**FORM 47: ADR Confirmatory Order (w/ NO SUNSI or SGI Information Included)**

[7590-01-P]

 UNITED STATES OF AMERICA

 NUCLEAR REGULATORY COMMISSION

In the Matter of )

 ) [Docket Number][[1]](#footnote-1) {*if applicable*}

[LICENSEE, COMPANY OR )

INDIVIDUAL’S FULL LEGAL NAME] ) [License Number] {*if applicable*}

 )

[FACILITY NAME] {*if applicable*} ) EA-[YY]-[XXX]

CONFIRMATORY ORDER {*Add* “MODIFYING LICENSE” *if licensee*}

(EFFECTIVE UPON ISSUANCE)[[2]](#footnote-2)

**{*Double space from here to end, except single space signature block.*}**

**I**

**IF THE PARTY IS A LICENSEE USE ONE OF THE FOLLOWING OPENING PARAGRAPHS:**

[Licensee, Company or Individual’s Full Legal Name] (Licensee) {*or other abbreviation*} is the holder of [Type of license] License No. [License Number] issued on [Date] by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part [Part Number] of *Title 10 of the Code of Federal* Regulations (10 CFR). The license authorizes the operation of [Facility Name] (facility) in accordance with conditions specified therein. The facility is located on the Licensee's site in [City, State].

**OR**

The licensees identified in Attachment 1 to this Confirmatory Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing {*e.g.,* “operation of nuclear power plants”} in accordance with the Atomic Energy Act of 1954, as amended, and Part [Part Number] of Title 10 of the *Code of Federal Regulations* (10 CFR), “[Title].” {*if the Order is applicable to more than one licensee*.}

**IF THE PARTY IS A NON-LICENSEE USE THE FOLLOWING OPENING PARAGRAPH:**

[Company or Individual’s Full Legal Name] ([Abbreviation]) {*if a company, insert a* [short description of the line of business and the type of work it was performing] *giving rise to the issue and the location. If an individual, insert* [individual’s title and role and location of work] *giving rise to the issue.*}

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on [Date]. {*If subsequent discussions, insert* “and subsequent discussions completed on [Date(s)] in [City, State].”}

**II**

{*Section II provides a description of relevant events, facts, violations, technical or legal reasons that forms the substantive basis and procedural or process history for issuing the Order*.}

**IF THE ORDER RESULTED FROM AN OI INVESTIGATION USE THE FOLLOWING PARAGRAPH:**

On [Date], the NRC’s Office of Investigations (OI) opened an investigation (OI Case No. [R‑YYYY‑SSS]) at [Licensee, Company or Individual’s Name]. Based on the evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR Part [Part Number], Section [Regulation(s) and Title(s)]. By letter, dated [Date], the NRC notified [Licensee, Company or Individual’s Name] of the results of the investigation with an opportunity to: (1) provide a response in writing, (2) attend a predecisional enforcement conference or (3) to participate in an ADR mediation session in an effort to resolve this (these) concern(s). {*Modifications may be necessary to ensure correctness based on the facts of each specific case. Additional process or procedural history may be necessary depending on the point in the enforcement process at which ADR was requested*.}

**IF THE ORDER RESULTED FROM AN INSPECTION USE THE FOLLOWING TWO PARAGRAPHS**

On [Date], the NRC issued Inspection Report [XXXXXXXX/YYYY-NNN] to [Licensee] which documented the identification of [Number] apparent violation(s) that were being considered for escalated enforcement action in accordance with the NRC Enforcement Policy.

{*Include information related to each apparent violation and what regulations were violated*.}

By letter, dated [Date], the NRC notified [Licensee, Company or Individual’s Name] of the results of the inspection with an opportunity to: (1) provide a response in writing, (2) attend a predecisional enforcement conference or (3) to participate in an ADR mediation session in an effort to resolve this (these) concern(s). {*Modifications may be necessary to ensure correctness based on the facts of each specific case. Additional process or procedural history may be necessary depending on the point in the enforcement process at which ADR was requested*.}

In response to the NRC’s offer, [Licensee, Company or Individual’s Name] requested the use of the NRC’s ADR process to resolve differences it had with the NRC. On [Mediation Date], the NRC and [Licensee, Company or Individual’s Name] met in an ADR session mediated by a professional mediator, arranged through Cornell University’s Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

**III**

During the ADR session, [Licensee, Company or Individual’s Name] and the NRC reached a preliminary settlement agreement. The elements of the agreement include the following:

{*In this section provide: (1) any licensee corrective actions that have been taken prior to the mediation session that they were given “credit” for in the mediation, to ensure they are memorialized, even if they are not specifically included in the agreement in principle. NOTE: the actions documented as “completed” in this section should be sufficiently specific for an inspector to verify in the future; (2) the bullets from the agreement in principle. There is no requirement for the entire agreement to be inserted verbatim; (3) if the NRC agreed to an action (e.g., change a severity level, withdraw a violation, lower the CP amount, etc.) include that action as well if it is not included in the agreement in principle; and (4) if the Confirmatory Order does / or does not constitute an escalated enforcement action.}*

