

**[DENR ADMINISTRATIVE ORDER NO. 2005-18,
September 01, 2005]**

**ADOPTION OF ALTERNATIVE DISPUTE RESOLUTION (ADR)
PRINCIPLES AND PROCEDURES IN THE RESOLUTION OF
APPROPRIATE ENVIRONMENT AND NATURAL RESOURCES
CONFLICTS**

Pursuant to the Constitution which mandates the State to protect and advance the right of the people to a balanced and healthful ecology, and guarantees equitable access to natural resources; and consistent with the Alternative Dispute Resolution Act of 2004 (Republic Act No. 9285, or ADR Act) which declares as state policy the promotion of ADR as an important means to achieve speedy and impartial justice and de-clog court dockets; the following order is hereby issued to adopt alternative dispute resolution principles and procedures in appropriate cases within the Department's jurisdiction.

SECTION 1. Statement of policy - It is hereby declared the policy of the Department to actively promote party autonomy in the resolution of disputes or the freedom of the parties to make their own arrangements to resolve their disputes. Towards this end, the Department shall encourage and actively promote the use of ADR as an important means to achieve speedy and impartial justice and de-clog dockets of cases filed with the Department. As such, the Department shall provide means for the use of ADR as an efficient tool and an alternative procedure for the resolution of appropriate cases. Likewise, the Department shall enlist active civil society and private sector participation in the settlement of disputes through ADR.

SECTION 2. Objectives - The objective of this Administrative Order is to facilitate the resolution of environmental disputes through the use of ADR. Specifically, the Department is committed to institute complementary measures to unclog its docket of cases following a two-pronged strategy: 1) by facilitating mutually-acceptable solutions for appropriate cases; and (2) by minimizing the number of cases raised for formal administrative or judicial resolution. This measure is intended to enhance public confidence in the Department as an institution of good governance.

SECTION 3. Definition of Terms -

a. "ADR system" shall have the same meaning as in the ADR Act, to wit: any process or procedure used to resolve a dispute or controversy, other than by adjudication of a presiding judge of a court or an officer of a government agency, as defined in (the) Act, in which a neutral third party participates to assist in the resolution of issues, which includes arbitration, mediation, conciliation, early neutral evaluation, mini-trial, or any combination thereof.

SECTION 4. Coverage

Cases and disputes that are covered by ADR are those identified by the respective Department bureaus, attached agencies and regional offices and those that are determined by the Oversight Committee as provided in the last paragraph of Sec. 5

For this purpose, all Department bureaus, attached agencies, and regional offices shall make an inventory of the types and nature of disputes and cases that are presently filed with them. On the basis of such inventory, they shall identify such disputes and cases, now and hereinafter, that may be subject to ADR.

SECTION 5. Exceptions - In no case, however, shall the following cases be subject to ADR:

- a. cases and disputes where applicable regulations are conflicting and would thus require resolution by a body higher than the bureau, attached agency or regional office;
- b. cases where the resolution thereof would require a policy change;
- c. cases which involve criminal liability;
- d. cases that involve the issue of jurisdiction of the Department or the courts;
- e. administrative cases against DENR officials and employees; and
- f. cases that by law cannot be compromised.

Disputes that have assumed national significance, or involve national officials, or have reached national media attention, as well as cases that arise as a direct outcome of Presidential directives, are to be referred directly to the Oversight Committee, provided in Section 10 hereof, to determine if ADR is appropriate.

SECTION 6. Recognition of party autonomy in dispute resolution - Pursuant to the Department's recognition of the freedom of parties to a dispute to make their own arrangements to resolve the conflict, parties may resort to traditional or customary modes of settlement of disputes, which are not contrary to law. The Department shall take into account the mutually acceptable solution reached by the parties, not contrary to law, as basis for its decisions or orders, without prejudice to the rights of persons who were not party to the solution or settlement.

SECTION 7. Integrating ADR in existing administrative procedures - All Department bureaus, attached agencies, and regional offices shall adopt alternative dispute resolution principles, consistent with relevant laws, in their current procedures for resolving environment and natural resources conflicts. Where appropriate, it shall adopt an applicable ADR system as provided in the ADR Act. Department bureaus, attached agencies, regional offices and quasi-judicial bodies such as the Panel of Arbitrators, Mines Adjudication Board and Pollution Adjudication Board shall create or modify their respective rules of procedures, where appropriate, to incorporate ADR principles or steps in addressing conflicts of hearing cases under their jurisdictions.

SECTION 8. ADR Training for DENR personnel - To institute and strengthen the capacities for ADR of key personnel in the Department the following shall be created and/or undertaken:

- a. There shall be established a comprehensive and continuing ADR training for personnel involved in addressing or deciding conflicts brought before their offices;