

RULES OF PROCEDURE FOR THE ADJUDICATION OF FISHERIES LAW CASES

PART I

RULE 1

GENERAL PROVISIONS

SECTION 1. Title. – These Rules shall be known as “**THE RULES OF PROCEDURE FOR THE ADJUDICATION OF FISHERIES LAW CASES.**”

SEC. 2. Scope and Coverage. – These Rules shall govern the pleadings, practices and procedures before the Adjudication Committee in all matters of hearing, investigation and proceedings within its jurisdiction.

SEC. 3. Definitions. – For purposes of these Rules, the following terms shall mean as follows:

- a. *Adjudicative action or proceeding* – any proceeding involving the determination of rights and privileges and/or the grant of reliefs under fisheries laws;
- b. *Administrative action or proceeding* – any proceeding involving the determination of violations of fisheries laws, the imposition of penalties and the disposition of confiscated catch, gears, equipment and other paraphernalia;
- c. *Adjudication Committee* – the group organized and designated as such pursuant to Section 130 of the Fisheries Code as amended (Committee);
- d. *Adjudication Committee Secretariat* – The support staff tasked to ensure the proper and prompt performance by the Adjudication Committee of its quasi-judicial function (Secretariat);
- e. *Bureau* – the Bureau of Fisheries and Aquatic Resources (BFAR);
- f. *Department* – the Department of Agriculture (DA);
- g. *Decision* – the whole or any part of the final disposition issued by the Adjudication Committee pertaining to any matter within its jurisdiction;
- h. *Electronic Service* – the service by electronic mail to a person, party or his counsel of papers, orders, decisions and resolutions emanating from the Committee;
- i. *Fisheries Law*– the Fisheries Code and its amendments, implementing rules and regulations and other fisheries-related issuances of the Department;

- j. *Hearing Officer* – any officer duly designated by the Committee to conduct hearings or proceedings in an administrative and/or adjudicative action;
- k. *Investigation* – an inquiry initiated by the Bureau through its law enforcement officers to determine if there are sufficient grounds to warrant the commencement of an administrative action;
- l. *Person* – natural or juridical entities such as individuals, associations, partnership, cooperatives or corporations;
- m. *Special Hearing Panel* – a group composed of three members chosen by the Committee based on their credentials and expertise and designated to hear and recommend actions for the disposition of highly technical and sensitive fisheries law cases and/or those fisheries law cases involving matters of paramount public interest.

SEC. 4. Construction of Rules. – These Rules shall be liberally interpreted and observed to promote a just, prompt, expeditious, and inexpensive determination of every matter and proceeding before the Committee taking into consideration the state policies on fisheries.

SEC. 5. Suspension of Rules in Exceptional Cases. – To prevent an injustice, the Committee may, in exceptional cases such as force majeure, acts of God or such other similar circumstances, suspend the application of these rules. The Committee shall issue a resolution citing the basis of the suspension and its duration.

SEC. 6. Suppletory Application of Other Rules. – The provisions of the Revised Rules of Court and the Rules of Procedure for Environmental Cases shall be applied by analogy or in a suppletory character and effect.

RULE 2

JURISDICTION OF THE ADJUDICATION COMMITTEE

SEC. 7. Jurisdiction. – The Committee shall have jurisdiction to hear and decide administrative and adjudicative actions as defined in these Rules, citizen’s suit and Strategic Lawsuit Against Public Participation (SLAPP).

In the exercise of its jurisdiction, the Committee shall have the power to determine and impose appropriate penalties, as well as additional accompanying administrative sanctions in case of serious violations as defined in the Fisheries Code, approve settlement offers and dispose confiscated catch, gears, equipment and other paraphernalia, the issuance of subpoenas, cease and desist orders, and summary ejectment orders. It may perform such other powers and functions inherent to or necessary in the exercise of its jurisdiction.

In fisheries law cases, the doctrines of primary jurisdiction and exhaustion of administrative remedies shall apply.

RULE 3

COMMENCEMENT AND VENUE OF ACTIONS

SEC. 8. Commencement of Actions. – An administrative or adjudicative action shall be commenced by the filing of the initiatory pleading with the Committee or with the Regional Offices of the Bureau. The Secretariat of the Central and Regional Offices shall issue a docket number upon receipt thereof.

SEC. 9. Venue of and Authority over an Action. – An administrative action shall be heard by the Hearing Officer of the Bureau having jurisdiction over the area where the offense was committed or where the respondent resides.

An adjudicative action shall be heard by the Hearing Officer of the Bureau having jurisdiction over the area where the subject real property is located or the fishing ground where priority fishing rights is being determined.

For purposes of these Rules, the Committee shall designate such number of Hearing Officers who shall administer oath, hear cases and recommend the disposition thereof to the Committee. A Hearing Officer may inhibit from handling a case upon motion of any of the parties, or at his own instance, for reasons of conflict of interest or any ground that would prevent him from exercising the cold neutrality of an impartial judge.

SEC. 10. Transfer of Venue of Actions. – Where public safety or security warrants, proceedings may be transferred to another venue upon motion of any of the parties or at the instance of a Hearing Officer or a Special Hearing Panel and upon approval of the Committee.

SEC. 11. Creation of a Special Hearing Panel. – In cases involving public interest or highly technical or sensitive matters, the Committee may create a Special Hearing Panel (SHP) composed of at least three (3) members designated by the Committee on the basis of their credentials and expertise. The SHP shall hear and recommend to the Committee the disposition of the case assigned to them.

A member may be designated on the basis of the nature of the technical issue involved, provided that if the issue involves aquaculture, selection shall be made from among the stakeholders of the aquaculture industry. A member shall disclose his previous involvements and will only be designated upon a determination by the Committee that there is no conflict of interest for his designation. Any party may comment on the designation of a member and may move for his inhibition.

RULE 4

APPEARANCE AND PLEADINGS BEFORE THE COMMITTEE

SEC. 12. Appearance and Withdrawal of Counsel. – A party may represent himself or maybe represented by a paralegal or counsel of his own choice. The withdrawal of a

paralegal or counsel shall be made in writing and served upon the Committee, the Hearing Officer or SHP as the case may be.

SEC. 13. Form of Pleadings. – Pleadings shall be written in English or Filipino language using an easily readable font style of the party’s choice, using 12-size font and on a 13-inch by 8.5-inch white bond paper. A party may file a pleading in local language accompanied by a corresponding translation thereof. Each pleading shall be under oath and shall contain a caption, the title of the case, the docket number, and the claims and defenses of the party. The Committee shall only accept pleadings that conform to the formal requirements of these Rules.

SEC. 14. Prohibited Pleadings. – The following pleadings or any submission filed or made under a similar guise or title shall not be allowed:

- a. Motion to dismiss;
- b. Motion for a Bill of Particulars;
- c. Motion for extension of time to file pleadings, affidavits, or any other submission of similar intent;
- d. Motion to declare a party in default;
- e. Motion for postponement and any other motions of similar intent;
- f. Motion for leave to amend pleadings; and
- g. Reply.

SEC. 15. Manner and Proof of Filing.

a. Manner of Filing. – The initiatory pleading shall be filed through the Secretariat of the Committee or the Regional Offices personally or by registered mail, or by private courier, in such number of copies as there may be parties in the action. Succeeding pleadings shall be filed with the Hearing Officer or SHP either personally or by registered mail or by private courier or by electronic means, furnishing copies thereof to the other party in an action.

The Committee through the Secretariat shall stamp on the initiatory pleading the date and hour of filing.

