Content

Title：	Public Nuisance Dispute Mediation Act Enforcement Rules Ch
Date：	2004.11.24
Legislative：	Thirty-Eight articles promulgated by Environmental Protection Administration (82), Huan-Shu-Kuan-Tzu order no.01423 on February 24, 1993. Revised articles 3, 6, 7, 8, 9, 13, 20, 28, 29 and 30 promulgated by Environmental Protection Administration (87), Huan-Shu-Kuan-Tzu order no.0065220 on October 7, 1998. Revised articles 7, 8, 11, 32 and 36 promulgated by Environmental Protection Administration (88), Huan-Shu-Kuan-Tzu order no.0061602 on September 22, 1999. Deleted article 26 and revised articles 2, 3, 13, 23, 32, and 33 promulgated by Environmental Protection Administration (89), Huan-Shu-Kuan-Tzu order no.0017634 on April 19, 2000. Deleted article 34 promulgated by Environmental Protection Administration,Huan-Shu-Kuan-Tzu order no. 0930081054 on November 24, 2004.
Content：	Article 1 These Rules are determined pursuant to Article 50 of the Public Nuisance Dispute Mediation Act (herein referred to as this Act). Article 2 The party applying for mediation or arbitration is referred to as the applicant and the other party is referred to as the counterpart. The applicant and the counterpart are all parties to the public nuisance dispute.

Article 3	The application for mediation referred to in Article 14, Paragraph 1 of this Act shall record the following items and be signed by the applicant: I. the party's full name, sex, date of birth, profession and permanent residence address or temporary residence address. If the applicant is a juridical person or other group with manager(s) or representative(s), the name of the juridical person or organization and the full name(s), permanent residence address and temporary residence address and qualification verification documents of the manager(s) or representative(s) at the organization's principal office address(es) or business address(es). II. if the parties have legally appointed representative(s) or agent(s), their name(s), sex, date of birth, profession and permanent residence address and temporary residence address III. itemized request IV. source and facts of the public nuisance dispute V. provision of investigative proof VI. name and number of attached documents VII. name of the mediation committee VIII. date of application Agents should submit a letter of appointment. The two foregoing paragraphs shall apply to application for arbitration.
Article 4	Copies of an application for mediation shall be provided to the counterpart or the elected parties. Should an application for mediation not conform with the format or lack information, the mediation committee may notify the applicant to make corrections within a certain period. Paragraph 1 shall apply to a reply submitted by the counterpart.
Article 5	When there are changes to the representatives of relevant agencies referred to in Article 5, Paragraph 2 of this Act, the relevant agency may appoint another representative to serve out the original term.
Article 6	The resignation of a mediation committee member defined in Article 6, Paragraph 2 of this Act means that any of the following situations apply to the member: I. dismissal pursuant to Article 7 of this Act II. resignation III. disappearance for more than one year IV. death
Article 7	A special municipality mayor, county commissioner or city mayor may appoint an appropriate individual to succeed a mediation committee member to whom any of the Subparagraphs of the foregoing article apply.

Article 8	A name list of the committee's members registering the committee members shall be prepared by and kept at the mediation committee, and it shall record the following items: I. full name, sex, date and place of birth II. education and work experience III. profession and current position IV. specialization V. beginning and ending date of term The name list referred to in the foregoing paragraph shall be submitted to the local district court and arbitration panel for future reference. The procedure referred to in the foregoing paragraph shall apply to changes in mediation committee membership. The foregoing two paragraphs shall apply to the arbitration panel. Parties may submit a request to the mediation committee to read, copy or photocopy the mediation committee membership list.
Article 9	Within one month of receiving an application for mediation, the mediation committee shall set a mediation date, and it shall produce a mediation notification stating the day, time and place of mediation and forward it to the parties concerned. Notification in person by a mediation committee member requesting the presence of a party stating day, time and place of mediation, and where an explicit record is kept, shall have the same force as a delivered notification. This shall also apply when a party has stated in writing that he or she will be present on the mediation date. The first notification of mediation date shall be delivered seven days prior to the mediation date.
Article 10	Parties may jointly elect one or several committee members to mediate a dispute. Following the election referred to in the foregoing paragraph, committee members not elected may be absent from mediation on the date of mediation.
Article 11	When there is an application to have jurisdiction assigned to a mediation committee pursuant to Article 16, Paragraph 1 of this Act, the relevant documents shall be submitted to the arbitration panel, and the chairman of the arbitration panel shall designate three or five members to decide the dispute in a panel discussion. Based on an application referred to in the foregoing paragraph, the Arbitration Panel may assign jurisdiction to the mediation council in a special municipality, county or city. Upon designation of jurisdiction, the Arbitration Panel shall promptly notify the parties and the mediation council in a special municipality, county or city to which jurisdiction has been assigned. If the dispute is being accepted by another mediation committee, that committee shall also be notified.

