

October 19, 2011

MEMORANDUM TO: Roy P. Zimmerman, Director
Office of Enforcement

FROM: David Solorio, Chief */RA/*
Concerns Resolution Branch
Office of Enforcement

SUBJECT: SUBJECT: FORTHCOMING PUBLIC MEETING TO DISCUSS
IMPLEMENTATION OF THE ALTERNATIVE DISPUTE
RESOLUTION PROGRAM IN THE OFFICE OF ENFORCEMENT

DATE & TIME: November 8, 2011; 8:30 am – 5:00 pm (Eastern Standard Time)

LOCATION: U.S. Nuclear Regulatory Commission
11545 Rockville Pike; Room T-2B1 (please note room change)
Rockville, MD 20852

PURPOSE: To provide a forum in which stakeholders, including the NRC, can discuss the NRC's current Alternative Dispute Resolution (ADR) Program (early ADR and post-investigation ADR). This meeting will allow stakeholders to provide feedback regarding their perceptions of the NRC's current ADR Program in the Office of Enforcement, focusing on the program's effectiveness, transparency, and timeliness.

MEETING FORMAT: The meeting will consist of panel discussions among stakeholders followed by interactive discussions with other meeting attendees (See Agenda, Enclosure 1). Specific questions (See Questions for Discussion, Enclosure 2) on which the NRC is soliciting public comments, which will be considered during the meeting.

CATEGORY*: This is a Category 2 Meeting. The public will be provided the opportunity to participate in this meeting at designated points identified within the agenda.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this meeting (e.g., sign language), or need this meeting notice or other information from the meeting in another format (e.g., Braille, large print, or translation services), please notify one of the NRC's meeting contacts listed below by October 31, 2011, so that arrangements can be made to support the request.

* Commission Policy Statement on "Enhancing Public Participation in NRC Meetings" (67 FR 6920).

TELECONFERENCE/
WEB-CONFERENCING

Interested members of the public unable to travel to the meeting location may participate remotely by telephone via a toll-free teleconference number. The toll-free number for the teleconference is (888) 390-0873. The meeting will also be broadcast over the Internet as a means of improving communications with the public. The following website will allow you to view the meeting: <http://www.nrc.gov/public-involve/public-meetings/index.cfm> .

For remote participation, pre-registration is required. When you pre-register for the meeting, one of the meeting contacts listed below will provide you with a pass code to use when you call in for the meeting. Please pre-register with one of the contacts as soon as possible, but by no later than November 1, 2011.

NOTE:

Materials such as this meeting notice and any additional information for the meeting will also be posted at: <http://www.nrc.gov/public-involve/conferences.html>. Meeting participants are encouraged to check this website periodically before the meeting date to access any revisions to the meeting materials including any revisions to the attached agenda.

REGISTRATION:

All meeting attendees, including attendees participating through the teleconference bridge, should pre-register with one of the contacts listed below as soon as possible, but by no later than November 1, 2011, preferably via e-mail.

CONTACTS:

Shahram Ghasemian
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Maria Schwartz
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(301) 415-1888

PARTICIPANTS:

Participants include staff from NRC's Office of Enforcement and Region I and various external stakeholders, including representatives from NRC-regulated nuclear industries and members of the public.

Enclosure:

1. Agenda
2. Questions for Discussion

AGENDA

**NOVEMBER 8, 2011 PUBLIC MEETING TO DISCUSS
IMPLEMENTATION OF THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM
IN THE OFFICE OF ENFORCEMENT**