In succeeding pleadings, the mailing date of the pleading, with the corresponding official receipt number of the payment of filing fee and legal research fee in an adjudicative action, shall be considered as the date of their filing with the Committee. The envelope, registry receipt and acknowledgement receipt, as the case may be, shall be attached to the record of the case.

Succeeding pleadings may be filed through electronic means if manifested by counsel or paralegal in his entry of appearance. Electronic pleadings shall be in PDF format, copy furnished and received by the other party. It shall be deemed filed when acknowledged by the Secretariat.

Any person who filed by mail or private courier a pleading or paper in an administrative or adjudicative action shall inform the Secretariat about the fact of

mailing and the timely filing of the pleading, attaching proof thereof. Non-compliance with this requirement is tantamount to the non-filing of pleading.

The Efficient Use of Paper Rule issued by the Supreme Court under A.M. No. 11-9-4-SC with respect to all pleadings, motions, and similar papers shall be applicable.

b. Proof of Filing. – The filing of a pleading or paper shall be proved by its existence in the record of the case.

If not in the record but claimed to have been filed personally, the filing shall be proved by written or stamped acknowledgement of the Secretariat on a copy thereon.

If filed by registered mail or private courier, the filing shall be proved by the registry or acknowledgement receipt issued by the courier company and by the affidavit of the person who did the mailing containing a full statement of the date, place, post office of mailing and manner of service in a sealed envelope addressed to the Secretariat.

SEC. 16. Manner, Completeness and Proof of Service of Verified Complaint, Orders, Resolutions, and Decisions of the Committee. –

a. To Individuals. – The documents shall be served to the individual or to his agent who is of sufficient age and discretion. Service to an individual or his agent shall be made or effected:

- (i) by handing a copy thereof to him in person;
- (ii) by leaving a copy at his principal office or regular place of business with a clerk or some other person in charge thereof;
- (iii) by leaving a copy at his dwelling house or residence with some person of suitable age and discretion then residing therein;
- (iv) by sending a copy thereof addressed to him in a sealed envelope by registered mail or by private courier at his last known or registered office or residence address, with instructions to the postmaster or the courier to immediately provide proof of delivery, and obtaining proof of service;
- (v) by sending him a copy at his email address if he consented expressly in writing either in the entry of appearance or written explanation;
- (vi) by publication of such order, decision or resolution of the Committee once in a newspaper of general circulation when the preceding modes are inapplicable; or
- (vii) by publication in the Fisheries National Administrative Register (FNAR) if service by publication in a newspaper of general circulation is ineffective.

When an individual or his duly authorized agent has been ordered by publication in a newspaper of general circulation or in the FNAR to file his pleading and has failed to do the same, final orders, decisions or resolutions against him shall also be published in a newspaper of general circulation or in the FNAR and shall be served at his last known address.

b. To Corporations, Partnerships, Associations or Entities. – Service shall be done by tendering a copy to its president, managing partner, general manager, corporate secretary, treasurer, compliance officer, in-house counsel, director or trustee, or such other officer identified in the latest available records filed with the Committee in any method specified in paragraph (a) of this Section.

c. To Foreign Corporations Doing Business in the Philippines. – Service shall be made on its duly authorized resident agent. If there is no such agent, the Committee shall transmit a copy to the home office of said foreign entity by registered mail, by any other electronic means or by such other means as the Committee may deem necessary.

d. Last known or registered address. – For purposes of service, it shall be sufficient to serve them to the last known or registered address with the Committee of the person being served.

e. Completeness of service. – Service shall be deemed complete when:

- (i) personally received by him or his authorized agent;
- (ii) received by the clerk or some other person in charge thereof at his principal office or regular place of business;
- (iii) received by some person of suitable age and discretion then residing at his dwelling house or residence;
- (iv) received by him in a sealed envelope by registered mail or by courier at his office or residence address or after five (5) days from the date he received the first notice of the postmaster or the private courier, whichever date is earlier;
- (v) in case of electronic service, upon transmission, but it is not effective if the person serving it learns that it did not reach the person to be served;
- (vi) by publication of such order, decision or resolution of the Committee once in a newspaper of general circulation;
- (vii) by publication in the Fisheries National Administrative Register (FNAR) if service by publication in a newspaper of general circulation is ineffective.

f. Proof of service. – Proof of service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. It shall specify the papers served and the name of the person who received them, and shall be sworn to when made by a person other than the server of the Committee.

If service is by registered mail or by private courier, proof thereof shall consist of an affidavit of the person who undertook the mailing, stating facts showing compliance, and the registry receipt issued by the mailing office, or any proof of delivery issued by the private courier. The registry return card or any other proof of delivery shall be filed immediately upon its receipt by the sender, or in lieu thereof, the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.

If electronic service is resorted to, the proof thereof shall consist of an affidavit of the person who undertook such service by stating the following:

- (a) email address that was employed to transmit the email;
- (b) date and time of the electronic service;
- (c) name and email address of the person served; and
- (d) that the document was served electronically.

Service by publication in a newspaper of general circulation may be proved by the respective affidavit of the editor, business/advertising manager, to which affidavit a copy of the publication shall be attached, and if applicable, by an affidavit showing deposit of a copy of the order, summons, decision or resolution and/or its attachments in the post office directed to the party by registered mail to his last known or registered address.

Service by publication in the FNAR may be proved by the affidavit of the administrator of the FNAR of the date and time of posting in the FNAR of the order, summons, decision or resolution of the Committee, and if applicable, by an affidavit of the Committee's process server showing deposit of a copy of the order, summons, decision or resolution and/or its attachments in the post office directed to the party by registered mail to his last known or registered address.

In case any paper, order, summons, decision or resolution of the Committee is returned unserved at the last known or registered address, proof of service shall consist of the affidavit of the person serving or the person who undertook the mailing, as the case may be, stating facts surrounding such service, a full statement of the date, place and manner of service, if applicable, the name of the addressee, and the reason for the return of the paper, order, summons, decision or resolution. It shall be accompanied by the unserved paper, order, summons, decision or resolution of the Committee and the envelope containing the same, and by any proof showing that it is the last known or registered address of the person being served.

SEC. 17. Manner, Completeness and Proof of Service of Pleadings on Other Parties to the Action. –

- a. Manner of Service. – Except for the initiatory pleading in an adjudicative action, copies of all pleadings and other papers filed by one party shall be furnished by said party to the other parties in the action in the manner provided below, with proof of service. Service of pleadings and other papers shall be made or effected:
 - (i) by handing a copy thereof to the other party or his authorized agent in person;
 - (ii) by leaving a copy at his principal office or regular place of business with a clerk or some other person in charge thereof;
 - (iii) by leaving a copy at his dwelling house or residence with some person of suitable age and discretion then residing therein; or
 - (iv) by sending a copy thereof addressed to him in a sealed envelope by registered mail or by courier at his office or residence address,

with instructions to the postmaster or courier to immediately provide proof of delivery, and obtaining proof of service, or if undelivered, to return the mail to the sender after ten (10) days.

If service of pleadings cannot be made through any of the foregoing modes, the party required to serve shall submit to the Committee proof of failure of service. Service shall be deemed complete at the time of such submission. Service of pleadings and other papers to a juridical person shall be made in the same manner as specified in paragraph (b) of this Section.

b. Completeness of service. – Service shall be deemed complete when:

- (i) personally received by the other party or his authorized agent;
- (ii) received by the clerk or some other person in charge thereof at his principal office or regular place of business;
- (iii) received by some person of suitable age and discretion then residing at his dwelling house or residence; or
- (iv) received by him in a sealed envelope by registered mail or by courier at his office or residence address or after five (5) days the date he received the first notice of the postmaster or the private courier, whichever date is earlier.

c. Proof of service. – Proof of service may consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. It shall specify the papers served and the name of the person who received them, and shall be sworn to when made by a person other than the server of the Committee.