Article 12	When the conditions referred to in Article 17 of this Act apply to a mediation committee member without that member recusing him or herself, or when there are sufficient facts causing concern that the member would be biased in the execution of his or her duties, the chairman shall, pursuant to his or her authority or an application from a party to the dispute, take the decision to excuse that member.
Article 13	The term illegal applications referred to in Article 18, Paragraph 1 of this Act means that any of the following conditions may apply to the application: I. the applicant or the counterpart do not fulfill the requirements for being a party to the dispute II. the applicant or the counterpart are incapable of exercising his or her rights, or have only limited capacity to do so III. the application is submitted by an agent, but there are shortcomings in the agent's rights IV. the parties do not meet the proper requirements V. the application does not conform with the format or lacks information VI. the fees pursuant to Article 43 of this Act have not been paid VII. the same subject matter is being accepted pursuant to this Act, or a lawsuit has been brought pursuant to Article 31, Paragraph 1 or Article 39, Paragraph 1 of this Act. VIII. investigatory hearings concerning the same subject matter in a court of the first instance are concluded , or the mediation accord, agreement or arbitration decision has already been approved by the court IX. legal title for compulsory enforcement already exists in the subject matter pursuant to other laws and regulations
Article 14	When a mediation committee refers a dispute as referred to in Article 18, Paragraph 3 of this Act, the committee shall submit the relevant documentation to the mediation committee to which the dispute has been referred, and it shall promptly notify the parties. The same procedure shall apply to situations when the parties have agents.
Article 15	When several persons sharing a common interest in a public nuisance dispute apply for mediation of the same public nuisance, the applications may be combined by the mediation committee when proceeding with the mediation procedures.

Article 16	When several persons sharing a common interest in a public nuisance dispute carry out an election pursuant to Article 20, Paragraph 1 of this Act, the mediation committee may forgo requesting that anyone not elected be present at the mediation on the date mediation. Such election will become valid after notification has been delivered to the counterpart. Should an elected person lose his or her qualifications due to death or any other reason, the other elected persons may still apply for and proceed with mediation. When the mediation committee finds that an excessive number of persons have been elected, it may recommend or assist parties in a new election pursuant to Article 21 of this Act.
Article 17	Mediation procedures may proceed at the mediation committee's premises or at any other suitable premises. Committee members or persons handling mediation matters shall maintain secrecy concerning all mediation matters that have not already been made public.
Article 18	If a person present during mediation proceedings resorts to violence, threats or fraud during mediation proceedings or to obstruct mediation, or is suspected to be involved in other criminal behavior, the members of the mediation committee may request that police assist in the removal of that person and that he or she is handled pursuant to he law.
Article 19	A mediation committee may investigate evidence pursuant to its authority without being restricted by evidence submitted by a party to the dispute or a party's request for investigation of evidence.
Article 20	When necessary for the investigation of evidence, the mediation committee may use the following methods: I. ask the parties or other persons concerned to submit documents, statistical forms or objects II. hear the parties' opinions, interview common or expert witnesses, or obtain the written opinion of the parties, and common or expert witnesses. III. ask relevant agencies to assist by providing relevant documents, statistical forms and objects IV. proceed with examinations or appraisals
Article 21	Prior to the mediation date, the chairman of the mediation committee may designate one committee member to review the application for mediation or investigate evidence, and to present his or her opinion during the meeting.
Article 22	During the mediation proceedings, the parties or their agents may request to read, copy or photocopy the relevant documents, statistical forms and objects.
Article 23	Where appropriate, the provisions of Articles 4 and 9 and Articles 15 to 22 shall apply to arbitration proceedings. Articles 6, 7 and 12 shall apply to the members of the arbitration panel.

