



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
1600 EAST LAMAR BOULEVARD  
ARLINGTON, TEXAS 76011-4511**

**February 21, 2019**

**EA-18-133**

**Ms. Ella Goss, Chief Executive Officer  
Providence Alaska Medical Center  
3200 Providence Drive  
Anchorage, Alaska 99519-6604**

**SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -  
\$14,500 AND NRC SPECIAL INSPECTION REPORT 030-13426/2018-002**

**Dear Ms. Goss:**

This letter refers to the special inspection conducted on August 13-16, 2018, at your facilities in Anchorage, Alaska. The purpose of the special inspection was to review potential overexposures of occupational workers at Providence Alaska Medical Center (PAMC). A final exit briefing was conducted telephonically with you on October 29, 2018, and the details regarding four apparent violations of regulatory requirements were provided in U.S. Nuclear Regulatory Commission (NRC) Inspection Report 030-13426/2018-002, dated November 2, 2018, NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML18306A565.

On December 17, 2018, a public Predecisional Enforcement Conference (PEC) was conducted by webinar with members of your staff to discuss the apparent violations, their significance, their root causes, and your corrective actions.

Based on the information developed during the inspection and the information that you provided during the PEC, the NRC has determined that four violations of NRC requirements occurred. These violations are cited in Enclosure 1, Notice of Violation and Proposed Imposition of Civil Penalty (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The violations involved the failure to: (A) monitor occupational exposure of workers from licensed and unlicensed sources of radiation and account for external employment for purposes of occupational dose; (B) implement a radiation protection program commensurate with the scope and extent of licensed activities; (C) provide adequate instructions to workers associated with exposure to radiation; and (D) provide an annual report to workers regarding personnel exposure information.

The NRC considers violations A and B above to be significant violations because they represent a failure of PAMC management to provide adequate oversight for the radiation safety program, specifically in the area of occupational radiation monitoring and dose assessment. Therefore, violations A and B are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem.

The NRC considers violations C and D above to be low safety significance violations and thus has categorized them in accordance with the NRC Enforcement Policy at Severity Level IV. These violations are being cited as Severity Level IV rather than as noncited violations because they were identified by the NRC during an inspection.

Because your facility has been the subject of escalated enforcement actions within the last 2 years<sup>1</sup>, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC determined that *Identification* credit is not warranted because the NRC identified the issues through an inspection.

Your corrective actions included: a comprehensive revision of the radiation protection program; providing additional staff resources to implement the radiation protection program; hiring outside consultants to provide independent oversight of the program; conducting additional training for staff and new training for physicians on radiation protection with an emphasis on the dosimetry program; clarifying and formalizing logistics, and expectations for dosimetry collection and utilization in a new dosimetry policy; performing random audits of staff and physician adherence to the new dosimetry policy; revising and formalizing the policy and procedure for distribution of NRC Form 5's, "Occupational Dose Record for a Monitoring Period"; submitting an NRC license amendment request to reflect program changes and remove authorizations from the license that have been discontinued; and committing to enhance future management and executive management oversight of the above programs, policies, and procedures.

In evaluating these corrective actions, the NRC considered that the PAMC radiation safety committee was aware of concerns that employees were not appropriately wearing dosimetry as far back as 2011, yet did not correct the issues until questions were raised by the NRC in 2018. By not accurately monitoring dose for many years, PAMC increased the risk of its physicians exceeding regulatory limits for occupational exposure to radiation.

Additionally, at the time of the PEC, your staff had only completed individual physician dose reconstruction estimations from calendar year 2012 to 2018. Although PAMC possessed NRC-regulated radioactive material prior to 2012, your staff stated during the PEC that they had not planned to perform the dose reconstructions prior to 2012, despite numerous requests for lifetime exposure estimates by NRC personnel.

Due to the amount of time that PAMC allowed the issues to persist without correction, and because of the incomplete dose reconstruction estimations, the NRC determined that *Corrective Action* credit is not warranted. Since both *Identification* credit and *Corrective Action* credit are not warranted, the NRC Enforcement Policy provides for a civil penalty that is twice the amount of the base civil penalty. The base civil penalty in the amount of \$7,250 is considered for a Severity Level III problem.

