framatome of the requirement to submit annual reports required by 10 CFR 50.46(a)(3)(iii) for the years 2020 – 2024. The applicant has committed to submit a 10 CFR 50.46 report before submitting any request for the NRC to resume reviewing the U.S. EPR design certification application and to update the required report, or take other appropriate action, no later than December 31, 2024. This schedule change has no relation to security issues; therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2), are present under the circumstances relevant to the requested exemption. Specifically, special circumstances are present if application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)) or if compliance would result in undue hardship or other costs that are significantly in excess of those contemplated

when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated (10 CFR 50.12(a)(2)(iii)).

The underlying purpose of 10 CFR 50.46(a)(3)(iii) is to ensure that the NRC receives timely notification of the nature and estimated effect of errors or changes in the limiting ECCS analysis. A thorough understanding of ECCS performance is critical to the staff's review; however, since review of the U.S. EPR standard design certification application has been suspended at the applicant's request, any report filed under 10 CFR 50.46 would not be reviewed until such time as the design certification review is reactivated. Framatome has committed to submit the required report before requesting that the NRC reactivate its review of the design certification. Submitting a report under 50.46(a)(3)(iii) before the resumption of any review of the design certification is sufficient to meet the underlying intent of the regulation. Submitting annual reports for the years 2020 – 2024 while the review is suspended is not necessary to meet the underlying intent of the regulation.

The preparation of reports required by 10 CFR 50.46(a)(3)(iii) is time consuming and requires resources to review and document the condition reports for any change to or error in an acceptable evaluation model or in the application of such a model. It is likely that suspension of a standard design certification review was not anticipated when the requirements for reporting were made. As such, requiring Framatome to submit annual 10 CFR 50.46 reports that would not be reviewed would be to subject them to an undue hardship that is significantly in excess of those contemplated when the regulation was adopted.

For the above stated reasons, special circumstances are present under 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(2)(iii).

Eligibility for Categorical Exclusion from Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) provided that:

- (i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of a report on errors or changes in the ECCS analysis for a standard design certification application review which is currently suspended. Therefore, there is no significant hazards consideration because granting the proposed exemption would not:

- (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or
- (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or
- (3) Involve a significant reduction in a margin of safety.

- (ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change, which is administrative in nature and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

- (iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change, which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature; the application is for a standard design certification the review of which is suspended until further notice. No application for construction or operation has been filed. Accordingly, the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents;

The proposed action involves only a schedule change which is administrative in nature and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(1) Reporting requirements;

The exemption request involves submitting a report required by 10 CFR

50.46(a)(3)(iii);

and

(2) Scheduling requirements;

The proposed exemption relieves that applicant from submitting the required reports for the years 2020 – 2024.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Also, special circumstances are present. Therefore, the Commission hereby grants Framatome a one-time exemption from the reporting requirements of 10 CFR 50.46(a)(3)(iii) until December 31, 2024. This exemption provides that Framatome shall submit a report under 10 CFR 50.46(a)(3)(iii) before making any request that the NRC resume its review of the U.S. EPR standard design certification application and that Framatome shall update that report or take other appropriate action no later than December 31, 2024.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 29th day of September 2020.

FOR THE NUCLEAR REGULATORY COMMISSION.

/RA/

Anna H. Bradford, Director,
Division of New and Renewed Licenses,
Office of Nuclear Reactor Regulation.