

**From:** Marlayna Vaaler *MLV*  
**To:** Allen Howe; Robert Nelson; Joseph Gitter; Tom Boyce (NRR)  
**Cc:** Eva Brown; John Boska; Daniel Frumkin; Doug Starkey; Keith Young; Alex Klein; Sunil Weerakkody; Paul Lain; Bhalchandra Vaidya; Harold Barrett; Steven Laur; Margaret Stambaugh; Mark Kowal; Rebecca Nease; Shakur Walker; Marlayna Vaaler; Phil Oualls; Laura Kozak; Greg Pick; John Rogge; Robert Daley; Neil OKeefe; Sam Collins; Victor McCree; Jack Grobe; Eric Leeds; Leonard Wert; James Kim; Balwant Singal; Donna Wright; Melanie Wong  
**Subject:** Plants submitting fire protection OMA exemption requests to extend enforcement discretion  
**Date:** Friday, March 06, 2009 6:11:15 PM

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All:

Regional POCs please forward to appropriate regional management as necessary. This is a followup to this afternoon's phone call on fire protection OMAs. Q&A's/talking points will follow on Monday.

NRC and NEI identified 9 plants with the potential to submit exemption requests/license amendments to correct their Operator Manual Action (OMA) noncompliances related to fire induced circuit failures by the expiration of enforcement discretion on March 6, 2009: Peach Bottom, Three Mile Island, Browns Ferry, Pilgrim, Oyster Creek, Indian Point, Fitzpatrick, Hatch, and Wolf Creek.

One plant (Peach Bottom) has already been granted an exemption and one (TMI) has completed the acceptance review phase and is under staff review; these plants continue to have enforcement discretion. Browns Ferry has withdrawn their exemption request and opted to transition to NFPA 805; Region II is following up with inspection and enforcement as appropriate.

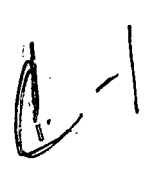
The remaining plants have recently submitted exemptions or amendment requests (these are TMI [separate submittal from above], Oyster Creek (2 separate submittals), Indian Point, Fitzpatrick, and Wolf Creek). These plants are currently in the acceptance review process per LIC-109, and therefore continue to have enforcement discretion. If any of these requests are withdrawn by the licensee, not accepted under LIC-109, or subsequently during the NRC review, the licensee will be required to take action in accordance with their corrective action program to correct the noncompliances, with NRC oversight via the ROP, as well as being subject to enforcement.

Based on a phone call, Hatch planned to request an extension of enforcement discretion for an unknown number of OMAs on Unit 1. Since this is not permitted under EGM 07-004, Region II is following up with inspection and enforcement as appropriate. Pilgrim has not submitted any exemption or amendment requests, so any noncompliant OMAs identified after March 6, 2009, may be subject to enforcement.

#### Background

On March 6, 2009, the enforcement discretion provided by Enforcement Guidance Memorandum (EGM) 07-004 for post-fire operator manual actions (OMAs) used as compensatory measures for fire induced circuit failures expired. EGM 07-004 established this date as the deadline for the completion of corrective actions associated with noncompliances involving OMAs, and does not provide the option to extend the discretion.

Per the EGM, the corrective actions for noncompliances involving OMAs include



compliance with 10 CFR Part 50, Appendix R, Paragraphs III.G.2 or III.G.3 (i.e. via plant modifications, etc.), adoption of National Fire Protection Association Standard (NFPA) 805, or submission of exemption requests or license amendments (to demonstrate that existing compensatory measures are feasible and reliable on a permanent basis).

Note: plants licensed after January 1, 1979, have addressed their OMA noncompliances via license conditions established by Generic Letter 86-10, which allows licensees to make changes to their fire protection programs without prior NRC approval provided the change does not involve an "adverse effect."

If you have any questions or concerns on this issue please feel free to contact Marlayna Vaaler at 415.3178 or [marlayna.vaaler@nrc.gov](mailto:marlayna.vaaler@nrc.gov).

Thank you and have an excellent weekend!  
Marlayna

Marlayna Vaaler, Project Manager

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