If service is by registered mail or by private courier, proof thereof shall consist of an affidavit of the person who undertook the mailing stating facts showing compliance with paragraph (a) (iv) of this Section, and the registry receipt issued by the mailing office, or any proof of delivery issued by the private courier. The registry return card or any other proof of delivery shall be filed immediately upon its receipt by the sender, or in lieu thereof, the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.

SEC. 18. Service of Orders, Decisions and Other Papers on Paralegal or Counsel. – When any person has appeared by a paralegal or counsel, service shall be made upon his paralegal or counsel of record, unless the Committee has ordered the service upon the party to the case. Where one paralegal or counsel appears for several parties, he shall only be entitled to one copy thereof.

RULE 5

COMPUTATION OF PERIOD FIXED IN THESE RULES

SEC. 19. Computation of Period. – In computing any period of time prescribed in or allowed by these Rules, the first day of the period shall be excluded and the last day included. In case the last day falls on a Saturday, Sunday, or a legal holiday, the deadline for filing shall be the first working day following the Sunday or legal holiday, as the case maybe. Unless stated otherwise, days mentioned in these rules shall be understood to refer to calendar days.

RULE 6

FEES

SEC. 20. Fees in Adjudicative Actions. – The following fees shall be collected prior to the commencement of an adjudicative action:

a. For filing of claim- -----	P300.00
b. Motion for Reconsideration -----	P300.00
c. For each subsequent motion for reconsideration ---	P300.00
d. Appeal -----	P300.00
e. Petition for relief from order or decision -----	P300.00
f. Issuance of order of execution -----	P150.00
g. Legal research fee-----	P 50.00

SEC. 21. Other Fees. – For request for certification, other documents and certified copies of any record, Presidential Decrees, Republic Acts, Fisheries Administrative Orders, , etc. to be used in litigation, a fee of Ten Pesos (Php 10.00) per page shall be charged.

SEC. 22. Payment of Fees. – Fees shall be paid in cash or check payable at the Cashier of the central or regional offices of the Bureau. The latter shall issue an Official Receipt evidencing the payment.

RULE 7

ADMISSIBILITY OF EVIDENCE

SEC. 23. Photographic, video, vessel monitoring system data and tracks and fisheries observer data and similar evidence. – Subject to the provisions of Section 127 of the Fisheries Code, photographs, videos, vessel monitoring system data and tracks, fisheries observer data and similar evidence of events, acts, transactions of fisheries, by-products or derivatives, and the condition of the aquatic environment or its habitat, subject of a case, shall be admissible when authenticated by the person who took the same or by some other person present when said evidence was taken, or by any other person competent to testify on the existence, occurrence and content thereof.

Entries in official records made in the performance of duty by a fisheries law enforcement or regulatory officer, are prima facie evidence of the facts therein stated.

PART II

INVESTIGATION PROCEEDINGS AND ADMINISTRATIVE ACTIONS

RULE 8

SCOPE AND APPLICATION

SEC. 24. Scope and Application of the Rules. – The provisions in Part II of these Rules shall apply in any investigation and administrative action for possible violation of fisheries laws.

RULE 9

INVESTIGATION PROCEEDINGS IN GENERAL

SEC. 25. Commencement of Investigation Proceedings. – An investigation for possible violation of fisheries laws shall be commenced by the Bureau through its law enforcement officers either at its own instance or upon receipt of a verified complaint with attached supporting documentary evidence based on authentic records from any person.

SEC. 26. Scope of the Investigation. – During the investigation, the Bureau's law enforcement officers shall conduct the following activities to determine whether there is a prima facie case that warrants the commencement of administrative action:

- a. Monitor compliance by any person with the laws, rules, regulations, circulars and orders being implemented by the Bureau, and request the submission of certain documents relevant and material to the inquiry;
- b. Hold conferences and interviews with the complainant, possible witnesses, person being investigated, and other relevant persons;
- c. Conduct surveillance and/or ocular inspection;
- d. Seek assistance from other government agencies and instrumentalities in the conduct of such investigation or proceedings;
- e. Request any person to execute a sworn statement as to facts and circumstances under investigation;
- f. Request for technical assistance for the needed expertise on a matter subject of and relevant to the investigation; and
- g. Perform such other acts necessary in the conduct of such investigation.

SEC. 27. Confidentiality of Investigation Proceedings. – Any information, document or records obtained in the course of any investigation or examination shall be deemed confidential, unless otherwise required or allowed by law or by the Bureau.

SEC. 28. Effects of Withdrawal of Complaint. – The withdrawal of a complaint does not automatically result in the termination of the investigation when there is merit to the charges, or where there is documentary evidence which would tend to establish a prima facie case that warrants continuation of the investigation.

SEC. 29. Termination of Investigation. — The Bureau shall terminate an investigation based on any of the following grounds:

- a. Lack of jurisdiction; or
- b. No sufficient ground to warrant the commencement of an administrative action.

If the investigation is initiated through a complaint or referral, the Bureau shall issue a letter of termination stating the reasons thereof.

SEC. 30. Filing of Administrative Complaint. –

- a. Within five (5) working days upon apprehension involving a fishing vessel and determination of a prima facie case to warrant the filing of a complaint, the law enforcement officer shall file an administrative complaint with a certification of non-forum shopping against any person liable under the Fisheries Code;
- b. In all other cases, the period for filing of an administrative complaint with a certification of non-forum shopping shall be seventy-two (72) hours upon termination of the investigation.

Failure to file a case within the reglementary period shall result in the release of the vessel, gear and equipment/s, except for the catch, unless the fishing vessel is held for another violation or the gear is prohibited by fisheries laws.

RULE 10

ADMINISTRATIVE ACTION

SEC. 31. Commencement of Administrative Action. – Administrative action is commenced upon filing of a verified complaint before the Committee, through the Secretariat, supported by affidavits of witnesses, documentary evidence, and a certificate of non-forum shopping.

SEC. 32. Issuance of Summons. – Upon filing of the complaint and determination of its sufficiency and substance by the Committee, Hearing Officer or SHP, the latter shall issue the corresponding summons.

The summons shall be directed to the respondent and shall contain the following:

- (i) names of the parties to the action;

- (ii) order to the respondent to file a verified answer responding to the allegations made in the complaint within a period of fifteen (15) days; and
- (iii) notice that his failure to do so will be equivalent to a waiver of the opportunity to submit a verified answer.

A copy of the complaint, together with its supporting documents and other evidence, shall be attached to the original and each copy of the summons.

SEC. 33. Verified Answer to the Summons. – Within fifteen (15) days from receipt of the summons, the respondent shall file a Verified Answer stating the following:

- (i) claims and/or defenses of the respondent;
- (ii) legal grounds on which it is based;
- (iii) supporting documents and/or evidence;
- (iv) express consent, if any, of the respondent or his counsel to the electronic service of papers, orders, decisions and resolutions emanating from the Committee, Hearing Officer or SHP; and
- (v) such other matters as may be deemed necessary.

In case of (iv) above, the respondent or his counsel, shall state the email address at which he agrees to accept such service.

