

**From:** Terry Lodge <tjlodge50@yahoo.com>  
**To:** <nrcprep@nrc.gov>  
**Date:** Fri, Aug 16, 2002 1:10 PM  
**Subject:** Citizen comment on proposed use of ADR in NRC enforcement proceedings

To the NRC:

I am a lawyer. I am very familiar with alternate dispute resolution mechanisms of all types.

ADR in the context of the NRC is so stupid it defies imagining. You either regulate, reserving as regulator some discretion to go easy depending on circumstances, or you don't. You don't threaten to regulate - which surely happens virtually never at the NRC (witness the corrupt mishandling of the Davis-Besse shutdown order in fall 2001) - and then use alternate dispute resolution to give a corrupt or suspect deal the appearance of being "reasonable".

As a regulator, the NRC obviously has the discretion to go easy or tough on a utility. Inserting a mediator into a process that already takes too long and can clearly be thoroughly compromised from a political standpoint will do nothing to restore the NRC's long-eroded authority over nuclear utilities.

The NRC wishes to delegate its responsibility to a "neutral" - someone devoted to finding a middle ground. This has no place whatever in the regulation of an industry which must handle its industrial processes with 100% integrity. It is irresponsible for the NRC to even consider so silly an idea.

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- > NRC SEEKS PUBLIC COMMENT ON USE OF ALTERNATIVE
- > DISPUTE
- > RESOLUTION IN ITS ENFORCEMENT PROGRAM
- > Printable Version <Picture: PDF Icon>
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- > The Nuclear Regulatory Commission is seeking public
- > comment on the
- > development of a pilot program to evaluate the
- > possible use of alternative
- > dispute resolution (ADR) in its enforcement program.
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- > ADR is defined as any procedure that is used to
- > resolve issues in
- > controversy. It can involve the use of a neutral
- > third party to resolve
- > conflicts that can include facilitated discussion,

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 2002 AUG 16 PM 1:38  
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Template = ADM - 013

E-RIDS = ADM-03  
 Add = B. Westreich (BCW)

- > mediation, fact-finding,
- > mini-trials and arbitration. The Environmental
- > Protection Agency, the U.S.
- > Navy and the Federal Energy Regulatory Commission
- > are among those agencies
- > that have used these techniques effectively. The NRC
- > is considering using
- > ADR in its enforcement program.
- >
- > In considering the use of ADR in a pilot program yet
- > to be designed, the
- > NRC is seeking public comment on whether to use it
- > at certain points in the
- > enforcement process, such as: (1) following
- > identification of wrongdoing or
- > an allegation of discrimination, but prior to a full
- > investigation; (2)
- > following an investigation that substantiates the
- > matter, but prior to an
- > enforcement conference; (3) following the issuance
- > of a Notice of Violation
- > and proposed civil penalty, but prior to imposition
- > of a civil penalty; and
- > (4) following an imposition of civil penalty, but
- > prior to a hearing on the
- > matter.
- >
- > The staff requests that comments be focused on
- > issues related to the
- > implementation of a pilot program to test the use of
- > ADR at any of the four
- > steps in the enforcement process, and include such
- > factors as what
- > techniques would be useful at each point, what pool
- > of neutrals might be
- > used, who should attend the ADR sessions, and what
- > ground rules should
- > apply. Also, the staff requests that comments be
- > focused on the pros and
- > cons of using ADR at points in the enforcement
- > process and in maintaining
- > safety, increasing public confidence, and
- > maintaining the effectiveness of
- > the enforcement program.
- >
- > Written comments can be sent to Chief, Rules and
- > Directives Branch,
- > Division of Administrative Services, Office of
- > Administration, Mail Stop
- > T-6D59, U.S. Nuclear Regulatory Commission,
- > Washington, DC 20555-0001.
- > Comments may also be submitted to [nrcprep@nrc.gov](mailto:nrcprep@nrc.gov).
- > All comments should be
- > submitted within 60 days of publication of a Federal
- > Register notice,
- > expected shortly.

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- > The NRC also plans to hold several public meetings
- > and workshops between
- > September 2 and October 14 in Hanford, Washington;
- > Chicago, Illinois; San
- > Diego, California; New Orleans, Louisiana; and
- > Washington, D.C. on the
- > possible use of ADR. Specific dates and meeting
- > locations will be announced
- > on the NRC's Office of Enforcement web site at:
- >
- <http://www.nrc.gov/what-we-do/regulatory/enforcement.html>.
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