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees to {*provide what the NRC agreed to do. Typically* “not pursue any further enforcement action based on the (apparent) violations identified in the NRC’s [Date], letter.” *(the PEC or Choice letter, typically) or* “withdraw the notice of violation issued [Date]…” *if mediation is subsequent to issuance of an NOV and a statement as to whether the Order will or will not constitute an escalated enforcement action.*}

On [Date], [Licensee, Company or Individual’s Name] consented to issuing this Confirmatory Order with the commitments, as described in Section V below. [Licensee, Company or Individual’s Name] further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that it has waived its right to a hearing.

**IV**

I find that [Licensee, Company or Individual’s Name] actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that [Licensee, Company or Individual’s Name] commitments be confirmed by this Confirmatory Order. Based on the above and [Licensee, Company or Individual’s Name]’s consent, this Confirmatory Order is effective upon issuance.

*{You may choose to include the following}* By no later than {*Choose* “thirty (30) days after the completion of the commitments” *OR* “one year after issuance of the Order and yearly thereafter until completion of the commitments”} specified in Section V, [Licensee, Company or Individual’s Name] is required to notify the NRC in writing and summarize its actions.

**V**

Accordingly, pursuant to Sections {*choose* “81,” (typical for materials)*,* “103,” (rare for currently operating reactors)*, or* “104b,” (typical for currently operating reactors) *as applicable*}, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part {*choose* [20, 30, 40, 50, 52, 55, 73, 76, etc.] *as applicable*}, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT {*if licensee insert* “License No. [License Number(s)] IS (ARE) MODIFIED AS FOLLOWS”}:

**SPECIFICALLY LIST THE REQUIREMENTS FROM THE PRELIMINARY AGREEMENT:**

A. ;

B. ;

C. ;

D. .

**INCLUDE SURVIVABILITY CLAUSE IF ORDER IS TO A NON-INDIVIDUAL:**

{*Choose:* “In the event of the transfer of the possession and/or distribution of licenses of [Licensee or Company’s Name] to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license.” *OR* “This agreement is binding upon successors and assigns of [Licensee or Company’s Name].”{*Choose:* “The Director, Office of Enforcement” *OR* “The Regional Administrator, Region [#]” *consistent with who is signing order*} may, in writing, relax or rescind any of the above conditions upon demonstration by [Licensee, Company or Individual’s Name] or its successors of good cause.

**VI**

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than [Licensee, Company or Individual’s Name], may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter “petition”), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

***Verify E-Filing Requirements at****:*

<https://adamsxt.nrc.gov/idmws/ViewDocByAccession.asp?AccessionNumber=ML120410550>

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E‑Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at<https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC’s public Web site at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC’s public Web site at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC’s E‑Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E‑Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC’s Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC’s adjudicatory E-Filing system may seek assistance by contacting the NRC’s Electronic Filing Help Desk through the “Contact Us” link located on the NRC’s public Web site at <https://www.nrc.gov/site-help/e-submittals.html>, by e‑mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1‑866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC’s electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click “cancel” when the link requests certificates and you will be automatically directed to the NRC’s electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

***End of E-Filing Language***

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person (other than [Licensee, Company or Individual’s Name]) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission

[Name]

Director (Regional Administrator)

Office of Enforcement (NRC Region [#])

Dated this \_\_\_\_ day of [Month] [Year]

Attachments: As stated

ALL FACILITIES OWNED AND OPERATED BY [LICENSEE NAME]

[Facility Name]

[Licensee Name]

Docket Nos. [Docket Numbers]

License Nos. [License Numbers]

[Name of Licensee Official]

[Facility Name]

[Licensee Name]

[Street Address]

[City], [State] [Zip Code]

***REPEAT ABOVE FORMAT FOR EACH LICENSE INCLUDED WITHIN SCOPE OF ORDER***

Attachment 1

1. Frequently in ADR, “fleet” wide corrective actions are taken to reduce the chance of a similar issue at a different site that is owned and operated by the licensee. If more than one license or licensee is involved in the corrective actions, either completed actions or future commitments, include all dockets on the order. Either list a small number at the header, or for larger “fleets,” use an attachment, referenced as:

In the Matter of )

 )

ALL POWER REACTOR LICENSEES ) Docket Nos. (as shown in Attachment 1)

OWNED AND OPERATED BY ) License Nos. (as shown in Attachment 1)

[LICENSEE CORPRORATE NAME(S)] )

 ) EA-[YY]-[XXX] [↑](#footnote-ref-1)
2. Note that ADR-related Confirmatory Orders are NOT to be “Immediately Effective” Orders. [↑](#footnote-ref-2)