Therefore, to emphasize the importance of effective management oversight of the radiation protection program, specifically occupational exposure monitoring and prompt identification and correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$14,500 for the Severity Level III problem. In addition, issuance of this

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<sup>1</sup> A Severity Level II problem was issued on April 24, 2018 (EA-17-182), ADAMS Accession ML18116A055.

Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found in Enclosure 3 and at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

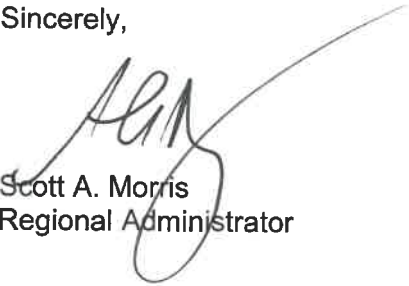
The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the Institute on Conflict Resolution at 877-733-9415, and (2) Ms. Patricia Silva at 817-200-1455 within 10 days of the date of this letter. You may also contact the Institute on Conflict Resolution for additional information about ADR. Your submitted signed agreement to mediate using the NRC ADR program will stay the 30-day time period for payment of the civil penalties and the required written response, as identified in the enclosed Notice, until the ADR process is completed.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's ADAMS, accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

If you have any questions concerning this matter, please contact Ms. Patricia Silva of my staff at 817-200-1455.

Sincerely,



Scott A. Morris  
Regional Administrator

Docket No. 030-13426  
License No. 50-17838-01

Enclosures:

1. Notice of Violation and Proposed  
Imposition of Civil Penalty
2. NUREG/BR-0254, Payment Methods
3. NUREG/BR-0317, Enforcement  
Alternative Dispute Resolution Program

cc w/Enclosure 1:

Dr. Bernard Jilly, State Lab Director  
State of Alaska Radiation Program

NOTICE OF VIOLATION  
AND  
PROPOSED IMPOSITION OF CIVIL PENALTY

Providence Alaska Medical Center  
Anchorage, Alaska

Docket No.: 030-13426  
License No.: 50-17838-01  
EA-18-133

During an NRC inspection conducted from August 13-16, 2018, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

I. Violations Assessed a Civil Penalty

- A. 10 CFR 20.1502(a)(1) requires, in part, that each licensee shall monitor occupational exposure to radiation from licensed and unlicensed radiation sources under the control of the licensee and shall supply and require the use of individual monitoring devices by adults likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of the limits in 10 CFR 20.1201(a).

10 CFR 20.1201(f) requires, in part, that the licensee shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person.

Contrary to the above, prior to August 2018, the licensee failed to adequately monitor individuals' occupational exposure to radiation sources under the control of the licensee and failed to reduce the dose that those individuals were allowed to receive in the current year by the amount of occupational dose received while employed by any other person. Specifically, the failure to properly monitor personnel exposure resulted in three contract occupational workers potentially exceeding the 10 CFR 20.1201(a) annual limit.

- B. 10 CFR 20.1101(a) requires, in part, that each licensee shall implement a radiation protection program commensurate with the scope and extent of licensed activities and sufficient to ensure compliance with the provisions of 10 CFR Part 20.

Contrary to the above, prior to August 2018, the licensee failed to implement a radiation protection program commensurate with the scope and extent of licensed activities and sufficient to ensure compliance with the provisions of 10 CFR Part 20. Specifically, the licensee failed to implement elements of its radiation protection program to review and evaluate abnormal radiation exposure reports, investigate exposure reports with results over licensee-set administrative limits, develop recommendations to management for corrective action, and implement effective corrective actions to restore compliance.

This is a Severity Level III problem (NRC Enforcement Policy Section 6.7.c).  
Civil Penalty - \$14,500 (EA-18-133)

## II. Violations Not Assessed a Civil Penalty

- C. 10 CFR 19.12(a)(3) requires, in part, that all individuals who in the course of employment are likely to receive in a year an occupational dose in excess of 100 mrem shall be instructed in, and required to observe, to the extent within the workers control, the applicable provisions of the Commission regulations and licenses for the protection of personnel from exposure to radiation and/or radioactive material.