SEC. 34. Supplemental Pleading. – Upon order of the Committee, Hearing Officer or SHP, a supplemental pleading may be filed by the respondent for the purpose of clarifying and supplementing facts, issues and other matters that are relevant and necessary to the proceedings, but not limited to those that are raised after the filing of the Verified Answer.

SEC. 35. Clarificatory Conference. – Before the rendition of a decision, the Committee, Hearing Officer or SHP, shall on its own or upon motion of a party, conduct a clarificatory conference for the purpose of ascertaining facts, issues and other matters necessary and relevant to the resolution of the proceedings, and further examination or submission of additional documents pertinent thereto.

SEC. 36. Motion to Release Impounded Fishing Vessel. – The respondent may file a motion to release his impounded fishing vessel at any time during the proceedings. Such motion may be approved by the Committee, Hearing Officer or SHP subject to the following conditions:

- (a) If the vessel is Philippine-flagged, the owner thereof shall submit an affidavit of undertaking that the respondent shall produce the vessel when required by the Committee, Hearing Officer or SHP and that the vessel shall not be used to commit illegal, unreported and unregulated fishing. However, no motion to release shall be granted to an unregistered and/or unlicensed fishing vessel;
- (b) If the vessel is foreign-flagged, the respondent shall post a cash, property or surety bond equivalent to two hundred percent (200%) of the maximum imposable penalties.

SEC. 37. Decision. – A decision shall be rendered by the Committee pursuant to Part IV of these Rules.

RULE 11

CEASE AND DESIST ORDERS

SEC. 38. Cease and Desist Order. – Pursuant to Section 132 of the Fisheries Code, a cease and desist order (CDO) may be issued ex-parte upon any violator prior to, or after judgment or final order, requiring the violator to refrain from further committing an offense.

SEC. 39. How commenced. – An action for issuance of CDO may be commenced upon the filing of a verified application with the Committee through the Secretariat.

The application for the issuance of a CDO shall specify:

- (a) the ground/s and the law, rules and regulations relied upon;
- (b) the acts constituting the basis therefor;
- (c) the name, capacity and address of the person found to have or about to have committed or has aided or abetted the commission of such acts; and
- (d) the evidence and documents supporting and relevant thereto.

If it appears from the verified complaint with a prayer for the issuance of CDO that the matter is of extreme urgency and the environment or a person will suffer an irreparable injury due to the offense, the Hearing Officer or SHP may recommend the issuance by the BFAR Director or the BFAR Regional Director of an ex parte CDO effective for only seventy-two (72) hours from date of the receipt of the CDO by the party or person enjoined. Within said period, a summary hearing shall be conducted to determine whether the CDO may be extended until the termination of the case. The Hearing Officer where the case is pending or SHP shall periodically monitor the existence of acts that are the subject matter of the CDO. The same may be lifted at any time as circumstances may warrant. The applicant shall be exempted from the posting of a bond for the issuance of a CDO.

SEC. 40. Grounds for Issuance of Ex- Parte Cease and Desist Order. – An ex parte CDO may be issued pursuant to Section 132 of the Fisheries Code on the following grounds:

- a. That the whole or part of the relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;
- b. That the commission, continuance or non-performance of the act or acts complained of during the pendency of the case would probably result in the further degradation of the aquatic environment; or

- c. That a person is doing, or is attempting to do some act or acts in violation of the Fisheries Code which will render the judgment of the Committee ineffectual.

SEC. 41. Grounds and Procedure for Lifting of CDO. – A CDO may be lifted under any of the following circumstances:

- a. Upon a verified motion proving that the circumstances giving rise to the CDO have changed;
- b. Upon filing by the person subject thereof of a verified motion to lift the CDO. Said motion to lift shall be set for hearing not later than fifteen (15) days from its filing, and the resolution thereof shall be made not later than ten (10) days from the termination of the hearing. If the Committee fails to resolve the request within the period herein prescribed, the CDO shall automatically be lifted;

If the Motion to Lift is denied, or if the person subject of the CDO fails to file the appropriate pleading within the period prescribed in these Rules, the CDO shall be deemed permanent, and can only be lifted by the Committee upon appeal thereto and upon a finding that the grounds for the issuance of the same no longer exist or the objective of the CDO has already been accomplished.

SEC. 42. Effect of the Issuance of CDO. – The CDO shall be immediately executory upon its issuance. A Motion to Lift or Appeal shall not stay the execution of the CDO.

SEC. 43. Resolution of the Motion to Lift CDO. – The Committee, on appeal, shall issue a resolution on the motion to lift CDO in such a manner that the parties to the proceedings can know the various issues involved and the reason for the decision rendered.

RULE 12

SETTLEMENT OFFERS

SEC. 44. Settlement Offers. – Any person who receives a Notice of Violation, or is subject of an administrative action, may, at any time, prior to the rendition of a decision or final order, propose in writing to the Committee, Hearing Officer or SHP, an offer of settlement under Rule 131.2 of the Implementing Rules and Regulations of the Fisheries Code. An offer to settle shall be acted upon within fifteen (15) days, otherwise it shall be deemed accepted.

SEC. 45. Form and Content of Settlement Offer. – An offer of settlement shall be in writing and signed by the person making the offer with an undertaking that the offeror shall tender the amount offered in cash or check upon approval of the settlement offer.

If the offeror is a juridical person, the proper board resolution certified by the corporate secretary shall be attached to the offer.

In cases where the offer is denied and appealed to the Secretary, the offeror shall inform the Committee by furnishing the same of its motion and manifestation of other proposals.

Subject to the approval of the Committee, property, such as boat or gear, except a gear prohibited by fisheries laws, may be offered as form of settlement in lieu of payment of the fine.

SEC. 46. Criteria for Settlement Offer. – In the evaluation of an offer of settlement, the following shall be taken into consideration:

- a. The act or omission constituting as serious violations pursuant to Section 4, paragraph 82 of the Fisheries Code;
- b. The damage caused, actual or estimated, to the environment and/or fisheries resources;
- c. The amount of the imposable administrative penalty;
- d. The level of cooperation of the offeror in the investigation or proceedings;
- e. Public interest; and
- f. Other meritorious considerations.

SEC. 47. Settlement Amount. – The settlement penalty for an offer to settle availed of as a matter of right within a three-year period shall not be lower than thirty percent (30%) of the minimum of the imposable penalty prescribed under the law. If such an offer is made after the filing of an answer or responsive pleading but before a decision is rendered, the settlement amount shall not be lower than fifty (50%) of the minimum imposable penalty under the law. The settlement exercised as a matter of right shall be approved by the Hearing Officer.

SEC. 48. Sale of Vessel. – Settlement as a matter of right can only be availed twice even if the vessel is sold or has changed ownership during the three (3) year period. The new owner shall not invoke settlement as a matter of right, if already exercised by the previous owner within the three-year period.

PART III

ADJUDICATIVE ACTION

RULE 13

SCOPE AND APPLICATION

SEC. 49. Scope and Application of the Rules. – The provisions in Part III of these Rules shall apply only to adjudicative actions filed before the Committee.

RULE 14

PARTIES

SEC. 50. Who may be Parties. – Only natural or juridical persons or entities authorized by law or a party in interest acting through an attorney-in-fact, where applicable, may be parties to an adjudicative action filed before the Committee.

SEC. 51. Intervention – A natural or juridical person may, at any stage of the proceedings prior to the rendition of the decision or final order, be permitted by the Committee to intervene in an adjudicative action if he has a legal interest therein or when he is so situated as to be adversely affected by the decision of the Committee.

