The Nuclear Regulatory Commission's

POST-INVESTIGATION ADR PROGRAM

Alternative Dispute Resolution

Administered by
Cornell University's

Institute on Conflict Resolution

Enclosure 3

What is ADR?

- The U.S. Nuclear Regulatory Commission is using alternative dispute resolution (ADR) to promote improved effectiveness of the enforcement program through efficient, timely, and amicable resolution of investigation findings.
- ADR includes a variety of processes that emphasize creative, cooperative approaches to handling conflicts in lieu of adversarial procedures.
- Parties in ADR remain in control of the decision on whether to participate in the process and whether to agree to any resolution. In other words, **the process is completely voluntary and any party may withdraw from the negotiation at any time.**

The Post-Investigation ADR Program

- Post-Investigation ADR occurs after the NRC Office of Investigations (OI) has completed its investigation of the case and an enforcement panel concludes that pursuit of an enforcement action appears warranted.
- Post-Investigation ADR may be used to resolve both discrimination and other wrongdoing cases apparently in violation of the NRC's regulations at three distinct points:
  - prior to the predecisional enforcement conference,
  - after the initial enforcement action is taken, and
  - after imposition of a civil penalty and prior to a hearing request.
- Post-Investigation ADR *may* resolve: whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions for the violation(s).
- Terms of the ADR settlement agreement will be confirmed by order.

Who can use Post-Investigation ADR?

- After OI has completed its investigation of the case and an enforcement panel concludes that pursuit of an enforcement

action appears warranted; the licensee (or contractor) will typically be offered a chance to participate in ADR with the NRC.

- The NRC's program administrator can advise and assist the licensee in determining ADR potential for their case.
- After the licensee and the NRC agree to participate, the program administrator will help them appoint a neutral mediator and get started.

Why use Post-Investigation ADR?

- It allows people to develop solutions quickly to assist in resolving the case.
- Post-Investigation ADR will benefit both parties by bringing about more effective, efficient, and timely resolution of enforcement concerns.

What is mediation?

- Mediation is the ADR process normally used in the Post-Investigation ADR Program.
- It is an informal process in which a trained neutral (the "mediator") works with the parties to help them reach resolution.
- The mediator, who has no stake in the outcome and no power to make decisions, uses consensus-building skills and knowledge of negotiation to help parties find creative solutions.

How does mediation work in the Post-Investigation ADR Program?

- The mediator guides the parties through an informal process to develop solutions to resolve the case.
- The mediator helps the parties work together to reach an agreement that meets their needs without conforming strictly to their original positions.
- The mediator will usually give each party an opportunity to explain the issues. Often, the mediator will meet privately with each party (where they are more likely to speak freely)

to understand the parties' situations better and explore and assess options.

- The mediator may ask questions that will aid parties in assessing the merits of their positions, identify potential settlement options, and probe participants' realistic alternatives.
- A settlement agreement in Post-Investigation ADR will not become binding until both parties agree to it and a confirmatory order is issued.

Who serves as neutrals in ADR?

- To ensure a source of skilled, unbiased neutrals, the NRC uses Cornell University's Institute on Conflict Resolution (ICR) to select and oversee a roster of experienced mediators and administer the Post-Investigation ADR program's operations.
- Parties may jointly select the mediator for their case from among a panel of three furnished by ICR.
- Parties preferring to locate their own mediator may do so by mutual consent.

What does ADR cost me?

- The licensee requesting Post-Investigation ADR pays half the mediator's fees and the NRC, subject to availability of funds, will pay half.

Where do Post-Investigation ADR sessions take place?

- The session will typically occur at or near the licensed facility, or at NRC's Headquarters or Regional Office depending on site availability and party desires.

How long do sessions take?

- Many Post-Investigation ADR cases will be completed in one meeting that lasts several hours. Some could require a few additional sessions.

Is ADR confidential?

- Yes. With limited exception, the proceedings are private and the ADR neutral is generally prohibited from discussing the mediation with outsiders.
- To obtain additional details on confidentiality in Post-Investigation ADR, see the NRC's web site at **http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html.**

Who administers the ADR Program?

- Cornell University's Institute on Conflict Resolution (ICR) is the neutral program administrator for the Post-Investigation ADR program's day-to-day operation, including working with parties to identify appropriate mediators.

- ICR embraces a network of independent dispute resolution practitioners who work on a regional, national, and international basis.
- ICR works in partnership with companies, unions, and government to help resolve conflicts and evaluate the efficacy of conflict resolution methods.

How do I obtain additional information?

Further information on participating in the Post-Investigation ADR program (besides this brochure's overview of the Post-Investigation ADR program) is available from:

- The NRC ADR Program Administrator (ICR: Catherwood Library Tower, Ives Hall, Cornell University, Ithaca, NY 14853; Phone: (877) 733-9415)
- The NRC's Enforcement ADR Pilot Program on its web site: **http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html**.

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Enclosure 3