

RESOLUTION NO. I-C
Series of 1997

REVISED RULES OF THE POLLUTION ADJUDICATION BOARD (PAB) ON
PLEADING, PRACTICE AND PROCEDURE IN POLLUTION CASES

The Pollution Adjudication Board pursuant to its powers and functions under Section 19 of Executive Order No. 192, Series of 1987, RESOLVES as it hereby RESOLVED to promulgate and adopt the following Revised Rules on Pleading, Practice and Procedure in the adjudication of pollution cases.

RULE I
TITLE AND CONSTRUCTION

SECTION 1. TITLE OF THE RULES - These rules shall be known as the Revised Rules of the Pollution Adjudication Board on Pleading, Practice and Procedure in Pollution Cases.

SECTION 2. APPLICABILITY OF THE RULES - These Rules shall apply to all pollution cases as defined by Presidential Decree No. 984 and its Implementing Rules and Regulations, brought before the Board or through the Regional Offices of the Department, in the exercise of their delegated powers and function under Executive Order No. 192, the PENROs or the CENROs.

SECTION 3. CONSTRUCTION OF THE RULES - These Rules shall be liberally construed in order to promote the public interest and to assist the parties in obtaining just, speedy and inexpensive disposition of pollution cases.

SECTION 4. NATURE OF PROCEEDINGS - Subject to the basic requirements of due process, proceedings before the Board and in the Regional Offices shall be summary in nature. The technical rules on evidence obtaining in courts of law shall not bind the Board and the Regional Office. The Rules of Court shall not apply in proceedings before the Board except in a suppletory character and only whenever applicable.

RULE II
DEFINITION OF TERMS

SECTION 1. DEFINITION OF TERMS - As used in these Rules:

(a) "Pollution" shall mean any alteration of the physical, chemical or biological properties of any water, air and/or land resources of the Philippines, or any discharge thereto of any liquid, gaseous or solid wastes as will be likely to create or to render such water, air and land resources harmful, detrimental or injurious to public health, safety or welfare or which will adversely affect their utilization for domestic, commercial, industrial, agricultural, recreational or other legitimate purposes.

(b) "Nuisance" shall mean any act, omission, establishment, business, condition of property, or anything else which:

(1) injures or endangers the health or safety of others; or

(2) annoys or offends the senses; or

(3) shocks, defies or disregards decency or morality; or

(4) obstructs or interferes with the free passage of any highway or street, or any body of water; or

(5) hinders or impairs the use of property.

(c) "Department" or "DENR" shall mean the Department of Environment and Natural Resources.

(d) "Board" shall mean the Pollution Adjudication Board created under Section 19 of Executive Order No. 192, Series of 1987.

(e) "Regional Office" shall mean any of the Regional Offices of the Department of Environment and Natural Resources.

(f) "PENRO" shall mean any of the Provincial Environment and Natural Resources Offices of the Department.

(g) "CENRO" shall mean any of the Community Environment and Natural Resources Offices of the Department.

(h) "Person" of "Persons" shall include any being, natural or juridical, susceptible of rights and obligations or of being the subject of legal relations.

(i) "Pollution Control Facility" or "Pollution Control Device" shall mean any structure, contrivance, facility, system, device or mechanism, which can adequately control or abate liquid, gaseous or solid wastes or noise pollution within the allowed quality of standards of the Department

(j) "Managing Head" shall mean the president, managing director, managing partner, chief executive officer or highest executive officer of the respondent, if it be a corporation, partnership or other juridical person.

RULE III JURISDICTION AND AUTHORITY

SECTION 1. JURISDICTION OF THE BOARD - The Board shall have sole and exclusive jurisdiction over all cases of pollution, as defined herein, and all other matters related thereto, including the imposition of administrative sanction, except as may be provided by law.

SECTION 2. AUTHORITY OF THE REGIONAL OFFICES - The Regional Offices may investigate and hear pollution cases as provided in these Rules or any may be delegated or authorized by the Board. Provided, That final decisions may be promulgated only by the Board, giving due consideration to the recommendation of the Regional Office.

The Regional Offices may also issue, renew or deny issuance or renewal of permits to operate pollution control facilities, under such conditions as it may determine to be reasonable, for the prevention and abatement of pollution and for the discharge of sewage an industrial waste, or for the installation or operation of sewage works and industrial disposal systems or parts thereof.

