



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

March 8, 2019

IA-18-049

Mr. Timothy Murdock
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2018-002

Dear Mr. Murdock:

This refers to an investigation completed on August 27, 2018, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations regarding your activities near the USS Harpers Ferry. The investigation was conducted, in part, to determine whether you, an employee of Team Industrial Services, Inc. (licensee), willfully failed to lock a gamma exposure device prior to relocating the device aboard the USS Harpers Ferry Naval Ship. A factual summary of the investigation, as it pertains to your actions, was issued as an enclosure to our letter dated January 4, 2019, Agencywide Documents Access and Management System (ADAMS) Accession ML19011A090.

In the letter transmitting the factual summary of the investigation report, we provided you the opportunity to address the apparent violation identified in the letter by attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter received on February 6, 2019, you provided a written response to the apparent violation, ADAMS Accession ML19046A271.

Based on the information developed during the investigation and the information that you provided in your response, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in Enclosure 1, Notice of Violation (Notice). The violation involves your engagement in deliberate misconduct that caused the licensee to be in violation of a condition of its license issued by the Commission. Specifically, you deliberately relocated a gamma exposure device in an unlocked configuration onboard the USS Harpers Ferry from the location of your truck at the pier.

Your deliberate actions placed the licensee in violation of License Condition 25 of NRC Materials License 42-32219-01, and caused you to be in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 30.10, "Deliberate misconduct." Enclosure 2 includes a copy of the letter and Notice issued to the licensee. Given the significance of the underlying issue and the deliberate nature of your actions, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action.

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

The NRC has concluded that since: (1) you acknowledged that you did not follow regulations; (2) you accepted responsibility for your actions to both the licensee and the NRC; and (3) you received additional training provided by the licensee as a result of the event, you are not required to respond to this letter. Should you choose to respond, please follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosures, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS, accessible from the Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy information so that it can be made available to the public without redaction. The NRC will also make the letter describing the apparent violation, January 4, 2019, publicly available.

The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>). In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Please contact Mr. John Kramer of my staff at 817-200-1121 if you have any questions.

Sincerely,



Scott A. Morris
Regional Administrator

Enclosures:

1. Notice of Violation
2. Notice of Violation to Team
Industrial Services, Inc.

NOTICE OF VIOLATION

Timothy Murdock
[HOME ADDRESS DELETED]
UNDER 10 CFR 2.390

IA-18-049

During an NRC investigation conducted from October 12, 2017, through August 27, 2018, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.10(a)(1) requires, in part, that an employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any term, condition, or limitation of any license issued by the Commission.

License Condition 25.A of NRC Materials License 42-32219-01 Amendment 54, requires, in part, that the licensee conduct its program in accordance with its application dated March 20, 2015. A procedure identified as part of its Radiation Protection Program Manual and included in the application package, Operating Procedure 30.J.2 "Operating & Emergency Procedure," Revision 14, Section 14, "Operating Procedures for Radiographic and X-ray Equipment," Step 14.4.3.e.1, requires, in part, that if the radiographic exposure device is to be relocated for subsequent exposures, the device shall be placed in the fully locked position if there is movement to another physical location.

Contrary to the above, on August 29, 2017, you, an employee of a licensee (Team Industrial Services, Inc.), engaged in deliberate misconduct that caused the licensee to be in violation of a term, condition, or limitation of a license issued by the Commission. Specifically, you deliberately carried a gamma exposure device in an unlocked configuration aboard the USS Harpers Ferry from the location of a licensee truck at the pier to perform industrial radiographic operations. These actions caused the licensee to be in violation of License Condition 25.A.

This is a Severity Level III violation (NRC Enforcement Policy, Section 2.2.1.d).

The NRC has concluded that you are not required to respond to this letter for the following reasons: (1) you acknowledged that you did not follow regulations; (2) you accepted responsibility for your actions to both the licensee and the NRC; and (3) you received additional training provided by the licensee as a result of the event. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, (IA-18-049)," and send it to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Document Access

Enclosure 1

and Management System (ADAMS), accessible at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy information so that it can be made available to the public without redaction. If personal privacy 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.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 8th day of March 2019

**NOTICE OF VIOLATION to
TEAM INDUSTRIAL SERVICES, INC.**



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

March 8, 2019

EA-18-124

Mr. David P. Tebo
Corporate Radiation Safety Officer
Team Industrial Services, Inc.
200 Hermann Drive
Alvin, TX 77511

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$14,500, NRC INSPECTION REPORT 030-35252/2018-003 AND NRC
INVESTIGATION REPORT 4-2018-002

Dear Mr. Tebo:

This letter refers to an investigation conducted by the U.S Nuclear Regulatory Commission (NRC) Office of Investigations, of activities conducted by Team Industrial Services, Inc. (Team). The purpose of the investigation was to determine if Team radiographers willfully unlocked a radiographic exposure device prior to moving the device aboard the USS Harpers Ferry. A final exit briefing was conducted telephonically with you on December 11, 2018, and the details regarding an apparent violation were provided in Inspection Report 030-35252/2018-003, dated January 4, 2019, NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML19007A235.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference, requesting alternative dispute resolution (ADR), or by providing a written response before we made our final enforcement decision. In a letter dated February 6, 2019 (ADAMS Accession ML19043A672), you provided a written response to the apparent violation.