Contrary to the above, prior to August 2018, the licensee failed to provide instruction to individuals, who in the course of employment are likely to receive in a year an occupational dose in excess of 100 mrem, on the applicable provisions of the Commission regulations and licenses for the protection of personnel from exposure to radiation and/or radioactive material. Specifically, the licensee failed to provide adequate instructions regarding radiation safety involving the proper use of dosimeters to three contract occupational workers who were likely to receive an occupational dose in excess of 100 mrem in a year, which resulted in their failure to properly wear dosimetry to monitor their exposure to occupational radiation.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.7.d).

- D. 10 CFR 19.13(b)(1) requires, in part, that the licensee shall provide an annual report to each individual monitored under 10 CFR 20.1502 of the dose received in that monitoring year if the individual's occupational dose exceeds 100 mrem total effective dose equivalent.

Contrary to the above, prior to August 2018, the licensee failed to provide an annual report to each individual monitored under 10 CFR 20.1502 of the dose received in that monitoring year when the individual's occupational dose exceeded 100 mrem total effective dose equivalent. Specifically, the licensee failed to provide radiation exposure data to the three contract occupational workers and other staff in the course of their employment.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.7.d).

Pursuant to the provisions of 10 CFR 2.201, Providence Alaska Medical Center (licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a copy to the Document Control Desk, Washington, DC 20555-0001, and the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; EA-18-133" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved.

Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, the NRC may issue an order or a Demand for Information requiring you to explain why your license should not be modified, suspended, or revoked or why the NRC should not take other action as may be proper. Consideration may be

given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

The licensee may pay the civil penalty proposed above, in accordance with NUREG/BR-0254 (Enclosure 2) and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice.

Should the licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should the licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation; EA-18-133" and may: (1) deny the violations listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205, should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to payment of civil penalty, and Answer to a Notice of Violation, should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, with a copy to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 and the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511.

Your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of

personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 21st day of February 2019.



## QUESTIONS?

If you have questions, please visit <https://www.nrc.gov> and search for "License Fees."

Questions may also be directed to the NRC Accounts Receivable Help Desk by e-mail at [FEES.Resource@nrc.gov](mailto:FEES.Resource@nrc.gov), by phone at (301) 415-7554, or by writing to the address below:

U.S. NUCLEAR REGULATORY COMMISSION  
OCFO/DOC/ARB  
Mail Stop T9-E10  
Washington, DC 20555-0001



# Payment Methods

U.S. NUCLEAR REGULATORY COMMISSION  
OCFO/DOC/ARB  
Mail Stop T-9-E10  
Washington, DC 20555-0001  
PH (301) 415-7554



NUREG/BR-0254, Rev. 8  
February 2018



## ENCLOSURE 2

Estimated burden per response to comply with this voluntary collection request: 10 minutes. This brochure provides information about available payment methods. Forward comments about to burden estimate to the Records Management Branch (16-F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0190), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

NRC accepts the methods described below.

## PAYMENT BY AUTOMATED CLEARINGHOUSE

To pay by Automated Clearinghouse / Electronic Data Interchange (ACH/EDI), provide a copy of NRC Form 628 to your financial institution. You may obtain a copy of NRC Form 628 by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.

## PAYMENT BY CREDIT CARD

The NRC is currently accepts credit card payments of up to \$24,999.99. For payment by credit card, go to Pay.gov, search for "U.S. Nuclear Regulatory Commission Fees" and enter the required information.

You may also mail or fax NRC Form 629 following the directions on the form. To obtain a copy of NRC Form 629 go to <http://www.nrc.gov> and search for "NRC Form 629" or call the NRC Accounts Receivable Help Desk at (301) 415-7554.



## PAYMENT BY FEDWIRE DEPOSIT SYSTEM

The NRC can receive funds through the U.S. Department of the Treasury (Treasury) Fedwire Deposit System. The basic wire message format below complies with the Federal Reserve Board's standard structured third-party format for all electronic funds transfer (EFT) messages.

See the sample EFT message to Treasury below. Each numbered field is described below.