SECTION 3. SPECIAL TEAMS - The Board may constitute, or order the constitution of, quick-reaction teams or similar special teams in order to expedite the implementation of the provisions of these Rules.

SECTION 4. ABATEMENT OF NUISANCE - Except where such would constitute a pollution case, local government units shall have the power to abate a nuisance within their respective areas pursuant to the Republic Act No. 386 (Civil Code of the Philippines), Republic Act No. 7160 (the Local Government Code), Presidential Decree No. 856 (the Code on Sanitation of the Philippines), DENR Department Administrative Order No. 30, Series of 1992 and other pertinent laws, rules and regulations.

RULE IV ACTIONS

SECTION 1. WHO MAY BE PARTIES - Any person who has an interest in the subject of the action may be a party to a case or proceeding before the Board or the Regional Office.

The party initiating the action shall be called the "Complainant", and the party against whom a complaint is filed shall be called the "Respondent".

Without prejudice to provisions of Section 7 of this Rule, the Department, Regional Office, PENRO or CENRO may, even without a formal complaint, initiate the action by issuing a Notice of Violation whenever it finds, on the basis of inspection or monitoring reports, that the emission or discharged sewage or waste constitutes an immediate threat to life, public health, safety or welfare, or to animal or plant life, or exceeds the allowable DENR Standards.

SECTION 2. WHEN ACTION IS DEEMED COMMENCED - An action is deemed commenced:

(a) upon the filing of a complaint with the Board or with the Regional Office, PENRO or CENRO, or

(b) by the issuance of a Notice of Violation by the Department, Regional Office, PENRO or CENRO.

All complaints filed with the PENRO or CENRO, and all Notices of Violation issued by them, shall be endorsed to the Regional Office within three (3) days for disposition in accordance with these Rules.

Copies of all complaints filed or endorsed to the Regional Office, and all Notices of Violation issued by it, shall be furnished the appropriate PENROs and CENROs

SECTION 3. FORM AND CONTENTS OF COMPLAINT OR NOTICE OF VIOLATION - The complaint shall be in writing and drawn in clear and concise language whether in Filipino or English, specifying the full names and addresses of the complainants, respondents and witnesses, if any. It shall state the ultimate facts constituting the cause or causes of action or specific violation of law or rules and regulations, as well as other information pertinent thereto. It shall also specify the remedy or relief sought.

The Notice of Violation shall be in writing and shall state the ultimate facts constituting the cause or causes of action or specific violation of law or rules and regulations, as well as other information pertinent thereto, in the format prescribed by the Board. Where applicable, a copy of the Notice of Violation shall be furnished the complainant.

SECTION 4. CAPTION AND TITLE - If the action is initiated by any person other than the Department, the caption shall be as follows:

Republic of the Philippines
Department of Environment and Natural Resources
POLLUTION ADJUDICATION BOARD
(Office Address)

Complainant,

Case No. (Precede the case number with "PAB", "RO ____", etc. to indicate origin)

-versus-

FOR: (State the nature/cause of action)

Respondent.

x ----- x

In case the action is initiated by the Department, Regional Office, PENRO or CENRO, the caption shall be as follows:

Republic of the Philippines
Department of Environment and Natural Resources

POLLUTION ADJUDICATION BOARD
(Office Address)

IN THE MATTER OF THE
WATER/AIR POLLUTION
CONTROL AND ABATEMENT CA

Case No. (Precede the case number
with "PAB", "RO ___", etc.

- versus
FOR: (State the nature/cause of action)
to indicate origin)

Respondent.
X ----- X

SECTION 5. DOCKET NUMBER AND CALENDAR OF CASES - All cases before the Board of the Regional office shall be numbered and docketed consecutively and entered into an appropriate docket book in accordance with a system of numbering and docketing of cases adopted by the Board of Regional Office.

SECTION 6. COMPLAINTS DIRECTLY FILED WITH THE BOARD - Without prejudice to the provisions of Section 7 of this Rule, a complaint filed directly with the Board, if found to be in order, shall be endorsed to the Regional Office concerned within three (3) days.