- 8:30 a.m. Objectives, ground rules, agenda overview, participant introductions
Lance Rakovan, Facilitator
- 8:45 a.m. Welcome
Roy Zimmerman, Director, Office of Enforcement
- 9:00 a.m. Background: Summary of the ADR program in the Office of Enforcement
Shahram Ghasemian, ADR Program Manager
- 9:15 a.m. Pre-investigation ADR Program Discussion Session 1: Questions 1 to 5 (Mission, Scope, Criteria for entry and "In lieu of OI investigation")
- 10:45 a.m. Break
- 11:00 a.m. Pre-investigation ADR Program Discussion Session 2: Questions 6 to 14 (Transparency, Timeliness, Mediators and Areas of improvement/strength)
- 12:15 p.m. Lunch
- 1:30 p.m. Post-investigation ADR Program Discussion Session 1: Questions 1 to 7 (Mission, Scope, Transparency and Timeliness)
- 2:45 p.m. Break
- 3:00 p.m. Post-investigation ADR Program Discussion Session 2: Questions 8 to 14 (Effectiveness, Criteria for ADR, Mediators and Areas of improvement/strength)
- 4:45 p.m. Wrap up
- 5:00 p.m. Adjourn

Questions for Discussion

Questions Related to Pre-investigation ADR (includes “Early ADR” and “Licensee-Sponsored ADR”)

1. Do you think the NRC’s Pre-investigation Program supports the NRC’s mission to protect the public health and safety and the environment?
2. Pre-investigation ADR is limited to the resolution of allegations of discrimination and expressly excludes the resolution of technical issues prior to the initiation of an NRC investigation. Are there other types of issues that may be resolved through the program?
3. “Abuse of the program” is the exception to entry into the program. “Abuse of the program” is currently not defined. Should this term be defined? If so, how should it be defined? Provide some examples of an “abuse of the program” by an alleged or a company?
4. In addition to “abuse of the program,” should there be other restrictions to entry into the program?
5. Pre-investigation ADR is offered in lieu of an OI investigation. If the parties reach a settlement agreement that does not include terms which prohibit or discourage the alleged from engaging in a protected activity, the NRC does not initiate an investigation and closes the allegation. Should this aspect of the program be changed? Why or why not?
6. Statistical trending data regarding the usage of the program and other information regarding the process is currently published on the NRC’s Enforcement ADR Web page at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.
 - a. Are there other means to enhance the transparency of the program without infringing on the confidentiality of the ADR process or the allegation program?
 - b. What are some factors to be considered when measuring the transparency of the program?
7. Do you view the pre-investigation ADR as timely?
8. Should stricter timeliness requirements be imposed on the parties in early ADR?
9. What factors should be considered when measuring the effectiveness of the early ADR program?
10. Is the use of a third party administrator beneficial to the program?
11. Are mediators perceived as effective and unbiased in supporting the parties’ resolution of their differences?
12. Are the mediators familiar with the NRC regulatory environment?
13. What are some areas that present opportunities for improvement to the early ADR program?
14. What are some areas of the program that you believe are effective?

Questions related to Post-investigation ADR

1. Does the program support the NRC's mission and achieve its enforcement policy goals? In that regard, do post-investigation ADR outcomes generally convey a strong regulatory message?
2. Post-investigation ADR is limited to the resolution of wrongdoing cases and related technical issues after the conclusion of an NRC investigation. Should the scope of post-investigation ADR be expanded (e.g. non-wrongdoing cases involving the imposition of a civil penalty)?
3. Post-investigation ADR outcomes, statistical trending data regarding the usage of the program and other information regarding the process and the program generally, are currently published on the NRC's Enforcement ADR Web page (<http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>). Moreover, a press release is typically issued following the issuance of a confirmatory order publicizing the mediation and its outcome. Are there other means to enhance the transparency of the program (including outcomes, policies and procedures) without infringing on the confidentiality considerations of the ADR process?
4. What are some factors to be considered when measuring the transparency of the program?
5. Are there other means to enhance the communication of ADR outcomes, policies and procedures?
6. Do you view the post-investigation ADR process as timely?
7. Could the process be modified to make it more timely? How?
8. What factors should be considered when measuring the effectiveness of the post-investigation ADR Program?
9. Under what circumstances should the NRC consider not entering into post-investigation ADR?
10. Is the use of a third party administrator beneficial to the program?
11. Are the mediators perceived as effective and unbiased in supporting the parties' resolution of their differences?
12. Are the mediators familiar with the NRC regulatory environment?
13. What are some areas of this program that present opportunities for improvement?
14. What are some areas of this program that you believe are effective?