Article 24	When the counterpart refuses the mediation in writing or orally on the mediation date, a mediation will not have been achieved. When one of the parties is absent from two consecutive mediation dates without valid reason, mediation will be deemed not to have been achieved. However, if the mediation committee deems there is hope of achieveing a mediation, the committee may separately determine another mediation date.
Article 25	When a mediation cannot be achieved, the mediation committee shall issue a notification of unachieved mediation and deliver it to the parties within seven days.
Article 26	(Deleted)
Article 27	The phrase Court holding jurisdiction referred to in Article 28, Paragraph 1 and Article 39, Paragraph 2 of this Act means the court holding jurisdiction where the mediation committee and arbitration panel are located.
Article 28	Terms used in Article 30, Paragraph 2 of this Act are defined as follows. I. Environmental protection agreement means a signed written agreement between an enterprise and the local residents or government agreeing that the two parties shall take or not take certain action in order to protect the environment and prevent public nuisances from occurring. II. Local residents means residents who at the time of signing the agreement actually reside in the same area as the enterprise or in neighboring areas and who have completed household registration procedures. III. Local government means the special municipality, county or city government or township, town and city public offices where the enterprise is located.
Article 29	An environmental protection agreement shall explicitly state the following items and be signed by both parties: I. signatories to the agreement II. target of the agreement III. environmental protection measures IV. emergency response plan V. other items relevant to the environmental protection agreement VI. period of agreement validity VII. signature date

Article 30	When the arbitration panel conducts an inquiry pursuant to Article 35 of this Act , it shall order its staff to produce an inquiry record, where the following items shall be explicitly recorded: I. place and date of inquiry II. full name of the arbitration panel member and staff in charge of keeping the record III. subject matter of the public nuisance dispute IV. full names of parties, representatives and agents present V. whether or not the proceeedings are public. If proceedings are not public, the reason for this shall be recorded. VI. statements or declarations by the parties VII. witness declarations and the result of expert witness appraisals The inquiry record referred to in the foregoing paragraph shall be read aloud to the parties or given to them to read, and they shall be requested to sign the record. The arbitration panel member conducting the inquiry and the staff keeping the record shall sign the record.
Article 31	When one of the parties, after having been legally notified, is absent from the arbitration panel's inquiry proceedings, the present party may, on his or her application, make a statement and an arbitration decision may be made. When an absent party still does not attend despite renewed notification, the arbitration panel may, pursuant to its authority, make an arbitration decision based on the statements of one party. When there is a written statement from someone who already has made a statement or investigated evidence or is absent, that written statement shall be considered during the arbitration referred to in the foregoing paragraph.
Article 32	A report over the mediation activities handled during the foregoing six month period, together with mediation accords approved by a court of law, shall be submitted every six months by the special municipality, county and city mediation committees to the arbitration panel for future reference. Mediation and arbitration documentation shall be compiled into one file per case for archive management.
Article 33	The application referred to in Article 16, Paragraph 1 and Article 33, Paragraph 1 of this Act may be submitted individually or jointly by several parties sharing a common interest in a public nuisance dispute.
Article 34	(Deleted)
Article 35	When a party is applying for arbitration, that party may apply for the Arbitration Panel to decide that the fee paid pursuant to Article 43 of this Act be proportionately split between the parties or that it be borne by the counterpart.

	Article 36	Special municipality, county and city governments and township and city district offices shall compile the data relevant to public nuisance disputes into dossiers that shall be categorized and put together for safekeeping, and the general progress shall be reported to the next superior agency for forwarding to the Environmental Protection Administration, Executive Yuan, for future reference.
	Article 37	Public nuisance disputes that, prior to the promulgation of these Rules, already are being handled by other competent authorities pursuant to the law, may, upon the approval of the parties concerned, be referred to the competent mediation committee for mediation, without the parties having to pay the mediation fee.
	Article 38	These Rules shall take effect on the date of promulgation.
Attachments：	110020e1.pdf	

Data Source：Ministry of Environment Laws and Regulations Retrieving System