SECTION 7. CASES FILED WITH OR ENDORSED TO THE REGIONAL OFFICE; INTERIM CEASE AND DESIST ORDER - If the complaint is filed with the Regional Office, or if it is endorsed to the latter by the Board, Department, PENRO or CENRO, the Regional Executive Director shall within three (3) days order the investigation of the complaint. The investigation shall be conducted and the report thereof submitted to the Regional Executive Director within fifteen (15) days, except where such is not possible because of insuperable causes. If after the investigation there is prima facie evidence of a violation, the Regional Executive Director shall give the respondent notice thereof and set a date for a Technical Conference, attaching thereto a copy of the complaint, the inspection or monitoring report, and where appropriate, a tentative computation of fines.

Should the action be initiated by the Department, Regional Office, PENRO or CENRO through a Notice of Violation, the Regional Executive Director shall set a date for a Technical Conference, attaching thereto a copy of the inspection or monitoring report, and where appropriate, a tentative computation of fines.

The technical Conference shall be held within fifteen (15) days from the date of the Notice of Violation. The notice of Technical Conference shall be served on the respondent at least three (3) days before the date of the conference.

However, where there is prima facie evidence that the emission or discharge of pollutants constitutes and immediate threat to life, public health, safety or welfare, or to animal or plant life, or greatly exceeds the allowable DENR Standards, as provided in guidelines established by the Board, the Regional Executive Director may immediately issue an Interim Cease and Desist Order, which shall be effective for a period of five (5) days. After issuing the Cease and Desist Order, the Regional Executive Director shall within twenty-four (24) hours endorse the case to the Board with a recommendation that the Board issue a regular Cease and Desist Order.

SECTION 8. EFFECT OF WITHDRAWAL OF COMPLAINT - The withdrawal of the complaint shall not result in the automatic dismissal of the case. The Board or Regional office may motu proprio pursue the same if it deems it necessary in the interest of public welfare and safety.

SECTION 9. STATUS REPORTS - The Regional Office shall furnish the Board monthly reports on the status of all cases.

RULE V HEARING OFFICERS

SECTION 1. HEARING OFFICERS - In cases before the Regional Office, the Regional Executive Director shall designate a Hearing Officer who shall preside over the Technical Conference and hear the case.

SECTION 2. POWERS, FUNCTIONS, AND DUTIES OF THE HEARING OFFICER - The duly designated Hearing Officer shall have the following powers and function:

- (a) To preside over the Technical Conference;
- (b) To hear cases and received evidence consistent with these rules and exercise full and active control of the proceedings at any stage thereof;
- (c) To issue subpoena and subpoena duces tecum;
- (d) To administer oaths on all matters or proceedings related to the performance of his duties;

(e) To cite for contempt in accordance with these Rules; and

(f) To submit to the Regional Executive Director, for endorsement to the Board, a report of his findings, after the Technical Conference or hearing has been terminated, containing his recommendations with the entire original records of the case and other attachments.

RULE VI TECHNICAL CONFERENCE

SECTION 1. PURPOSE OF TECHNICAL CONFERENCE - The Technical Conference shall have the following objectives:

(a) Simplification of the issues and stipulation of facts;

(b) Tentative computation of fines; and

(c) Execution of a commitment from the respondent to abate or mitigate the pollution complained of, including the implementation of remedial measures relative thereto, within a period agreed upon by the parties, which in no case shall be more than ninety (90) days. The commitments shall be in the format prescribed by the Board and shall be signed by the respondent or its managing head. The Hearing Officer shall furnish the Board copies of commitments executed by respondents within seventy-two (72) hours from submission thereof.

SECTION 2. SUBMISSION OF POSITION PAPER - The Hearing Officer shall require the respondent to submit its verified position paper accompanied by all supporting documents and affidavits of its witnesses within ten (10) days from receipt of notice. The affidavits shall state only facts of direct personal knowledge of the affiants and shall show their competence to testify on the matters stated therein. The affidavits shall take the place of the direct testimony of witnesses, subject to the right to cross-examine such witnesses.

The respondent shall furnish the complainant a copy of its position paper together with the supporting documents and affidavits submitted by it.

SECTION 3. APPEARANCE BY RESPONDENT'S POLLUTION CONTROL OFFICER - The respondent's pollution control officer accredited under DENR Department Administrative Order (DAO) No. 26, Series of 1992, shall be required to enter his appearance and attend the Technical Conference. The failure to do so shall be an admission that respondent has no accredited pollution control officer.

SECTION 4. APPEARANCE BY THE PENRO OR CENTRO - The PENRO or CENRO in whose territorial jurisdiction the pollution has been committed may be required to appear in the Technical Conference.