TO 021030004  
FROM  
ORDERING BANK AND RELATED DATA  
TREAS NYC/CTR  
BNF=/AC-31000001 081=-  
AMOUNT \$

- 1 RECEIVER-DFI# – Treasury's routing number for deposit messages is 021030004.
- 2 TYPE-SUBTYPE-CD – The sending bank will provide the type and subtype code.
- 3 SENDER-DFI# – The sending bank will provide this number.
- 4 SENDER-REF# – The sending bank will insert this 16-character reference number at its discretion.
- 5 AMOUNT – The transfer amount must be punctuated with commas and decimal point; use of the "\$" is optional. The depositor will provide this item.
- 6 SENDER-DFI-NAME – The Federal Reserve Bank will automatically insert this information.
- 7 RECEIVER-DFI-NAME – Treasury's name for deposit messages is "TREAS NYC". The sending bank will enter this name.
- 8 PRODUCT CODE – A product code of "CTR" for customer transfer should be the first item in the receiver text field. Other values may be entered, if appropriate, using the American Bankers Association's options. A slash must be entered after the product code.
- 9 AGENCY LOCATION CODE (ALC) – THIS ITEM IS OF CRITICAL IMPORTANCE. IT MUST APPEAR ON THE FUNDS TRANSFER DEPOSIT MESSAGE IN THE PRECISE MANNER AS STATED TO ALLOW FOR THE AUTOMATED PROCESSING AND CLASSIFICATION OF THE FUNDS TRANSFER MESSAGE TO THE AGENCY LOCATION CODE OF THE APPROPRIATE AGENCY. The ALC identification sequence can, if necessary, begin on one line and end on the next line; however, the field tag "BNF=" must be on one line and cannot contain any spaces. The NRC's 8-digit ALC is: BNF=/AC-31000001
- 10 THIRD-PARTY INFORMATION – The Originator to Beneficiary Information (OBI) field tag "OBI=" signifies the beginning of the free-form third-party text. All other identifying information intended to enable the NRC to identify the deposit—for example, NRC annual fee invoice number, description of fee, 10 CFR 171 annual fee, and licensee name—should be placed in this field.

The optimum format for fields 7, 8, 9, and 10 using an 8-digit ALC is as follows:

TREAS NYC/CTR/BNF=/AC-31000001 OBI=

The optimum format, shown above, will allow 219 character positions of information following the "OBI=" indicator.

If the licensee's bank is not a member of the Federal Reserve System, the nonmember bank must transfer the necessary information and funds to a member bank, which then must transfer the information and funds to the local Federal Reserve Bank.

For a transfer of funds from local Federal Reserve Banks to be recorded on the same day, the transfer must be received at the New York Federal Reserve Bank by 4 p.m., EST. Otherwise, the deposit will be recorded on the next workday.

## PAYMENT BY CHECK

Checks should be made payable to the U.S. Nuclear Regulatory Commission with the invoice number, Enforcement Action number, or other information that identifies the payment, written on the check. Mail the check to the following address:

U.S. Nuclear Regulatory Commission  
U.S. Bank  
P.O. Box 979051  
St. Louis, MO 63197-9000

FedEx or overnight mailings must be delivered to the following address:

U.S. Nuclear Regulatory Commission  
U.S. Bank Government Lockbox  
SL-MO-C2GL  
1005 Convention Plaza  
St. Louis, MO 63101

## TAXPAYER IDENTIFICATION NUMBER

You must file your Taxpayer Identification Number (TIN) with the NRC. Use NRC Form 531 to provide your TIN. You may obtain NRC Form 531 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 531" or by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.



## Mediation Location and Duration

The parties usually hold the mediation at or near one of the NRC's offices. However, the parties may agree on any alternate location. Mediation sessions are usually no longer than 1 day. In some cases, the mediation may take longer with the mutual consent of the parties.

## The NRC Mediation Team

The responsible NRC senior manager (i.e., Office Director, Regional Administrator, or his or her designee) will serve as the principal negotiator for the NRC in cases that involve wrongdoing and technical issues. When a case involves discrimination, the Director of the Office of Enforcement will serve as the principal negotiator. The other members of the NRC mediation team typically include an enforcement specialist, an attorney, and a staff representative who is familiar with any technical issues under discussion.

