

**From:** "Paul Gunter" <pgunter@nirs.org>  
**To:** "Weerakdoky/ Sunil" <SDW1@nrc.gov>  
**Date:** 5/4/06 4:51PM  
**Subject:** Followup on Thermo-Lag Confirmatory Action Orders and Unapproved Operator Manual Actions

Sunil,

This email is in follow-up to staff's stated commitments made in the September 2005 Category 2 meeting which I participated in where the staff announced its recommendation to withdraw the proposed rulemaking on operator manual actions in lieu of compliance with post fire safe shutdown requirements per 10 CFR 50 Appendix R III.G.2.

Staff stated at that time that they would look into and provide information on outstanding Thermo-Lag Confirmatory Action Orders issued in 1998 by NRC and the subsequent industry wide substitution with unapproved operator manual actions in violation of 10 CFR 50 Appendix R III.G. 2.

Would you please provide NIRS with information on the staff's progress to date in determining the status and treatment of these Orders in context of the apparent ongoing violations regarding the following questions:

- 1) Has staff conducted any follow-up investigations of Thermo-Lag Confirmatory Action Orders where unapproved operator manual actions were substituted for Thermo-Lag corrective action programs for the potential willful failure to comply with NRC Orders? If so, where? If not, why not?
- 2) Are there any enforcement consequences to licensees who failed, willful or not, to comply with or enact NRC analyzed, approved and industry consented to corrective actions on specified time tables for inoperable fire barriers per Thermo-Lag Confirmatory Action Orders? If not, why not?
- 3) Does NRC propose that the Appendix R III.G.2 violations that were to be addressed by corrective action programs per 1998 Thermo-Lag Confirmatory Action Orders but abandoned by industry with the institution of unapproved Operator Manual Actions now be subject to enforcement discretion and a resumption of compensatory measures as

previously relied upon by industry in III.G.2 fire areas from the 1992 to approximately 1998 and longer?

4) Would these same safe shutdown system corrective action programs as required per 1998 Thermo-Lag Confirmatory Action Orders now be re-opened to the submission of exemption requests from licensees rather than be required to come into compliance with previously NRC analyzed, approved and industry consented to corrective action programs?

5) If no compliance or enforcement actions are contemplated for licensees who, willfully or not, failed to comply with NRC Confirmatory Orders, what precedent does this set for future NRC Orders issued in the interest of the public health, safety and security?

Would you please forward this inquiry to Mr. Alexander Klein, senior engineer in NRC fire protection division and Mr. Chris Nolan in Office of Enforcement and any other members of the NRC that would be helpful in answering these questions.

If no answer is promptly forthcoming, please provide us with an indication of an approximate time table and how NRC plans to address these Thermo-Lag Confirmatory Action Orders in lieu of continued violations affecting post fire safe shutdown areas in commercial power reactors.

Thank you,

Paul Gunter, Director

Reactor Watchdog Project

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**Mail Envelope Properties** (445A6946.B94 : 5 : 39828)

**Subject:** Followup on Thermo-Lag Confirmatory Action Orders and Unapproved Operator Manual Actions  
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MESSAGE	3251	05/04/06 04:54PM
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**Expiration Date:** None  
**Priority:** Standard  
**Reply Requested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard