

Republic of the Philippines
Department of Agriculture
Office of the Secretary
Elliptical Road, Diliman
Quezon City 1100, Philippines

Fisheries Administrative
Order No. _____
Series of 2017

Pursuant to Section 130 of Republic Act No. 8550, as amended by Republic Act No. 10654, empowering the Adjudication Committee to promulgate rules and regulations for the conduct of administrative adjudication, these rules are hereby promulgated:

RULES OF PROCEDURE FOR THE ADJUDICATION OF FISHERY LAW CASES

RULE I. TITLE, SCOPE AND CONSTRUCTION

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

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

SEC. 3. Definitions. — For the purpose of these Rules, the following terms shall mean:

- a. *Adjudicative action or proceeding* shall refer to any proceeding involving the determination of rights and privileges and/or the grant of reliefs under fishery laws;
- b. *Administrative action or proceeding* shall refer to any proceeding involving the determination of any violation of fishery laws. It shall also cover the imposition of penalties and the disposition of confiscated catch, gears, equipment and other paraphernalia;
- c. *Adjudication Committee* shall refer to the group organized and designated as such pursuant to Section 130 of the Fisheries Code as amended;
- d. *Bureau or BFAR* shall refer to Bureau of Fisheries and Aquatic Resources;
- e. *Department* shall refer to the Department of Agriculture;
- f. *Decision* shall refer to the whole or any part of the final disposition issued by the Adjudication Committee pertaining to any matter within its jurisdiction;

- g. *Electronic Service* shall refer to the service by email on a person, party or his counsel of papers, orders, decisions and resolutions emanating from the Adjudication Committee;
- h. *Fishery laws* shall refer to the Fisheries Code and its amendments, its implementing rules and regulations and other fisheries-related issuances of the Department;
- i. *Hearing Officer* shall refer to any officer duly designated and authorized to conduct hearings or proceedings in an action filed before or initiated by the Adjudication Committee;
- j. *Investigation* shall refer to an inquiry that may be initiated by the Bureau through its law enforcement officers to determine if there are sufficient grounds to warrant the commencement of an administrative action;
- k. *Person* shall refer to natural or juridical entities such as individuals, associations, partnership, cooperatives or corporations.

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.

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

RULE II. JURISDICTION OF THE ADJUDICATION COMMITTEE

SEC. 7. Jurisdiction. – The Adjudication Committee shall have jurisdiction to hear and decide administrative and adjudicative actions as defined in this Rules, including 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, including the issuance of subpoenas, cease and desist orders, summary ejectment order. Finally, it may perform such other powers and functions inherent to or necessary in the exercise of its jurisdiction.

RULE III. 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 BFAR office having jurisdiction over the area where the offense was committed.

An adjudicative action shall be heard by the Hearing Officer of the BFAR office 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 may 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 and approval of the Committee.

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

RULE IV. APPEARANCE AND PLEADINGS BEFORE THE COMMITTEE

SEC. 12. Appearance and Withdrawal of Counsel. – The parties may be represented by counsel of their own choice. The withdrawal of counsel shall, however, be made in writing and served upon the Committee, the Hearing Officer or Special Hearing Panel as the case may be.

SEC. 13. Form of Pleadings. – Pleadings shall be filed in writing in English or Filipino using an easily readable font style of the party's choice, of 12-size font and on a 13-inch by 8.5-inch white bond paper. A party may file a pleading in local language provided the same shall be 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 provided for in 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 personally or by registered mail, or by private courier, in such number of copies as there may be parties in the action. All other pleadings shall be filed with the Hearing Officer or Special Hearing Panel either personally or by registered mail or by private courier or by electronic means, furnishing copies thereof to the other party to the action.

In the first case, the Committee through the Secretariat shall stamp the date and hour of filing. In the second case, the date of the mailing of pleading or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt or the acknowledgement receipt issued by the private courier company, shall be considered as the date of their filing, payment or deposit with the Committee. The envelope, registry receipt and acknowledgement receipt, as the case may be, shall be attached to the record of the case.

In case of filing by electronic means, the same should be indicated in the entry of appearance and the pleading should be in PDF format, copy furnished the other party. It shall be deemed to have been filed only when acknowledged through electronic means by the Hearing Officer or the Special Hearing Panel.

Any person who filed by mail or private courier a pleading or paper with the Committee in an administrative action or adjudicative action shall immediately inform the Secretariat, on behalf of the Committee, about the fact of mailing and the timely filing of the pleading, attaching proof thereof. Failure to comply with this Rule may be a cause to consider the pleading or paper as not filed.

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 it is not in the record, but it is claimed to have been filed personally, the filing shall be proven by the written or stamped acknowledgement of its filing by the Secretariat or the Committee, on a copy of the same; if filed by registered mail or through private courier, by the registry receipt or the acknowledgement receipt issued by the courier company, as the case may be, and by the affidavit of the person who did the mailing, containing a full statement of the date and

place of depositing the mail in the post office in a sealed envelope addressed to the Committee, with postage fully prepaid, and with instructions to the postmaster or private courier company to return the mail to the sender after ten (10) days if not delivered.

SEC. 16. Manner, Completeness and Proof of Service of Service of Papers Emanating from the Committee. –

a. To Individuals. – Papers, orders, including formal charges, decisions and resolutions emanating from the Committee under these Rules 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 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 a 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 or
- (vi) when allowed by these Rules, by publication of such order, decision or resolution of the Committee once in a newspaper of general circulation;

When an individual or his duly authorized agent has been ordered to file his pleading by publication and has failed to appear in the action, final orders, decisions or resolutions against him shall be served upon him also by publication and by registered mail at his last known or registered address.

b. To Corporations, Partnerships, Associations or Entities. – Service of papers, orders, including formal charges, decisions and resolutions emanating from the Committee under these Rules to a juridical person shall be done by tendering a copy of the same to its president, managing partner, general manager, corporate secretary, treasurer, compliance officer, in-house counsel, director or trustee, incorporator, or such other officer identified in the latest available records filed with the Committee, its managing or general agent or any other agent authorized by appointment, in any method specified in paragraph (a) of this Section.

c. To Foreign Corporations Doing Business in the Philippines. – Service of papers, orders, including formal charges, decisions and resolutions emanating from the Committee under these Rules to a foreign corporation doing business in the Philippines

may be made on its resident agent designated in accordance with existing laws for that purpose, or, if there is no such agent, the committee shall transmit a copy of the same to the home office of said foreign entity by registered mail, by facsimile, by any other electronic means in accordance with existing laws, or by such other means as the Committee may, in its discretion, direct.

d. Last known or registered address. — For purposes of service of papers, orders, formal charges, decisions and resolutions emanating from the Committee, 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) it is personally received by him or his authorized agent;
- (ii) it is received by the clerk or some other person in charge thereof at his principal office or regular place of business;
- (iii) it is received by some person of suitable age and discretion then residing at his dwelling house or residence;
- (iv) it is 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; or,
- (v) in the 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.

f. 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 the 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) the email address that was employed to transmit the email;
- (b) the date and time of the electronic service;
- (c) the 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 proven 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, 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, formal charge, decision or resolution emanating from 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, including 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, formal charge, decision or resolution. It shall be accompanied by the unserved paper, order, formal charge, 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 a 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) it is personally received by the other party or his authorized agent;

- (ii) it is received by the clerk or some other person in charge thereof at his principal office or regular place of business;
 - (iii) it is received by some person of suitable age and discretion then residing at his dwelling house or residence; or
 - (iv) it is 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 the 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 Counsel. – When any person has appeared by counsel, service of orders, formal charge, decisions, resolutions, pleadings and other papers shall be made upon his counsel of record, unless the Committee has ordered the service upon the party to the case. . Where one counsel appears for several parties, he shall only be entitled to one copy of any order, decision, resolution or other papers served upon him.

RULE V. 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 may be. Days mentioned in these rules shall be understood to refer to calendar days.

RULE VI. 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-----One percent (1%) of the
filing fee imposed but not lower than ten pesos

SEC. 21. Other Fees. – For request for certification, other documents and certified copies of any record, PDs, RAs, FAOs, , 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 central or regional offices of the Bureau.

RULE VII. 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 and fisheries observer data and similar evidence of events, acts, transactions of fisheries, by-products or derivatives, and the condition of the aquatic environment including 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 fishery law enforcement or regulatory officer, are prima facie evidence of the facts therein stated.

PART II INVESTIGATION PROCEEDINGS IN ADMINISTRATIVE ACTIONS

RULE VIII. SCOPE AND APPLICATION

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

RULE IX. INVESTIGATION PROCEEDINGS IN GENERAL

SEC. 25. Commencement of Investigation Proceedings. – An investigation for possible violation of fishery laws may be commenced by the Bureau through its law enforcement officers either at its own instance or upon receipt of a verified complaint from any person.

SEC. 26. Scope of the Investigation. – During the investigation, the Bureau's law enforcement officers may 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. – 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 may, in its discretion, 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 for such termination.

SEC. 30. Actions that may be taken after investigation. – The law enforcement officer may take any of the following actions after completion of the investigation:

- a. After finding a prima facie case for violations of fishery laws

b. Continuously monitor compliance for further violation of fishery laws.

RULE X. ADMINISTRATIVE ACTION

SEC. 31. Commencement of Administrative Action. – Administrative action is commenced upon filing of a verified complaint before the Committee, through the Secretariat, provided, that in cases initiated by the Bureau, the law enforcement officer shall file the complaint before the Committee immediately after completion of the investigation of the violation.

The verified complaint must be supported by the affidavits of witnesses and documentary evidence.

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

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

- (i) the names of the parties to the action;
- (ii) 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; and,
- (iii) a 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 Formal Charge. – Within fifteen (15) days from receipt of the summons, the respondent shall file a Verified Answer stating the following:

- (i) the 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 Special Hearing Panel; 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 the order of the Committee, Hearing Officer or Special Hearing Panel, 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, including 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 Special Hearing Panel in its discretion, may 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 Hearing Officer upon posting by the respondent of a cash or property bond in the amount equivalent to thirty percent (30%) of the appraised value of the boat or a surety bond equivalent to One Hundred Percent (100%) of the appraised value of the vessel and submission of an undertaking that the respondent shall produce the vessel when required by the Hearing Officer 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.

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

RULE XI. 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 and the law, rules and regulations relied upon for such issuance;
- (b) the acts constituting the basis for such issuance;
- (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 to the issuance of a CDO.

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 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, 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 RA 10654 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, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the Fisheries Code which will render the judgment of the Committee ineffectual.

SEC. 41. Grounds 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;
- (c) 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 XII. 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 Special Hearing Panel, an offer of settlement under Rule 131.1 of the Implementing Rules of R.A. 8550 .

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, manager's check or cashier's 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 appealed to the Secretary, the offeror shall also file the necessary manifestation with the Committee informing the latter that it has filed an offer of settlement.

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 and the financial capacity of the offeror to pay the same;
- d. The level of cooperation of the offeror in the investigation or proceedings;
- e. The offeror has been found to have previously violated any fishery laws;
- f. Public interest; and,
- g. Other meritorious considerations.

SEC. 47. Settlement Amount. – The settlement penalty for an offer to settle availed of as a matter of right within a 3-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 amount for all other offers after the three-year period shall be decided upon by the Committee.

SEC. 48. Sale of Vessel. – Settlement as a matter of right can only be availed of twice even if the vessel is sold or has changed ownership during the three (3) year period.

PART III ADJUDICATIVE ACTION

RULE XIII. 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 XIV. 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.

RULE XV. COMMENCEMENT OF AN ADJUDICATIVE ACTION

SEC. 51. 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 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 Rule 8 Part II of these Rules.

SEC. 52. 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 Special Hearing Panel. 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 Special Hearing Panel to the respondent.

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

SEC. 53. Verification. – The complaint and answer shall be verified in the same manner as the Verified Answer under Section 31, Rule 8 of Part II of these Rules.

SEC. 54. 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. 55. 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. 56. Issuance of Summons. – Upon the filing of the complaint and the determination of its sufficiency and substance by the Committee, Hearing Officer or Special Hearing Panel, 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. a 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. 57. Verified Answer to the Formal Charge. – 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 Special Hearing Panel; 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. 58. Supplemental Pleading. – Upon the order of the Committee, Hearing Officer or Special Hearing Panel, 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, including but not limited to those that are raised after the filing of the Verified Answer.

SEC. 59. Clarificatory Conference. – Before the rendition of a decision, the Committee, Hearing Officer or Special Hearing Panel, in its discretion, may 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 XVI. PROCEEDINGS BEFORE THE COMMITTEE

SEC. 60. Preliminary Conference. – Subject to existing Rules, the Committee, through the Hearing Officer or Special Hearing Panel, 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 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 Special Hearing Panel 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 Special Hearing Panel may terminate the conference when the parties fail to settle their differences.

SEC. 61. Amicable Settlement. – During the conference, the Committee, through the Hearing Officer or Special Hearing Panel, 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 the 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 Special Hearing Panel.

SEC. 62. 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 Special Hearing Panel 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 Special Hearing Panel, 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. 63. Preliminary Conference Order. – After the Preliminary Conference, the Committee, Hearing Officer or Special Hearing Panel 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. 64. 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 XVII. SCOPE AND APPLICATION

SEC. 65. 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 XVIII. DECISIONS, FINAL ORDERS, RESOLUTIONS AND ENTRY THEREOF

SEC. 66. Rendition of Decision. – The Committee shall issue a decision within thirty (30) days from receipt of the case records and the recommendation of the Hearing Officer or Special Hearing Panel. The Committee shall decide upon a vote of simple majority of its members.

An amicable settlement agreed upon and signed by the parties before the Hearing Officer or the Special Hearing Panel 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. 67. Form and Contents. – All decisions, resolutions and final orders of the Committee, Hearing Officer and Special Hearing Panel 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, if applicable, 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 of the Committee and Special Hearing Panel shall be signed by all its members and shall be served on the complainant and respondent, as the case may be, not later than fifteen (15) days after its promulgation.

SEC. 68. 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 fishery laws.

SEC. 69. 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 Special Hearing Panel shall become final and executory.

SEC. 70. 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 Supreme Court, as the case may be, upon such terms as it may deem just.¹

RULE XIX. SUBPOENA AD TESTIFICANDUM, SUBPOENA DUCES TECUM AND EXAMINATION/INSPECTION ORDERS

SEC. 71. 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 Special Hearing Panel may, at its own instance or upon request of a party, issue a subpoena ad testificandum, subpoena duces tecum or examination/inspection order.

SEC. 72. 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 the 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. 73. Expert Witness. – Technical resource persons may be invited by the Committee, Hearing Officer or Special Hearing Panel to appear and testify as an expert witness to assist in the disposition of highly technical and scientific issues surrounding the case.

PART V MOTION FOR RECONSIDERATION, APPEAL AND EXECUTION PROCEEDINGS

¹ Section 12 Rule 43 Rules of Court

RULE XX. SCOPE AND APPLICATION

SEC. 74. 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 request for payment of administrative penalty by instalment.

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

SEC. 75. 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 thereof and shall be accompanied by proof of service of copies to all parties on record.

SEC. 76. 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. 77. 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. 78. Comment/Opposition to the Motion for Reconsideration. – In an adjudicative action, a comment/opposition to the motion for reconsideration may 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. 79. 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. 80. Resolution of Motion. – A motion for reconsideration shall be resolved within thirty (30) days from the time it is submitted for resolution.

RULE XXII. APPEAL TO THE OFFICE OF THE SECRETARY

SEC. 81. Subject of Appeal to the Office of the Secretary. – 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:

- (i) questions of fact;
- (ii) questions of law;
- (iii) questions of rule implementation, or
- (iv) mixed questions of fact, law and rule implementation.

No appeal may be taken from:

- a. An interlocutory order;
- b. An order disallowing or 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 Special Hearing Panel to act over the subject matter.

SEC. 82. Period of Appeal. – An appeal to the Office of the Secretary of the Department 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. 83. Perfection of Appeal. – The appellant shall perfect an appeal by filing the following with Office of the Secretary within the period prescribed in the preceding section:

- (i) An appeal memorandum in two(2) legible copies;
- (ii) Proof of service of a copy of the appeal memorandum on the appellee and the Committee; and,
- (iii) Payment of the appeal fee and other applicable fees.

SEC. 84. Appeal Memorandum; Form and Contents. – The appeal memorandum shall state the following:

- (i) the full name, capacity and address of the parties to the appeal;
- (ii) the material dates showing that it was filed on time;
- (iii) a concise statement of the matters involved, the issues raised, the specification of errors or arguments relied upon in support of the appeal; and,
- (iv) 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. 85. 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. 86. Comment to Appeal Memorandum. – The appellee shall file with the Office of the Secretary of the Department, 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 a comment to the appeal memorandum within the period fixed in these Rules shall be construed as a waiver to file the same.

SEC. 87. Verification. – The Appeal Memorandum and Comment to the Appeal Memorandum shall be verified in the same manner as a verified answer under Section 31, Rule 8 of Part II of these Rules.

SEC. 88. When Appeal Deemed Submitted for Decision. – Upon filing of the last pleading allowed under these Rules with the Office of the Secretary of the Department, or after the expiration of the period to file the same, the appeal shall be deemed submitted for decision.