The said party may file a motion to intervene or oppose the adjudicative action, stating therein the reason for his intervention or opposition and attaching therein all relevant supporting documents and evidence.

Said motion, if allowed, may be treated as a petition-in-intervention. The Committee may require the original parties to the action to answer or comment on the intervention as may be warranted by the circumstances, or require them to submit their arguments in their respective position papers.

An answer to the intervention, when so required, should be filed within fifteen (15) days from receipt of the corresponding order.

RULE 15

COMMENCEMENT OF AN ADJUDICATIVE ACTION

SEC. 52. How commenced. – An adjudicative action may be commenced by filing a verified complaint, protest, adverse claim or petition before the Committee, through the Secretariat, and payment of the appropriate fee. The same shall be accompanied by any relevant documents, affidavits of witnesses, certificate of non-forum shopping and such other evidence as would reasonably tend to establish prima facie the truth of the factual allegations contained therein. Non-compliance with the foregoing requirements shall be a ground for the dismissal of the action.

Violation of the provisions of Article III (Aquaculture) of the Fisheries Code shall be governed by the applicable provisions in Part II of these Rules.

SEC. 53. Pleadings Allowed. – Pleadings that can be filed in any adjudicative action are the complaint, answer, position paper and if applicable, motions in intervention.

The original and three (3) signed copies of the pleading shall be filed with the Committee, Hearing Officer or SHP. Copies of every pleading and other papers filed in connection with any action or proceeding must be served on all other persons to the action or proceeding, except for the complaint which shall be furnished by the Committee, Hearing Officer or SHP to the respondent.

All other pleadings shall be disallowed unless they are filed with leave of the Committee.

SEC. 54. Verification. – The complaint and answer shall be verified in the same manner as the Verified Complaint and Verified Answer under Sections 31 and 33, Rule 10 of Part II of these Rules.

SEC. 55. Non-Forum Shopping. – The complainant shall certify under oath that:

- (i) he has not commenced any action or filed any petition involving the same subject matter or issues in any court, tribunal or agency and, to the best of his knowledge, no such other action is pending therein;
- (ii) if there is such other pending action, a complete statement of its present status; and
- (iii) if he should thereafter learn that the same or similar action has been filed or is pending, he shall report that fact within five (5) days from such knowledge to the Committee.

Failure to comply with any of the foregoing requirements shall result in the dismissal without prejudice of the complaint. The submission of a false certification or non-compliance with any of the undertakings enumerated in the immediately preceding paragraph shall result in the dismissal of the complaint and may give rise to the imposition of administrative and criminal sanctions. If the acts of the party or his counsel constitute wilful forum shopping, the same shall be considered a ground for the summary dismissal with prejudice of the action and with the attendant administrative and criminal consequences.

SEC. 56. Outright Dismissal of Complaint, Protest or Petition. – After an initial examination of the allegations in the complaint, protest or petition and such evidence that may be attached to it, the Committee may dismiss the same outright based on any of the following grounds:

- a. The Committee has no jurisdiction over the subject matter of the adjudicative action; or
- b. The complaint failed to provide sufficient evidence as would reasonably tend to establish prima facie the truth of the factual allegations contained therein, on the basis of the documents, affidavits and other evidence attached thereto.

SEC. 57. Issuance of Summons. – Upon the filing of the complaint and the determination of its sufficiency and substance by the Committee, Hearing Officer or SHP, the latter shall issue the corresponding summons.

The summons shall be directed to the respondent and shall contain the following:

- a. the names of the parties to the action;
- b. an order to the respondent to file a verified answer responding to the allegations made in the complaint within a period of fifteen (15) days from receipt thereof; and
- c. notice that his failure to do so will be equivalent to a waiver of the opportunity to submit a verified answer.

A copy of the complaint, together with its supporting documents and other evidence, shall be attached to the original and each copy of the summons.

SEC. 58. Verified Answer to the Summons. – Within fifteen (15) days from receipt of the summons, the respondent shall file a Verified Answer.

The Verified Answer may contain the following:

- (i) claims and/or defenses of the respondent;
- (ii) the legal grounds on which it is based;
- (iii) the supporting documents and/or evidence;
- (iv) the express consent, if any, of the respondent or his counsel to the electronic service of papers, orders, decisions and resolutions emanating from the Committee, Hearing Officer or SHP; and
- (v) such other matters as may be deemed necessary.

In case of (iv) above, the respondent or his counsel shall state the email address at which he agrees to accept such service.

Extension of ten (10) days may be allowed, on purely meritorious grounds. However, no other extension of time shall be further allowed.

SEC. 59. Supplemental Pleading. – Upon the order of the Committee, Hearing Officer or SHP, a supplemental pleading may be filed by the respondent for the purpose of clarifying and supplementing facts, issues and other matters that are relevant and necessary to the proceedings, but not limited to those that are raised after the filing of the Verified Answer.

SEC. 60. Clarificatory Conference. – Before the rendition of a decision, the Committee, Hearing Officer or SHP, may on its own or upon motion of a party, conduct a clarificatory conference for the purpose of ascertaining facts, issues and other matters necessary and relevant to the resolution of the proceedings, and further examination or submission of additional documents pertinent thereto.

RULE 16

PROCEEDINGS BEFORE THE COMMITTEE

SEC. 61. Preliminary Conference. – Subject to existing Rules, the Committee, through the Hearing Officer or SHP, shall set the case for conference within fifteen (15) days after an answer is filed or upon expiration of the period to file the same. The parties

and/or their paralegal or counsels, the latter with the requisite special power-of-attorney in the absence of his client, shall be directed to appear before the Committee, Hearing Officer or SHP on the date set in the notice to consider the following actions:

- a. The possibility of a settlement;
- b. Stipulation of facts;
- c. The simplification of the issues;
- d. Such other matters that may aid in the just and speedy disposition of the case.

The Committee, Hearing Officer or SHP may terminate the conference when the parties fail to settle their differences.

SEC. 62. Amicable Settlement. – During the conference, the Committee, through the Hearing Officer or SHP, shall ensure that the parties exhaust all available means to arrive at a fair and reasonable settlement of the case. The parties, with or without the assistance of a paralegal or counsel, may submit during the conference specific proposals or counter-proposals to arrive at an amicable settlement of the case.

Amicable settlement shall be encouraged at any stage of the proceedings, provided it is not prejudicial to the public interest or third parties, or contrary to law, rules or regulations of the Committee, or against good morals or public policy. The amicable settlement shall be reduced into writing, duly signed by the parties and/or their counsels before the Hearing Officer or the SHP.

SEC. 63. Failure to Appear at the Preliminary Conference. – The failure of the complainant to appear at the conference shall result in the dismissal of the petition, protest or complaint, unless it involves public interest whereby the Committee through the Hearing Officer or SHP may, at its own instance, reset the case for a conference within fifteen (15) days from the last conference. In case of failure of the complainant to appear in the second conference scheduled by the Hearing Officer or SHP, the respondent who appears thereat shall be entitled to judgment based on the facts alleged, evidence submitted and reliefs prayed for in the answer.

If the sole respondent fails to appear, the complainant shall be entitled to judgment in accordance with the immediately preceding paragraph unless there is no sufficient evidence to support the allegations stated in the complaint. However, this rule shall not apply if one or more respondents who have been sued under a common cause of action and who have pleaded a common defense appear at the conference.