## The Confirmatory Order

A CO is a legally binding document that includes the terms of the AIP. The NRC will issue a CO only with the prior written consent of the other party and with a waiver of the right to a hearing. After the entity or the individual has completed the terms of the CO, the NRC will verify that the terms of the CO have been satisfied in a timely manner. Because the CO is legally binding, failing to comply with its terms exposes the entity or individual to additional enforcement action.

Although the substance of the mediation session remains confidential, the details of the settlement will normally be made public via a press release and the publication of the CO in the *Federal Register*.

## Timeliness Goals

The timely resolution of issues is one of the goals of the enforcement ADR program. Accordingly, the NRC expects timely progress of a case at each stage of the mediation process. In cases where the parties achieve settlement, the NRC expects to issue a CO within 90 calendar days of the date of the agency's letter offering the ADR option to the other party.

## Additional Sources of Information

More information about the NRC's ADR program is available from the following:

- Cornell University's Scheinman Institute on Conflict Resolution

**Toll-Free Number:** (877) 733-9415

- The NRC's ADR Program Manager in the Office of Enforcement

**Toll-Free Number:** (800) 368-5642 or (301) 287-9527

- The NRC enforcement ADR program on the agency's Web site at [www.nrc.gov/about-nrc/regulatory/enforcement/adr.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html)



NUREG/BR-0317 Rev. 2  
May 2018

## The Program

The U.S. Nuclear Regulatory Commission's (NRC's) enforcement alternative dispute resolution (ADR) program, formerly referred to as "post-investigation ADR," provides an amicable process for resolving enforcement matters. It is intended to produce more timely and effective outcomes for the NRC and an entity (e.g., an NRC licensee, certificate holder, or contractor of an NRC licensee or certificate holder) or an individual who is subject to an enforcement action, through mediation.

The NRC established the post-investigation ADR program in 2004. In 2015, the NRC expanded its scope to include certain types of enforcement cases that do not involve an investigation. Accordingly, the name of this program was changed from "post-investigation ADR" to "enforcement ADR."

Enforcement ADR includes two distinct case types: (1) discrimination cases or other wrongdoing and, (2) nonwillful (traditional) enforcement cases with the potential for civil penalties (not including violations associated with findings assessed through the Reactor Oversight Process). For discrimination cases or other wrongdoing, mediation is used after the completion of an investigation by the NRC Office of Investigations.

As long as the enforcement matter is within the scope of the program, the NRC normally offers enforcement ADR at each of the following stages of the enforcement process: (1) before an initial enforcement action, (2) after the initial enforcement action is taken, typically upon issuance of a notice of violation, and (3) when a civil penalty is imposed but before a hearing request.

Mediation is an informal process in which a trained and experienced mediator works with the parties to help them reach a resolution. The parties are the NRC and the entity or individual in the mediation. The mediator focuses the attention of the parties on their needs and interests rather than on their stated positions. Mediation gives the parties an opportunity to discuss issues, clear up misunderstandings, identify creative ways to address issues, find areas of agreement, and resolve their dispute.

Participation in the program is entirely voluntary. The NRC and the entity or the individual may withdraw from the mediation process at any time.

## The Program Administrator

The NRC has a contract with the Cornell University Scheinman Institute on Conflict Resolution (Cornell) to serve as the program administrator for the enforcement ADR program. Cornell manages the logistics associated with enforcement ADR, including working with the parties to select a mediator from Cornell's roster of mediators. Cornell uses a network of independent and experienced mediators who help the parties find areas of agreement and settle their dispute.

## The Mediator

The mediator is an experienced neutral individual who is mutually selected by the parties. He or she has no stake in the outcome of the mediation or any power to make decisions that may bind either party. The role of the mediator is to facilitate communication between the parties and to provide an environment where the parties can address their differences. The mediator uses consensus-building skills and knowledge of negotiation to help the parties find ways to overcome any misunderstandings and find areas of agreement. The mediator does not act as legal counsel or provide legal advice. Each party should consult an attorney for legal advice as appropriate.