SECTION 5. NON-APPEARANCE IN THE TECHNICAL CONFERENCE - Should the respondent fail to appear in the Technical Conference or file his position paper despite due notice, he shall be considered in default and the case shall be resolved on the basis of the evidence on record.

SECTION 6. SUBMISSION OF REPORT AND RECOMMENDATION - After the Hearing Officer has gathered all the pertinent facts and he determines that there is no need for further hearing, he shall submit to the Regional Executive Director a certified report within fifteen (15) days, indicating therein his findings and recommendations, together with the original records of the case. The report shall be in the format prescribed by the Board.

SECTION 7. ELEVATION OF CASE TO THE BOARD - Upon the expiration of the period agreed upon in the Technical Conference, a follow-up inspection shall be conducted by the Regional Office and a report relative thereto shall be prepared. If after the inspection, it is determined that the respondent still fails to comply with the DENR Standards and with his previous commitments in the Technical Conference, the Regional Office shall, within fifteen (15) days elevate the case to the Board with a recommendation for the issuance of a Cease and Desist Order and the fines to be imposed. If it is determined after the inspection that the respondent now complies with the DENR Standards, the case shall be elevated to the Board within fifteen (15) days with a recommendation of the fines to be imposed. The original records of the case shall be forwarded to the Board together with the report and recommendation.

Where the commitments made by the respondent during the Technical Conference shall take more than ninety (90) days to complete, the Hearing Office shall conclude the Technical Conference. He shall submit his report, to the Regional Executive Director within fifteen (15) days, indicating therein his findings and recommendations. The Regional Office shall, within fifteen (15) days, elevate the case to the Board with the appropriate recommendations. The original records of the case, together with the respondent's plans, specifications and budget for its pollution control program shall be forwarded to the Board.

RULE VII COMMON PROVISIONS ON HEARING OF CASES

SECTION 1. APPEARANCE BY RESPONDENT'S POLLUTION CONTROL OFFICER - The respondent's pollution control officer accredited under DENR DAO No. 26, Series of 1992, shall be required to enter his appearance and attend the hearing.

SECTION 2. SUBPOENA AND SUBPOENA DUCES TECUM - If the attendance of a witness or the production of books, papers, documents and pertinent data is necessary, any party may request the issuance of the necessary subpoena or subpoena duces tecum at least five (5) days prior to the scheduled hearing. The Board or Hearing Officer shall issue the subpoena or subpoena duces tecum upon a showing of general relevance.

SECTION 3. OCULAR INSPECTION - Whenever essential to the determination of the issues surrounding the case, the Board or Hearing Officer may direct the conduct of an ocular inspection.

SECTION 4. RULES OF EVIDENCE - In the conduct of hearings, the Board or Hearing Officer shall not be bound by the technical rules of evidence under the Rules of Court. However, the following simplified rules of evidence shall be observed.

(a) The Board or Hearing Officer shall admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs. In case of doubt, all evidence presented shall be admitted, subject to the objections interposed, if any.

(b) All documents forming part of the records and material to the issues of the case, whether marked as exhibits or not, shall be deemed admitted as evidence and may be considered in the resolution of the case.

(c) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public officer, a certified copy thereof may be accepted.

(d) Every party shall have the opportunity to be heard in accordance with administrative due process and to submit rebuttal evidence.

(e) The Board or Hearing Officer may take notice of judicially cognizable facts and of generally cognizable technical or scientific facts within its or his specialized knowledge. The parties shall be notified and afforded an opportunity to contest the facts so noticed.

SECTION 5. RECORD OF PROCEEDINGS - The proceedings and testimonies of witnesses during the hearing may be recorded by a stenographer, where one is available. The appearances of parties and other persons shall be duly noted and accounted for through their signatures. The Board Secretariat or Hearing Officer shall make a written summary of the proceedings including the substance of the evidence presented which shall form part of the records of the case. The written summary shall be signed and certified by the Board Secretary or the Hearing officer, as the case might be.

SECTION 6. INTERVENTION BY AN INTERESTED PARTY - Any party who claims to have an interest or may be adversely affected by the proceedings, may file a motion for intervention stating concisely the grounds relied upon and the remedy sought, serving copies of the same on the complainant and the respondent. The motion may be filed at any time before the case is deemed submitted for decision. The Board or Hearing Officer has the discretion to allow or disallow the intervention.