SEC. 89. Disposition of the Appeal. – The Office of 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 XXIII. EXECUTION

SEC. 90. Execution of Decision, Final Order or Resolution. –

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

b. In adjudicative actions, a motion for execution shall be filed, a copy of which shall be furnished to the other parties, the Committee or the Office of the Secretary, as the case may be, accompanied by the original copy or certified true copy of the entry of judgment or certificate or order of finality issued by the Committee, Office of the Secretary, the Court of Appeals or the Supreme Court, as the case may be; 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. 91. 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, as the case may be, requiring the appropriate officer, personnel, or such other duly authorized government agent, officer or personnel to execute the decision, final order, or resolution as shown in the Fisheries National Administrative Register of judgments of the Committee or the Office of the Secretary of the Department 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, if applicable, 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 issuance thereof. In case of partial satisfaction of the decision, final order or resolution during the lifetime of the writ wherein a certain amount was collected, the Committee or the Office of the Secretary of the Department, as the case may be, 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. 92. 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 be requested to submit his return to the Committee or Office of the Secretary of the Department, as the case may be, immediately after the full satisfaction thereof.

In case of partial or non-satisfaction of the judgment, the officer, personnel, or such other duly authorized government agent, officer or personnel enforcing the writ shall submit a report updating the Committee or the Office of the Secretary of the Department, as the case may be, on the status of the enforcement thereof, 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. The return shall also indicate legibly, the full name of the designated process server. The return shall form part of the records of the case.

SEC. 93. Payment by Installment. – The Committee through the Hearing Officer or Special Hearing Panel may approve a request of payment by instalment of the fine imposed and shall require the party to issue such number of post-dated manager's check that would correspond to the equal periodic payments of the amount payable which installment period shall not exceed two (2) years. The failure to make good on any payment when due, shall render the whole amount due and demandable.

RULE XXIV. DISPOSITION OF CONFISCATED ITEMS

SEC. 94. Disposition of confiscated living aquatic wildlife. – Living aquatic wildlife and commercial food fish that were turned over to and rehabilitated by a recognized aquatic wildlife rescue center shall be ordered released by the Committee, Hearing Officer or Special Hearing Panel to the wild upon prior determination that they are capable of surviving in the wild given their present condition and are not prohibited or exotic species.

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

Commercial food fish that are not capable of surviving in the wild and determined to be safe for human consumption shall be ordered by the Committee, Hearing Officer or Special Hearing Panel to be donated to orphanages, homes for the aged, and similar charitable institutions.

SEC. 95. Disposition of dead aquatic wildlife. – Dead aquatic wildlife shall be ordered by the Committee, Hearing Officer or Special Hearing Panel to be turned over to the nearest Regional or Provincial Fisheries Office of the Bureau for their safe and proper disposition.

Dead commercial food fish determined to be safe for human consumption shall be ordered by the Committee, Hearing Officer or Special Hearing Panel to be donated either to the Bureau to be processed and distributed as relief goods or to orphanages, homes for the aged, and similar charitable institutions.

Dead commercial food fish determined to be unsafe for human consumption but safe as animal feed shall be ordered by the Committee, Hearing Officer or Special Hearing Panel

to be sold in an auction sale to feed millers in the same manner as stated in the succeeding section and the proceeds thereof shall accrue to the Fisheries Management Fund. Those unfit as feed meal shall be buried in a location specified by the Local Government Unit (LGU) concerned.

Sec. 96. Disposition of Confiscated Gears, Paraphernalia and Equipment. – Except for prohibited gears and items which shall be destroyed or otherwise properly disposed of, the Committee, Hearing Officer or Special Hearing Panel shall order the conduct of an auction sale of the confiscated gear, equipment and paraphernalia. The Committee shall order the Secretariat to conduct the auction sale who shall fix the minimum bid price based on the prevailing market prices.

The auction sale shall be with notice to the losing party or the respondent or the person from whom the items were confiscated.

RULE XXV. COMMUNITY SERVICE

SEC. 97. 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 Fishery Office (PFO) in the daily time record to be properly accomplished by the offender daily and signed by the PFO;
- f. The Provincial Fishery 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. 98. Type of Community Service. – In imposing the alternative penalty of community service, the Committee shall prioritize those types of community service that relate to fishery or fishery resource management and conservation.

SEC. 99. Examples of Community Services. – 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 fisherfolks 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 fishery and fishery 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 XXVI. PAYMENT OF HONORARIA AND OTHER EXPENSES

SEC. 100. Payment of Honoraria and Other Expenses. – Subject to existing accounting and auditing rules, the National Fisheries and Aquatic Resources Management Council (NFARMC) members of the Committee, the members of the Special Hearing Panel, and expert witnesses shall be entitled to honoraria, per diem and travel cost to be sourced from the Fisheries Management Fund.

RULE XXVII. 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 XXVIII. 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 XXIX. EFFECTIVITY

SEC. 103. Effectivity. – These Rules shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation and filing of three (3) certified copies with the Office of the National Administrative Register.