

From: Marlayna Vaaler, *NRC*
To: Tom Boyce (NRR)
Cc: Eva Brown; John Boska; Daniel Frumkin; Doug Starkey; Keith Young
Subject: DRAFT e-mail to management regarding OMA exemptions
Date: Friday, March 06, 2009 5:18:41 PM
Importance: High

Please comment/edit as you see fit:

All:

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, Sections 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).

Communication between the NRC staff and NEI identified 9 plants with the potential to submit exemption requests/license amendments to correct their OMA noncompliances: Peach Bottom, Three Mile Island, Browns Ferry, Pilgrim, Oyster Creek, Indian Point, Fitzpatrick, Hatch, and Wolf Creek. (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.")

Of the 9 plants cited, one (Peach Bottom) has been granted an exemption, one (TMI) has completed the acceptance review phase and is under staff review, one (Browns Ferry) has withdrawn their exemption request and opted to transition to NFPA 805, and five have submitted exemption or amendment requests within the past 30 days and are therefore in the acceptance review process per LIC-109 (these are TMI [for a separate exemption than above], Oyster Creek, Indian Point, Fitzpatrick, and Wolf Creek).

Until a final determination is made on the acceptability of the five recent submittals, enforcement discretion continues for all noncompliant OMAs as outlined in EGM 07-004. If the requests are found acceptable for review, enforcement discretion will continue until completion of the staff's review. If any of the requests are found unacceptable for review, or subsequently rejected by the staff, the licensee will be required to take action in accordance with their corrective action program, with NRC oversight via the ROP, to correct the noncompliances, as well as being subject to enforcement.

Of the remaining two plants, the staff is unaware of any submittal by Pilgrim to request an exemption for their noncompliant OMAs, and has been informed by Hatch that modifications to restore compliance on Unit 2 will be completed by the March 6 deadline,



while they plan to request an extension of enforcement discretion for the noncompliant OMAs on Unit 1. As the latter is not allowed under EGM 07-004, both Pilgrim and Hatch Unit 1 may be subject to enforcement after March 6, 2009.

Therefore, with the exception of Pilgrim and Hatch Unit 1, the staff considers that all the above listed plants are still receiving enforcement discretion for their noncompliant OMAs until the final disposition of their exemption/amendment requests. This is within the normal process for exemption/amendment requests, meets the intent of EGM 07-004, and continues to provide appropriate focus on public health and safety.

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.

Thank you and have an excellent weekend!
Marlayna

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