SECTION 7. CONSOLIDATION OF CASES - Where there are two (2) or more cases pending before the Board or before different Hearing Officers involving the same respondent and issues, the cases subsequently filed shall be consolidated with the one first filed to avoid unnecessary cost and delay. Consolidated cases at the level of the Regional Office shall be heard by the Hearing Officer to whom the first case was assigned.

RULE VIII

HEARING OR DELIBERATION OF CASES BY THE BOARD

SECTION 1. VENUE - The hearing or deliberation of cases by the Board shall be held at the main office of the Department or in such other place as may be designated by the Board.

SECTION 2. SCHEDULE OF MEETINGS - The Board shall regularly meet at least twice a month for the purpose of hearing or deliberating on cases. The Chairman of the Board may call special meetings where necessary.

SECTION 3. QUORUM - Cases shall be heard or deliberated by the Board in a meeting where at least a majority of the members of the Board are present. To ensure a quorum in meetings of the Board, the Secretary of the Department may designate officials of the Department who shall take the place of the ex-officio members of the Board during their absence. Such designated officials shall have the same power and authority as the regular members during the period of their designation.

In the absence of a quorum in a meeting already called, three (3) members of the Board may constitute themselves into an ad hoc committee and make unanimous decisions subject to confirmation or ratification by the Board in the next scheduled meeting.

SECTION 4. SPECIAL AUTHORITY - If the Board cannot convene in a special meeting because of the absence of a quorum, the Chairman, in cases of extreme urgency involving the national interest, may issue Cease and Desist Orders, Temporary Lifting Orders and extensions of Temporary Lifting Orders for and in behalf of the Board, in

accordance with the existing policies of the Board. The Chairman shall inform the other members of the Board on such action taken by him. Such orders shall be immediately executory and shall remain effective unless revoked by the Board in a subsequent meeting where there is a quorum.

SECTION 5. DELIBERATIONS BY THE BOARD - Except where the Board, in its discretion, provides for oral arguments or for the presentation of additional evidence, the Board shall deliberate on cases on the basis of the pleadings and the records of the case, without the appearance of the parties in a hearing.

RULE IX ORDERS, RESOLUTIONS AND DECISIONS

SECTION 1. CEASE AND DESIST ORDER - Whenever the Board finds prima facie evidence that the emission or discharge of pollutants constitutes an immediate threat to life, public health, safety or welfare, or to animal or plant life, or exceeds the allowable DENR Standards, it may issue an ex-parte order directing the discontinuance of the same or the temporary suspension or cessation of operation of the establishment or person generating such pollutants, without need of a prior public hearing. The Cease and Desist Order shall be immediately executory and shall remain in force and effect until the same is modified or lifted by the Board. The Board may also direct the Regional Office to revoke, suspend or modify any permit to operate a pollution control facility or any clearance whenever such is necessary to prevent or abate the pollution.

The respondent may contest the order by filing a motion to lift the order, with proof of service of copies thereof to the Regional Office and the other parties. The Regional Office and the other parties shall file their comments within ten (10) days from receipt of the motion. The motion shall be set for hearing or calendared for the Board's deliberation. The filing of such motion shall not stay the enforcement and execution of the order.

SECTION 2. IMPLEMENTATION OF CEASE AND DESIST ORDER - The Regional Executive Director or his duly authorized representative shall implement or cause the implementation of the Cease and Desist Order no later than seventy-two (72) hours from receipt thereof. He shall submit to the Board a report within forty-eight (48) hours after the completion of the implementation, stating therein the actions taken. Should the Cease and Desist Order be implemented beyond seventy-two (72) hours, the Regional Executive Director shall justify the delay in a written report to the Board.

The duly authorized representative shall come from the personnel of the Environmental Management and Protected Areas Services (EMPAS) of the Regional Office, PENRO or CENRO. No other DENR personnel or special group may be deputized without the prior approval of the Board.

In the implementation of Cease and Desist Orders, the Regional Executive Director shall coordinate with the local government concerned, unless local government officials are directly or indirectly involved in the business or undertaking causing the pollution or have manifested partiality in favor of respondent or shown reluctance to enforce pollution control laws. The Regional Executive Director shall seek the assistance of the Philippine National Police where necessary.