## The Mediation Process

Historically, most enforcement ADR mediations have occurred at the first stage of the enforcement process (i.e., before an initial enforcement action). In those cases, the NRC presents the entity or the individual with the opportunity to engage in mediation with the agency before it makes an enforcement decision. If the entity or the individual elects ADR, Cornell will help the NRC and the entity or the individual, jointly select a mediator. After selecting a mediator, the parties, in coordination with the mediator, set a date and place for the mediation. Typically,

the mediator holds a premediation teleconference with the parties to discuss logistics or any special needs.

During the mediation, the mediator will give the parties an opportunity to discuss their views on the issue. Often, the mediator will meet privately with each party to develop a clear understanding of the party's perspective and explore and assess options. Although the mediator does not have any power to make decisions that may bind either party, he or she may ask questions intended to help the parties assess the merits of their positions, help them converse in a respectful atmosphere, and identify potential settlement options.

If the parties reach a settlement agreement during the mediation session, they will typically document the terms of their agreement in writing by developing an agreement in principle (AIP) document. The AIP is not enforceable by either party against the other, but it is the basis on which the NRC drafts a confirmatory order (CO). The CO is a legally binding document used to confirm the commitments made in the AIP. However, if the parties do not reach a settlement agreement, the traditional enforcement process resumes—that is, the enforcement process continues as it would have if the parties had not engaged in ADR.

## Confidentiality

Although the terms of an ADR settlement become publicly available through the issuance of the CO, with certain exceptions, the substance of the discussions during the mediation session is confidential. The mediator is prohibited from discussing the mediation proceedings, testifying on anyone's behalf concerning the mediation, or submitting a report on the substance of the discussions.

## Cost

The NRC and the entity or individual, equally share the fees and travel expenses of the mediator and any meeting room fees. However, each party is responsible for its own expenses, such as travel, lodging, and legal representation.

NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY - \$14,500 AND  
NRC INSPECTION REPORT 030-13426/2018-002 DATED – FEBRUARY 21, 2019

**DISTRIBUTION:**

RidsOeMailCenter Resource;	RidsNmssOd Resource;	RidsOgcMailCenter Resource;
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RidsOiMailCenter Resource;	RidsRgn1MailCenter Resource;	RidsRgn3MailCenter Resource;
SMorris, RA	BMaier, ORA	GWilson, OE
MShaffer, DRA	MHerrera, DRMA	FPeduzzi, OE
TPruett, DNMS	MVasquez, ORA	NHilton, OE
LHowell, DNMS	JKramer, ORA	SWoods, OE
JThompson, DNMS	CAIldredge, ORA	LSreenivas, OE
JKatanic, DNMS	JWeaver, ORA	RErickson, DNMS
VDricks, ORA	JPeralta, OE	JCook, DNMS
DCylkowski, ORA	AMoreno, CA	SHoliday, NMSS
RSun, NMSS	JWeil, CA	MBurgess, NMSS
R4_DNMS_ADMIN	R4DNMS_MLIB	MMcCoppin, OEDO

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ADAMS ACCESSION NUMBER: ML19053A763

☒ SUNSI Review: ADAMS: ☐ Non-Publicly Available ☒ Non-Sensitive Keyword:  
By: JGK ☒ Yes ☐ No ☒ Publicly Available ☐ Sensitive

OFFICE	ES:ACES	SES:ACES	HP:MLIB	C:MLIB	TL:ACES	RC
NAME	CAIldredge	JKramer	JvonEhr	JThompson	GVasquez	DCylkowski
SIGNATURE	/RA/	/RA/	/RA/	/RA/	/RA/	/RA/
DATE	1/28/19	1/28/19	1/29/19	1/29/19	1/31/19	02/06/19
OFFICE	D:DNMS	ES:OE	DD:OE	NMSS	OGC	RA
NAME	TPruett	SHoliday	FPeduzzi	RSun	LBaer	SMorris
SIGNATURE	/RA/	/RA/E	/RA/E	/RA/E	/NLO/E	/RA/
DATE	02/05/19	02/08/19	02/09/19	02/11/19	02/11/19	02/21/19

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