

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

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[FR Doc. 2011-22541 Filed 9-2-11; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2011-0208]

### Implementation of the Alternative Dispute Resolution Program

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Public meeting and request for nomination of participants in panel discussions.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) is planning to hold a public meeting in late October 2011 or early November 2011 to solicit feedback from its stakeholders on its Alternative Dispute Resolution (ADR) Program in the Office of Enforcement (OE). The meeting will be composed of panel discussions addressing implementation of the ADR program and whether changes could be made to the program to make it more effective, transparent and efficient. The NRC is also soliciting nominations and requests to participate in the panel discussions.

**DATES:** Submit nominations and requests to participate in the panel discussions by September 16, 2011. A meeting notice with the date, time, and location of the meeting will be available on the NRC Public Meeting Schedule Web site at <http://www.nrc.gov/public-involve/public-meetings/index.cfm> at least 10 days prior to the meeting.

**ADDRESSES:** Individuals or organizations with an interest in the NRC's ADR Program are encouraged to nominate themselves or to submit names of individuals who will represent their specific organization in the panel discussion portion of the meeting, to the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

You can access publicly available documents related to this action using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System*

(ADAMS): Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- *Federal Rulemaking Web Site:* Supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0208.

**FOR FURTHER INFORMATION CONTACT:** Shahram Ghasemian, telephone: 301-415-3591 or by e-mail to [Shahram.Ghasemian@nrc.gov](mailto:Shahram.Ghasemian@nrc.gov); or Maria Schwartz, telephone: 301-415-1888 or by e-mail to [Maria.Schwartz@nrc.gov](mailto:Maria.Schwartz@nrc.gov). Both of these individuals can also be contacted by mail at the U.S. Nuclear Regulatory Commission, Office of Enforcement, Concerns Resolution Branch, Washington, DC 20555-0001.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Congress enacted the Administrative Dispute Resolution Act (Act) which requires each Federal agency to, among other things; adopt a policy that addresses the use of ADR for resolving disputes in connection with agency programs. While the Act authorizes and encourages the use of ADR, it does not require its use. Whether to use or not to use ADR is at an agency's discretion; additionally, participation in ADR processes is by agreement of the disputants. In 2004, the Commission incorporated the use of ADR in its Enforcement Program in order to achieve more timely and economical resolution of issues, more effective outcomes and improved relationships.

The OE oversees, manages, and develops guidance for the NRC's ADR program. The ADR program is comprised of two entirely different sub-programs; the first is pre-investigation (commonly referred to as "Early ADR") and the second is post-investigation. The NRC established the early ADR program in 2004. The early ADR program provides an individual and his or her employer (or former employer) the opportunity to resolve the individual's allegation of discrimination through mediation rather than to fully litigate the discrimination allegation or have the NRC initiate an investigation into the allegation of discrimination.

Mediation is an informal and voluntary process between an individual and his or her employer (or former employer) in which a trained mediator works with the parties to help them settle their dispute. Early resolution of discrimination allegations tends to preserve relationships and generally promotes a safety conscious work environment by facilitating timely and amicable resolution of discrimination concerns without resorting to prolonged litigation and unnecessary expenses. The second sub-program (commonly referred to as "Post-Investigation ADR") refers to the use of mediation after the completion of an investigation by the NRC's Office of Investigations (OI) and the staff's conclusion that the pursuit of an enforcement action appears warranted. It is offered at three stages after the completion of an investigation by OI: (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. Post-investigation ADR may 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. Participation in either early or post-investigation ADR is entirely voluntary. The parties involved may withdraw from the mediation process at any time. If mediation is unsuccessful in the case of early ADR, OI may initiate an investigation into the allegation of discrimination; while, in the case of post-investigation ADR, OE may proceed with an enforcement action.

The ADR has become an important aspect of the NRC's enforcement program. Because ADR is increasingly used in enforcement, the NRC believes it is time to examine our implementation of this program. The staff is seeking to move forward with this examination through a meeting planned for the end of October 2011 or beginning of November 2011.

In addition to this FRN, the NRC will be issuing a separate FRN in September 2011, to provide individuals and organizations with an interest in the NRC's ADR program, an opportunity to comment on the ADR program.

##### II. Public Meeting

The goal of this meeting is to provide a forum in which stakeholders, including the NRC, can discuss the NRC's current ADR Program (early ADR and post-investigation ADR). The ADR has become an important aspect of the NRC's enforcement program. Because

ADR is increasingly used in enforcement, the NRC believes it is time to examine our implementation of this program. This meeting will allow stakeholders to provide feedback regarding their perceptions of the ADR program's effectiveness, transparency, and timeliness, to include, for example, identifying criteria for determining whether early ADR and/or post-investigation ADR should be offered in specific cases; and whether additional criteria should be developed for offering early ADR for violations other than discrimination and post-investigation ADR for violations that do not involve wrongdoing.

To ensure that this process is open, effective, and collaborative, the format of the meeting will consist of panel discussions among stakeholders, including a representative from the NRC, representatives from NRC-regulated nuclear industries, public-interest groups, and members of the public. The panel discussions will be followed by interactive discussions with other meeting attendees. The NRC is requesting that individuals or organizations with an interest in this initiative nominate/self-nominate individuals to participate in the panel discussions. Nominations and requests to participate in the panel discussions are requested by September 16, 2011. Nominations should include information supporting the nomination such as affiliation(s) and expertise.

The NRC will use the nominations and information supporting the nomination to select final participants with a goal of ensuring a broad spectrum of views and backgrounds. Nominated individuals who are not selected to participate in the panel discussions are highly encouraged to attend the meeting where there will be opportunities to offer input.

The public meeting will be held at the NRC Headquarters building located at 11555 Rockville Pike, Rockville, MD 20852. Because on-street parking is extremely limited, the most convenient transportation to the meeting is via Metro's Red Line to the White Flint Stop which is directly across the street from NRC Headquarters. Please allow time to register with building security upon entering the building. Those unable to travel and attend in person may participate by Webinar. The meeting notices on the NRC Public Meeting Schedule Web site will provide information on how those unable to participate in person may do so via Webinar. Prior to the meeting, attendees are requested to register with one of the contacts listed in this FRN or that will be listed in the meeting notice which

will provide the date, time, and location of the meeting so that sufficient accommodations can be made for their participation. Please let the contact know if special services, such as services for the hearing impaired, translation services, etc., are necessary. Please check the NRC Web site (<http://www.nrc.gov/public-involve/conferences.html> and/or <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>) for any updates to the meeting schedule and/or additional information about this meeting.

Dated at Rockville, Maryland, this 25th day of August 2011.

For the Nuclear Regulatory Commission.

**Roy P. Zimmerman,**

*Director, Office of Enforcement.*

[FR Doc. 2011-22645 Filed 9-2-11; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2011-0212]

### Monitoring the Effectiveness of Maintenance at Nuclear Power Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory guide; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) is issuing for public comment draft regulatory guide (DG) DG-1278, "Monitoring the Effectiveness of Maintenance at Nuclear Power Plants." This guide endorses Revision 4A to Nuclear Management and Resources Council (NUMARC) 93-01, "Industry Guideline for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," which provides methods that are acceptable to the NRC staff for complying with the provisions of Section 50.65, "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," of Title 10, of the *Code Of Federal Regulations*, part 50, "Domestic Licensing of Production and Utilization Facilities."

**DATES:** Submit comments by October 31, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or

improvements in all published guides are encouraged at any time.

**ADDRESSES:** Please include Docket ID NRC-2011-0212 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0212. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- *Fax comments to:* RADB at 301-492-3446.

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