SECTION 3. TEMPORARY LIFTING ORDER FOR PURPOSES OF IMPLEMENTING POLLUTION CONTROL PROGRAMS - The Board may, upon proper motion of the respondent, issue a Temporary Lifting Order (TLO) in cases where it has issued a Cease and Desist Order, in order to allow the implementation of comprehensive pollution control programs. Where a Temporary Lifting Order (TLO) is issued, the respondent shall be required to submit progress reports indicating therein the latest status of the construction or rehabilitation, the percentage of work being undertaken, and the proposed date of sampling. Upon the lapse of the period specified in the Temporary Lifting Order, the Cease and Desist Order (CDO) shall automatically resume its effectivity, without prejudice to the filing of a motion for the issuance of another TLO with the Board.

SECTION 4. TEMPORARY LIFTING ORDER FOR SAMPLING PURPOSES - The Board may, upon proper motion of the respondent, issue a Temporary Lifting Order (TLO) in cases where it has issued a Cease and Desist Order, in order to allow the taking of samples. Upon the lapse of the period specified in the Temporary Lifting Order, the Cease and Desist Order (CDO) shall automatically resume its effectivity, without prejudice to the filling of a motion for the issuance of another TLO with the Board.

SECTION 5. REQUIREMENTS FOR THE ISSUANCE OF A TEMPORARY LIFTING ORDER - No Temporary Lifting Order (TLO) shall be issued unless the respondent submits the following:

(a) In TLOs for the implementation of comprehensive pollution control programs:

(1) The comprehensive pollution control program, including the plans and specifications of the firm's anti-pollution facility, budget and the Gantt chart of activities relative thereto;

(2) A surety bond equivalent to twenty-five percent (25%) of the total cost of the pollution control program;

(3) Ad detailed description of the interim remedial measures to be instituted to mitigate pollution pending the completion of the pollution control program;

(4) Proof of the employment of a pollution control officer duly accredited by the DENR pursuant to DAO No. 26, Series of 1992;

(5) A notarized undertaking, signed by the respondent or its duly empowered managing head, to comply with the conditions set by the Board; and

(6) Such other conditions which the Board may deem appropriate under the circumstances.

(b) In TLOs for sampling purposes:

(1) Proof of the employment of a pollution control officer duly accredited by the DENR pursuant to DAO No. 26, Series of 1992;

(2) A notarized undertaking, signed by the respondent or its duly empowered managing head, to comply with the conditions set by the Board, and

(3) Such other conditions which the Board may deem appropriate under the circumstances.

In case the respondent had a previous case before the Board, a TLO shall not be issued unless the respondent has fully paid all the fines imposed by the Board, whether in the instant cases or in the previous case or cases.

SECTION 6. MOTION FOR EXTENSION OF TEMPORARY LIFTING ORDER -
A motion for the extension of the effectivity of a Temporary Lifting Order (TLO) may be filed with the Board at least fifteen (15) days before the expiration of the TLO, with proof of service of copies thereof to the Regional Office and the other parties. The Regional Office and the other parties shall file with the Board their comments within ten (10) days from receipt of the said motion. Only one motion for extension may be filed. The Board shall not extend the TLO except upon motion of respondent, nor shall it grant the motion for extension unless the respondent presents proof that the remedial measures approved by the Board in granting the TLO have been substantially instituted or that there has been a substantial improvement in the respondent's effluents or emissions.

SECTION 7. FAILURE TO COMPLY - Should the respondent fail to abate the pollution or implement the approved pollution control program, the Board shall deem the case submitted and promulgate the appropriate decision, which shall include making the Cease and Desist Order permanent and the imposition of fines and forfeiture of bonds.

SECTION 8. LIFTING OF CEASE AND DESIST ORDER AND TERMINATION OF THE CASE - Where, after a Temporary Lifting Order has been issued or extended, there is a definite finding that the respondent's effluents or emissions have passed the

allowable DENR Standards, the Board may, upon proper motion, issue a resolution formally lifting the Cease and Desist Order and terminating the case. Provided, That respondent has fully paid the fines imposed upon it.

Any future violation involving the same respondent shall warrant the filing of a new case, to be assigned a new docket number.

Every decision promulgated by the Board shall be in writing and under the seal of the Board, signed by a majority of its members, and shall clearly and distinctly state the facts and the law on which it is based. The Board shall decide each case within thirty (30) days after it is deemed submitted.

The Board shall make available for public inspection all decisions or final orders and resolutions in the adjudication of cases.