Your February 6, 2019, written response included a section titled "Results of investigation" and indicated that you concluded a violation of Team's Operating and Emergency Procedure 30.J.2 did occur in that the exposure device was transported from the truck at the pier to the USS Harpers Ferry without being in the fully locked condition. However, you indicated that you do not consider this to be the result of deliberate misconduct as there was no willful intent by the radiographers involved. The NRC's position is that the circumstances in this case support a willful violation. Based on the facts of this case and the testimony of the radiographers, the NRC found sufficient evidence to conclude that the radiographers deliberately transported an exposure device in an unlocked configuration contrary to Operating Procedure 30.J.2 of License Condition 25.A.

Based on the information developed during the investigation and the information that you provided in your February 6, 2019, response to the NRC inspection report dated January 4, 2019, the NRC has determined that a violation of NRC requirements occurred. The violation is

cited in Enclosure 1, Notice of Violation and Proposed Imposition of Civil Penalty (Notice) and the circumstances surrounding it are described in the subject inspection report. The violation involved the failure to fully lock a radiographic exposure device prior to its relocation to another physical location. The NRC considers the violation to be significant because an important safety barrier was not in place while the exposure device was being hand-carried aboard a U.S. Navy ship, which could have resulted in an inadvertent exposure, and because it was a willful violation. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$14,500 is considered for a Severity Level III violation.

Because the violation was associated with a willful Severity Level III violation, 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 was not warranted because the violation was identified by U.S. Navy personnel overseeing the work. Corrective actions included: (1) providing written disciplinary action and reinforcement training to the radiographers involved in the incident immediately following notification of the issue; (2) committing to review the incident and resulting violation with all radiographic personnel from the Los Angeles Facility during upcoming annual refresher training; and (3) presenting the incident and violation to all Team radiation safety officers so the issue can be shared with all locations as part of annual refresher training. Therefore, the NRC determined that *Corrective Action* credit was warranted.

To emphasize the importance of procedural compliance and identification 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 base amount of \$14,500 for the Severity Level III violation. In addition, issuance of this 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 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. Your response should focus on the corrective actions associated with the NRC's conclusion that the violations were the result of the deliberate failure of your radiographers to follow regulatory requirements. If you have additional information that you believe the NRC should consider, you may also 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 "Agency 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 in 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. 030-35252
License No. 42-32219-01

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

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Team Industrial Services, Inc.
Alvin, Texas

Docket No.: 030-35252
License No.: 42-32219-01
EA-18-124

During an NRC investigation conducted from October 12, 2017, to August 27, 2018, one violation of NRC requirements was 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 violation and associated civil penalty are set forth below:

License Condition 25.A of NRC Materials License 42-32219-01 Amendment 54, requires, in part, that the licensee conduct its program in accordance with its application dated March 20, 2015. A procedure identified as part of its Radiation Protection Program Manual and included in the application package, Operating Procedure 30.J.2 "Operating & Emergency Procedure," Revision 14, Section 14, "Operating Procedures for Radiographic and X-ray Equipment," Step 14.4.3.e.1, requires, in part, that if the radiographic exposure device is to be relocated for subsequent exposures, the device shall be placed in the fully locked position if there is movement to another physical location.

Contrary to the above, on August 29, 2017, the licensee moved a radiographic exposure device for subsequent exposures to another physical location and failed to ensure that the device was placed in the fully locked position. Specifically, the radiographers carried a radiographic exposure device in an unlocked position onboard the USS Harpers Ferry from the location of their truck at the pier.

This is a Severity Level III violation (NRC Enforcement Policy Section 2.2.1.d).
Civil Penalty - \$14,500 (EA-18-124)

Pursuant to the provisions of 10 CFR 2.201, Team Industrial Services, Inc. (Team) 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-18-124" 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 previously 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.

Enclosure 1

Team 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 Team fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should Team 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-18-124" 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. Your attention 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, the response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction.

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

Dated this 8th day of March 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, 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

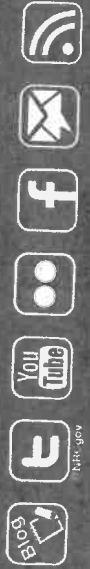


Payment Methods

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 2013



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 (TG-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

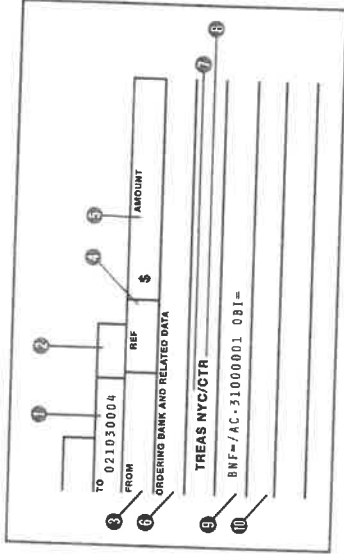
The NRC is currently accepts credit card payments of up to \$24,999.99. For payment by credit card, go to Pay.gov, search for "U.S. Nuclear Regulatory Commission Fees", and enter the required information.

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.



- 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



Enforcement Alternative Dispute Resolution Program

ENCLOSURE 3



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, NRC INVESTIGATION REPORT 4-2018-002,
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