SEC. 64. Preliminary Conference Order. – After the Preliminary Conference, the Committee, Hearing Officer or SHP shall issue an Order that may state the following:

- (i) the action taken during the conference;
- (ii) the stipulations made by the parties on any of the matters considered;
- (iii) the evidence marked or identified ; and
- (iv) other matters taken up during the preliminary conference for the speedy resolution of the case.

SEC. 65. Submission of Affidavits and Position Papers. – Within fifteen (15) days from receipt of the order terminating the preliminary conference, the parties shall submit their respective verified position papers setting forth the law and the facts relied upon by them, with supporting affidavits and other evidence on such facts.

Upon submission of the position paper, or upon the expiration of the period mentioned above, and no position paper has been filed, the case shall be deemed submitted for resolution.

PART IV

DECISIONS, FINAL ORDERS, RESOLUTIONS AND OTHER RELATED ORDERS OF THE COMMITTEE

RULE 17

SCOPE AND APPLICATION

SEC. 66. Scope and Application of the Rules. – The provisions in Part IV of these Rules shall apply to administrative and adjudicative actions or proceedings before the Committee.

RULE 18

DECISIONS, FINAL ORDERS, RESOLUTIONS AND ENTRY IN THE FNAR

SEC. 67. Rendition of Decision. – The Committee shall issue a decision within sixty (60) days from receipt of the case records and the recommendation of the Hearing Officer or SHP. The Committee shall arrive at a decision by consensus.

An amicable settlement agreed upon and signed by the parties before the Hearing Officer or the SHP in an adjudicative action shall constitute a decision on the case.

An offer to settle made after the three-year period and exercised no longer as a matter of right shall be approved by the Committee. Such approval shall constitute a decision on the case.

SEC. 68. Form and Contents. – All decisions, resolutions and final orders of the Committee, Hearing Officer and SHP shall contain a concise statement of the facts, findings and conclusions, the reasons and the law on which it is based, the names of persons responsible or liable, the appropriate order, sanction, relief or denial thereof or such other conditions or terms it may impose, and a demand for payment of the penalties, if applicable.

The decision shall be signed by the Hearing Officer or by all the members of the Committee or SHP and shall be served on the complainant and respondent not later than fifteen (15) days after its promulgation.

SEC. 69. Administrative Sanctions and/or Penalties. – The administrative sanctions and/or penalties to be imposed shall be based on the corresponding penalties for violations prescribed by the fisheries laws.

SEC. 70. Finality of Decisions, Orders or Resolutions. – If no appeal or motion for reconsideration is filed within fifteen (15) days from receipt by the losing party, the decision, final order or resolution of the Committee, Hearing Officer or SHP shall become final and executory.

SEC. 71. Decisions or Final Orders not stayed by Appeal or Certiorari. – Cease and Desist Orders, Summary Ejectment Orders, Seizure Receipts and such other decisions or final orders, shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom or by a petition for certiorari, unless otherwise ordered by the Court of Appeals or the Supreme Court, as the case may be, upon such terms as it may deem just.¹

RULE 19

SUBPOENA AD TESTIFICANDUM, SUBPOENA DUCES TECUM AND EXAMINATION/INSPECTION ORDERS

SEC. 72. When Issued. – If the attendance of a witness or the production of specified documents or an examination or inspection of all documents, papers, files and records, books of accounts of any entity or person under investigation is necessary in the course of any investigation or proceedings, the Committee, Hearing Officer or SHP may, at its own instance or upon request of a party, issue a *subpoena ad testificandum*, *subpoena duces tecum* or examination/inspection order.

SEC. 73. Form and Contents. – The subpoena shall state the title of the action, investigation or proceeding, and shall be directed to the person whose attendance is required or to the custodian of the documents requested. In case of a *subpoena duces tecum*, it shall also contain a reasonable description of the books, documents or things demanded relevant to the action, investigation or proceeding.

An examination/inspection order shall specify the date and place of the inspection, the names of individuals authorized to inspect and the taking of copies and photographs of relevant documents, and may prescribe other terms and conditions that are justified by the circumstances.

SEC. 74. Expert Witness. – Technical resource persons may be invited by the Committee, Hearing Officer or SHP to appear and testify as an expert witness to assist in the disposition of highly technical and scientific issues surrounding the case.

¹ Section 12 Rule 43 Rules of Court

The expert witnesses may be invited on the basis of the following:

- (i) If the expertise needed is available locally, the same shall be given preference, otherwise a foreign expert may be invited;
- (ii) The expert shall disclose his previous involvements and he must be shown to be untainted with any conflict of interest;
- (iii) Any party shall have an opportunity to comment on the credentials of the expert and may thereafter manifest his exclusion.

PART V

MOTION FOR RECONSIDERATION, APPEAL AND EXECUTION PROCEEDINGS

RULE 20

SCOPE AND APPLICATION

SEC. 75. Scope and Application of the Rules. – The provisions in Part V of these Rules shall apply in administrative and adjudicative actions before the Committee, except for proceedings where the Committee:

- (i) issued a Cease and Desist Order, Summary Ejectment Order, Order of Confiscation; or
- (ii) denied a settlement offer or acceptance of boat or gear as settlement penalty.

RULE 21

MOTION FOR RECONSIDERATION OF DECISIONS, FINAL ORDERS AND RESOLUTIONS OF THE COMMITTEE

SEC. 76. Who can file. – A party to an action may move for a reconsideration of an adverse decision, final order or resolution of the Committee within fifteen (15) days from receipt thereof. The motion shall specify the date of receipt accompanied by proof of service of copies to all parties on record.

SEC. 77. Grounds for Reconsideration. – A motion for reconsideration shall be based on any of the following grounds:

- a. The evidence on record is insufficient to justify the decision, final order or resolution; or
- b. The decision, final order or resolution is contrary to law.

SEC. 78. Contents of a Motion for Reconsideration. – The motion shall be made in writing stating the ground relied upon. It shall point out specifically the findings of fact or conclusions of law in the decision, final order or resolution which are not supported

by evidence, or which are contrary to law, and such other supporting evidence as may be relevant to the action. A motion for reconsideration need not be set for hearing.

SEC. 79. Comment/Opposition to the Motion for Reconsideration. – In an adjudicative action, a comment/opposition to the motion for reconsideration shall be filed within fifteen (15) days from receipt of a copy thereof. It shall be accompanied by supporting affidavits and relevant documents and shall specify the date of receipt of the motion.

SEC. 80. Second Motion for Reconsideration Not Allowed. – Only one motion for reconsideration shall be allowed. A second or subsequent motion for reconsideration, if filed, shall not be acted upon.

SEC. 81. Resolution of Motion. – A motion for reconsideration shall be resolved within thirty (30) days from the time it is submitted for resolution.

RULE 22

APPEAL TO THE OFFICE OF THE SECRETARY

SEC. 82. Subject of Appeal. – A party to an action may appeal to the Office of the Secretary of the Department an adverse decision, final order or resolution of the Committee if there are:

- a. questions of fact;
- b. questions of law;
- c. questions of rule implementation, or
- d. mixed questions of fact, law and rule implementation.

No appeal may be taken from the following:

- a. An interlocutory order;
- b. An order dismissing an appeal;
- c. An order of execution;
- d. An order denying the offer to settle;
- e. An order dismissing an action without prejudice;
- f. An order dismissing an action on the ground of absence of authority or jurisdiction of the Committee, Hearing Officer or SHP to act over the subject matter.

SEC. 83. Period of Appeal. – An appeal may be taken within fifteen (15) days from receipt by the party to an action of the adverse decision, final order or resolution of the Committee.