RULE X MOTION FOR RECONSIDERATION

SECTION 1. MOTION FOR RECONSIDERATION - The respondent may move for the reconsideration of an order, resolution or decision of the Board by filing an appropriate motion specifically indicating the grounds therefore, with proof of service of copies thereof to the Regional Office and the other parties, within fifteen (15) days from the receipt thereof. The Regional Office and the other parties shall file with the Board their comments within ten (10) days from receipt of the said motion. Thereafter, the motion shall be considered submitted for resolution, whether or not such comments are filed.

Only one motion for reconsideration of an order, resolution or decision of the Board shall be allowed. All papers and other documents subsequently filed shall be considered supplements. The Board shall decide the motion for reconsideration within thirty (30) days from its submission. The filing of a motion for reconsideration shall suspend the running of the period to appeal.

The movant shall file fourteen (14) copies of the motion for reconsideration with the Board.

RULE XI FINALITY OF DECISIONS

SECTION 1. FINALITY OF ORDER, RESOLUTION OR DECISION AND PERIOD TO APPEAL - Subject to the provisions of the preceding rule, any order, resolution or decision of the Board shall become final and executory after fifteen (15) days from the date of receipt thereof, unless a motion for reconsideration is filed or an

appeal is perfected within said period. The mere filing of an appeal shall not stay the decision of the Board.

RULE XII EXECUTION

SECTION 1. EXECUTION OF ORDER, RESOLUTION OR DECISION - The orders, resolutions and decisions of the Board, after they have become final and executory, shall be enforced and executed in the same manner as orders, resolutions and decisions of the Regional Trial Court. The Board shall have the power to issue to the City or Provincial Sheriff, the Regional Executive Director or the Regional Technical Director for Environment such writs as may be necessary for the enforcement and execution of such orders, resolution or decision. The PENRO or the CENRO may be directed by the Regional Executive Director to assist in the enforcement and execution of the orders, resolutions and decisions of the Board.

SECTION 2. RETURN OF THE WRIT OF EXECUTION - The writ of execution shall be made returnable to the Board at any time not less than ten (10) days nor more than thirty (30) days after its receipt by the implementing officer or team concerned. The implementing officer or team shall submit to the Board a report, signed by its members, on the whole of the proceedings taken to enforce and execute the order, resolution or decision, together with the corresponding proof of service, within forty-eight (48) hours after the completion of the enforcement and execution.

RULE XIII CONTEMPT

SECTION 1. DIRECT CONTEMPT - The Board or the Hearing Officer may cite in contempt and punish with a fine not exceeding Two Hundred Pesos (P200.00) any person:

- (a) who shall commit a misconduct in the presence of the Board or the duly designated Hearing Officer, or so near them as to seriously interrupt any hearing or proceeding: or
- (b) who, being present at a hearing, session or investigation, refuses to be sworn as a witness or to answer questions when lawfully required to do so.

The Board or the Hearing Officer may require the Sheriff or the police agencies of the place where the hearing or investigation is being conducted to assist in the enforcement of this action.

SECTION 2. INDIRECT CONTEMPT - Any person:

- (a) who fails or refuses to comply with the lawful orders, resolutions, decisions, writs or subpoenas issued by the Board; or

(b) who refuses entry into the premises of respondent to personnel duly authorized or deputized to conduct inspection or sampling,

shall, upon application by the Board with the appropriate court in accordance with the Rules of Court, be punished for contempt, without prejudice to the institution of criminal proceedings and the imposition of fines and penalties as provided in existing laws and rules and regulations.

RULE XIV ARBITRATION

SECTION 1. ARBITRATION - Any claim for reparation or restitution of damages and losses resulting from the pollution of water, air or land resources may be brought before the Board or the Regional Office for voluntary arbitration. The claim for restitution or reparation shall take into account the gravity and duration of the pollution and the extent and reasonable value of the damage and losses, based on the evidence presented by the parties. Any amount recovered in excess of the compensation due the aggrieved parties shall accrue to the General Fund of the Government.

If the pollution results in the death of fish or other aquatic life or destruction of the natural habitat necessary for the propagation of fish or other aquatic life, the person responsible for the pollution shall pay the Government for damages for fish or aquatic life destroyed. The reasonable value thereof shall be ascertained in consultation with the Bureau of Fisheries and Aquatic Resources and other appropriate agencies.

SECTION 2. PROCEEDINGS - A summary of the arbitration proceedings, and any settlement arrived at, shall be reduced to writing, duly attested by the Board Secretary or Hearing Officer.

SECTION 3. ASSISTANCE OF EXPERTS - Upon motion of either party or at the discretion of the Board or Hearing Officer, the assistance of experts may be sought on any technical matter or issue material to the subject of the proceedings.

SECTION 4. ELEVATION OF CASE TO THE BOARD - In case the parties to any arbitration proceedings at the level of the Regional Office fail to arrive at an amicable settlement of the case, the Hearing Officer shall, within fifteen (15) days from the termination of the proceedings, forward the entire records of the case, together with his certified report and recommendation, to the Board for final resolution.

SECTION 5. FINALITY OF AN AWARD OR RESOLUTION - An award or resolution in any case submitted for arbitration shall become final and executory fifteen (15) days after receipt of the award or resolution by the parties

SECTION 6. EXECUTION OF AWARD OR RESOLUTIONS - Awards or resolutions of the Board in arbitration proceedings shall be enforced and executed in the same manner as orders, resolutions and decisions of the Board.

RULE XV
COSTS AND EXPENSES

SECTION 1. COSTS AND EXPENSES - Costs shall be assessed and shall be for the account of the respondent. Actual expenses incurred in the Technical Conference, hearings, samplings and inspections, with the exception of routine samplings and inspections, and similar expenses, shall be for the account of the respondent. Costs and expenses shall be assessed in accordance with guidelines established by the Board.

SECTION 2. BOOK OF FEES - The Board and the Regional Office shall keep a separate book in which shall be recorded the costs and expenses assessed and the fees collected and paid, specifying for what matter and case the costs or expenses was assessed. Receipts shall be issued for all fees collected and paid, and the receipt number shall be recorded in the book. The book of fees shall be open for inspection by auditing officials and interested parties, subject to such reasonable guidelines as the Board may prescribe.

RULE XVI
ADMINISTRATIVE SANCTIONS AND CRIMINAL PROSECUTION

SECTION 1. ADMINISTRATIVE SANCTION - The Board shall impose the administrative sanctions and fines provided for in Section 9 of Presidential decree No. 984.

SECTION 2. COMPUTATION OF FINES THE - The amount of fines shall be computed in accordance with the existing guidelines of the Board. The amount of fines shall be computed from the date of sampling until the date of the actual cessation of the pollution or actual closure of the source of pollution, unless the actual number of days is proven otherwise by the respondent.

The respondent shall be furnished a copy of the tentative computation of fines during the Technical Conference and at later stages of the proceedings. The respondent may choose to pay said fines, without prejudice to the final computation.

SECTION 3. CRIMINAL PROSECUTION - The institution of an action under these Rules shall be without prejudice to, and shall not bar, a criminal prosecution for violation of the penal provisions of Presidential Decree No. 984 and its implementing rules and regulations. If the violator is a juridical person, the criminal case shall be filed against the managing head responsible for the violation.

**RULE XVII
LABORATORY ANALYSIS**

SECTION 1. LABORATORIES THAT MAY CONDUCT ANALYSIS - The laboratory analysis provided for under these rules may be conducted by the laboratories of the Department or other government agencies, or by privately-owned laboratories recognized by the Department.

SECTION 2. RESULTS OF LABORATORY ANALYSIS - During the pendency of a case under these Rules, the results of the laboratory analysis shall be immediately submitted to the Board or the Regional Office, as the case may be, with a copy thereof furnished by the laboratory to the respondent.

**RULE XVIII
MISCELLANEOUS PROVISIONS**

SECTION 1. TRANSITORY PROVISION - All cases currently pending with the Board shall, within one (1) year from the effectivity of these rules, be subject to the provisions hereof.

SECTION 2. SEPARABILITY CLAUSE - If any section or provision of these rules and regulations, or part thereof, is declared unconstitutional or invalid, the other sections or provisions thereof which are not affected thereby shall continue in full force and effect.

SECTION 3. REPEALING CLAUSE - Section 8 to 56 of Articles 2 to 8 of Chapter 1 of the Rules and Regulations of the National Pollution Control Commission (1978) are hereby repealed. All other policies, issuances, rules and regulations of the Board which are inconsistent with these rules are hereby repealed or modified accordingly.

SECTION 4. EFFECTIVITY CLAUSE - These rules shall take effect fifteen (15) days after publication in a newspaper of general circulation.

DONE in Quezon City this 3rd day of September in the year of our Lord, nineteen hundred and ninety-seven.