SEC. 84. Perfection of Appeal. – The appellant shall perfect an appeal by filing the following within the period prescribed in the preceding section:

- a. An appeal memorandum in two(2) legible copies;

- b. Proof of service of a copy of the appeal memorandum on the appellee and the Committee; and
- c. Payment of the appeal fee and other applicable fees.

SEC. 85. Appeal Memorandum, Form and Contents. – The appeal memorandum shall state the following:

- a. the full name, capacity and address of the parties to the appeal;
- b. the material dates showing that it was filed on time;
- c. a concise statement of the matters involved, the issues raised, the specification of errors or arguments relied upon in support of the appeal; and
- d. an attached copy of the decision, final order or resolution of Committee being appealed and, in chronological order, copies of only such pleadings, petitions, motions and all interlocutory orders as are related to the appealed judgment or final order as would support the allegations of the appeal and for the proper understanding of the issues involved.

SEC. 86. Action on the Appeal Memorandum. –

- a. Grounds for Outright Dismissal of an Appeal. – From an initial examination of the allegations or averments in the appeal memorandum and such documents that may be attached thereto, the appeal may be dismissed outright for failure to comply with requirements set forth under these Rules.
- b. Order to File a Comment to the Appeal Memorandum. – If the appeal memorandum is filed on time and complies with the jurisdictional and formal requirements under these Rules, the Office of the Secretary of the Department may order the appellee to file a comment to the appeal memorandum within fifteen (15) days from receipt of a copy of the order.
- c. The Secretariat of the Committee shall, upon perfection of the appeal, transmit the records of the case to the Office of the Secretary of the Department.

SEC. 87. Comment to Appeal Memorandum. – The appellee shall file two (2) copies of its comment to the appeal memorandum, attaching thereto supporting documents and evidence, and furnishing copies thereof to the appellant within fifteen (15) days from receipt of the Order to file a comment to the appeal memorandum.

Failure to file the same within the said period shall be construed as a waiver to file the same.

SEC. 88. Verification. – The Appeal Memorandum and Comment to the Appeal Memorandum shall be verified.

SEC. 89. When Appeal Deemed Submitted for Decision. – Upon filing of the last pleading or after the expiration of the period to file the same, the appeal shall be deemed submitted for decision.

SEC. 90. Disposition of the Appeal. – The Secretary may affirm, reverse or modify the decision, final order or resolution appealed from, or direct further proceedings to be taken thereon, on the basis of the evidence presented and the records of the case.

RULE 23

EXECUTION OF DECISION

SEC. 91. Execution of Decision.

a. A writ of execution shall be issued as a matter of course in administrative actions or by motion in adjudicative cases, upon a decision of the Committee or the Secretary, as the case may be, that has become final and executory.

b. In adjudicative actions, a motion for execution shall be filed, copy furnished the other parties, the Committee or the Secretary, as the case may be, accompanied by the original copy or certified true copy of the entry of the decision or certificate or order of finality issued by the Committee, the Secretary, the Court of Appeals or the Supreme Court, and certified true copies of all the decisions, orders or resolutions on the case.

An opposition may be filed within a period of ten (10) days from receipt of the motion for execution. The motion shall be resolved and the writ of execution shall be issued within a period of thirty (30) days from receipt of the opposition.

SEC. 92. Issuance, Contents and Effectivity of a Writ of Execution. – The writ of execution shall be issued in the name of the Republic of the Philippines signed by the head of the Committee or the Secretary, requiring the appropriate officer, personnel, or such other duly authorized government agent, officer or personnel to execute the decision as shown in the FNAR or the appellate courts.

The writ of execution must contain the complete name of the party against whom the said writ of execution was issued, the dispositive portion thereof, the amount, and all other fees or fines to be collected from the losing party or any other person required by law to obey the same or the specific act sought to be performed or the specific act that the party should refrain from doing.

A writ of execution shall be effective for a period of five (5) years from its issuance. In case of partial satisfaction of the decision during the lifetime of the writ wherein a certain amount was collected, the Committee or the Secretary shall at its own instance in administrative actions or upon motion of the concerned party in adjudicative actions, issue an updated writ reflecting the amount collected and the remaining balance thereof.

SEC. 93. Return of Writ of Execution. – The appropriate officer, personnel, or such other duly authorized government agent, officer or personnel implementing the writ of execution shall submit his return to the Committee or the Secretary immediately after the full satisfaction thereof.

In case of partial or non-satisfaction of the decision, a report shall be submitted updating the Committee or the Secretary on the status of enforcement not later than thirty (30) days from receipt of such writ and every thirty (30) days thereafter during the lifetime of the writ unless fully satisfied.

The return shall state the mode of service, the name of the person served and the date of receipt. It shall also indicate legibly, the full name of the designated process server. It shall form part of the records of the case.

RULE 24

DISPOSITION

SEC. 94. Disposition of seized fish. – Fish catch, farmed fish stocks or aquatic species, seized during apprehension for offenses where confiscation is prescribed by the Fisheries Code as an administrative penalty, shall be disposed as follows:

- A. In an offer of settlement by the respondent, the decision accepting the offer shall declare the same confiscated in favor of the government to be disposed in this chronological order:
 - (i) If safe for human consumption, the same shall be distributed to orphanages, homes for the aged, charitable institutions, or the Local Government Unit (LGU) having jurisdiction of the area where the offense was committed;
 - (ii) If unsafe for human consumption but safe for use as animal feed, the confiscated fish shall be sold to the nearest feed miller, applying government accounting and auditing rules, with the proceeds accruing to the Fisheries Management Fund.
 - (iii) If unsafe for use as animal feed, the confiscated fish shall be buried in a location specified by the consenting LGU with appropriate documentation.
- B. Aquatic species prohibited by the Fisheries Code to be taken, gathered, possessed transported or traded shall be confiscated in favor of BFAR for proper disposition with full documentation of the process.
- C. In case where the settlement offer is denied or if the respondent does not avail of settlement, the procedures in Paragraph A (i) to (iii) of this Section shall be observed subject to these conditions:
 - (i) The recipients shall execute promissory notes of their willingness to return the estimated market value of the seized fish indicated in the seizure receipt or the sales invoice in the case of the feed miller should the complaint be dismissed. If the recipients decline to execute promissory notes, the seized fish shall be turned over to penal institutions who shall issue promissory notes of repayment in case the complaint is dismissed. Such amount shall be returned to the respondent once the decision on the case becomes final and

executory and the recipient fulfils the terms of the promissory note.

- (ii) In the event of failure in the preceding sub-paragraph (i), the seized fish or stocks shall be turned over to BFAR, considering the perishable nature of the items and the cost of cold storage, who shall determine the mode of disposition with documentation of the process.

SEC. 95. Disposition of confiscated living aquatic wildlife. – Living aquatic wildlife that were turned over to and rehabilitated by a recognized aquatic wildlife rescue center shall be ordered released to the wild through a decision of the Committee, Hearing Officer or SHP, upon prior determination that they are capable of surviving in the wild given their present condition and they are neither prohibited nor exotic species.

Living aquatic wildlife that are not capable of surviving in the wild shall be ordered donated to recognized aquatic wildlife rescue centers, zoological parks and other similar establishments for recreation, education and conservation purpose through a decision of the Committee, Hearing Officer or SHP.

Prohibited and exotic species shall be turned over to BFAR for disposition with documentation of the process.

SEC. 96. Disposition of Dead Aquatic Wildlife. – Dead aquatic wildlife shall be ordered by the Committee, Hearing Officer or SHP to be turned over to the nearest Regional or Provincial Fisheries Office of the Bureau for their safe and proper disposition.

Sec. 97. Disposition of Property, Boat, Gear, Equipment and other paraphernalia. –

A. Property, boat or gear offered as settlement pursuant to Section 45 of these Rules shall be disposed as follows:

- (i) In a written offer of settlement, the offeror shall attach an appraisal of the market value of the property, boat or gear offered in payment of the settlement penalty. The offeror shall pay the deficiency if the market value is less than the settlement penalty. The property, boat or gear shall be turned over to BFAR for disposition, which shall be documented. If BFAR disposes by sale, it shall be in accordance with government accounting and auditing rules with the proceeds accruing to the Fisheries Management Fund.
- (ii) Only fishing gears not prohibited by law shall be accepted as payment for the settlement penalty. Prohibited fishing gears shall be confiscated and turned over to BFAR to be destroyed or otherwise disposed with documentation of the process.

- B. In case of denial of the settlement offer or if the respondent does not avail of settlement, seized fishing gear in apprehensions for offenses where confiscation is prescribed by the Fisheries Law as an administrative penalty, shall be sold in public auction with the proceeds thereof to be held in escrow. The decision of the Committee, Hearing Officer or SHP against the respondent shall order the remittance of the amount held in escrow to the Fisheries Management Fund. A decision dismissing the case shall contain an order, releasing the amount held in escrow, in favor of the respondent.
- C. Seized equipment or paraphernalia shall either be confiscated or otherwise disposed in accordance with the decision of the Committee, Hearing Officer or SHP on a case-to-case basis, taking into consideration the habituality or repetition of the violation, the seriousness of the violation as defined in Section 4, Paragraph 82 of the Fisheries Code, manner of the commission of the offense, severity of the impact on the fishery resources and habitat, socio-economic impact, cases of concealment or destruction of evidence, eluding arrest, resisting lawful orders and other analogous circumstances.

RULE 25

COMMUNITY SERVICE

SEC. 98. Community Service. – The following guidelines shall be observed in case where community service is allowed as an alternative penalty for municipal fisherfolk and an offender with no property:

- a. The offender shall file a formal written application with certification from the Barangay Captain or the City/Municipal Social Worker that he is an indigent, in case of a municipal fisherfolk, or an affidavit that the offender has no property or cash to pay the fine;
- b. The Committee shall determine the veracity of the application;
- c. If qualified, the Committee shall determine the appropriate community service to be rendered based on the needs of the community where the offense was committed;
- d. The Committee shall determine the number of days to be allotted by dividing the amount of fine by the minimum wage prevailing in the area;
- e. The number of days to be served should not exceed three (3) days in a week and eight (8) hours in a day as certified by the Provincial Fisheries Office (PFO) in the daily time record to be properly accomplished by the offender daily and signed by the PFO;
- f. The Provincial Fisheries Office (PFO) shall monitor the activities of the offender, and

- g. There shall be no employer-employee relationship between the offender and the Committee, Bureau, agency or local government where the community service shall be rendered and they shall not be responsible for any untoward incident beyond the control of the Committee, Bureau, the agency or local government.

SEC. 99. Type of Community Service. – In imposing the alternative penalty of community service, the Committee shall prioritize those types of community service that relate to fisheries or fisheries resource management and conservation.

SEC. 100. Examples of Community Service. – Community services may include:

- a. planting of mangroves in mangrove areas or river embankments;
- b. rendering services for a certain period to a community-managed mangrove nursery, marine finfish hatchery or community fish landing center;
- c. capacitating the fisherfolk and their families, in the conduct of alternative livelihood seminars, free health programs/medical missions, or provision of educational materials/supplies;
- d. developing an information, education campaign material on fisheries and fisheries resource management and conservation and disseminating the same;
- e. participating in or undertaking a coastal clean-up operation; or
- f. organizing other activities that will redound to the benefit of the community where the violation was committed.

PART VI

MISCELLANEOUS PROVISIONS

RULE 26

TRANSITORY PROVISIONS

SEC. 101. Transitory Provision. – These Rules shall apply only to cases commenced after its effectivity. All matters pending resolution shall be decided under the procedures existing prior to these rules and shall continue to be heard by the Legal Division of the Bureau and the Legal Service of the Department. In all other cases, these Rules shall apply.

Decisions, final orders and resolutions which have become final and executory prior to the effectivity of these Rules shall be executed in accordance with the provisions of these Rules.

RULE 27

REPEALING AND SEPARABILITY CLAUSE

SEC. 102. Repealing and Separability Clause. – All other existing rules, circulars, procedures, practices, orders or any part thereof that are inconsistent with these Rules are hereby repealed, amended or modified accordingly.

If any part or provision of these Rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

RULE 28

EFFECTIVITY

SEC. 103. Effectivity. – These Rules shall take effect fifteen (15) days following publication once in a newspaper of general circulation and filing of three (3) certified copies with the Office of the National Administrative Register.



Republic of the Philippines
Department of Agriculture
ADJUDICATION COMMITTEE
Elliptical Road, Diliman
Quezon City 1100, Philippines

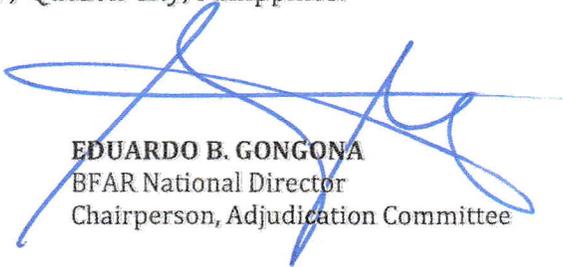
**RULES OF PROCEDURE FOR THE ADJUDICATION
OF FISHERIES LAW CASES OF 2017**

RESOLUTION

Pursuant to Section 130 of the Philippine Fisheries Code of 1998 as amended by Republic Act No. 10654, entitled "*An Act to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*" and Rule 130.3 of the Rules and Regulations Implementing Republic Act No. 8550 as amended by Republic Act No. 10654, and acting on Resolution No. 3 of the National Fisheries and Aquatic Resources Management Council (NFARMC) dated 09 September 2017, endorsing for consideration the proposed Rules of Procedure for the Adjudication of Fisheries Law Cases (RPAC), the Committee **RESOLVED TO APPROVE** the same with modifications on Rule 24 thereof.

These Rules shall take effect fifteen (15) days after its publication once in a newspaper of general circulation and its filing with the Office of the National Administrative Register.

October 31, 2017, Quezon City, Philippines.



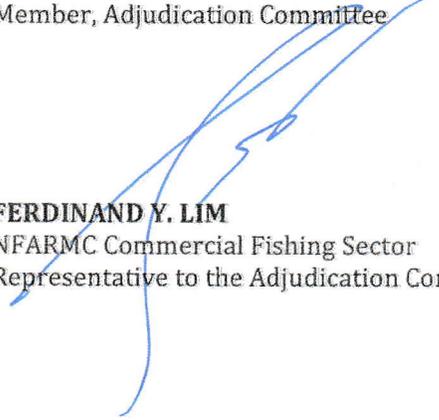
EDUARDO B. GONGONA
BFAR National Director
Chairperson, Adjudication Committee



DRUSILA ESTHER E. BAYATE, CESO IV
BFAR Assistant Director for Technical Services
Member, Adjudication Committee



SAMMY A. MALVAS
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FERDINAND Y. LIM
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FELIZARDO C. LIM
NFARMC Fisherfolk
Representative to the Adjudication
Committee