

PAB RESOLUTION NO. 01  
Series of 2010

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 is 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 involving violation of pollution control laws and environmental laws and prohibited acts cognizable by the PAB for adjudication pursuant to RA 8749, RA9275, PD1586, RA 6969 and RA9003 in relation to RA 9275, their implementing rules and regulations, DENR Administrative Orders, brought before the Board.

SECTION 3. CONSTRUCTION OF THE RULES - These Rules shall be liberally construed in order to achieve the objectives of Pollution Control and Environmental Management Laws 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 Offices. The Rules of Court shall not apply in proceedings before the Board except by analogy or in a suppletory character and only whenever applicable.

RULE II  
DEFINITION OF TERMS

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

(a) "Ability to pay" shall mean respondent's capability in paying the imposed fines as defined in PAB Resolution No. 4, Series of 2003. This is however, applicable only for those belonging to any of the categories, Micro, Cottage and Small Enterprises as defines by SMEED (Small and Medium Enterprise Development) Council Resolution No. 3 Series of 1995 (Redefinition of Micro, Cottage and Medium Scale Enterprises) as stated in the said resolution. This definition shall be subjected to review and upward adjustment by the SMED Council, as mandated under Republic Act No. 6977, as amended by Republic Act No. 8289.

(b) "Aquatic Life<sup>1</sup>" shall mean all organisms living in freshwater, brackish and marine environments.

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<sup>1</sup> Definition of Terms, R.A.9275

(c) "Adjudication<sup>2</sup>" shall mean the determination of a controversy and a pronouncement of a judgment as soon as PAB acquires jurisdiction after satisfying the procedural requirements from the Regional level based on evidence presented, implies a final judgment of the court or other body deciding the matter, as opposed to a proceeding in which the merits of the cause of action were not reached.

(b) "Barangay Micro Business Enterprise" as referred to in Rule III, Section 3, refers to any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, shall not be more than Three Million Pesos (P3,000,000.00). This definition shall be subjected to review and upward adjustment by the SMED Council, as mandated under Republic Act No. 6977, as amended by Republic Act No. 8289.

(d) "Board<sup>3</sup>" shall mean the Pollution Adjudication Board created under Section 19 of Executive Order No. 192, Series of 1987.

(e) "Bureau" shall mean the Environmental Management Bureau.

(f) "Cease and Desist Order (CDO)" shall refer to a formal demand immediately directing a person, facility, or any business entity to stop or refrain from doing, conducting an act or continuing a particular activity or course of action in violation of environmental laws; such as but not limited to, the operation of a particular machine, equipment, process or activity or doing a particular act expressly prohibited by law.

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

(h) "Clean-up operation<sup>4</sup>" shall mean the activities involving the removal of pollutants discharged or spilled into a water body and its surrounding areas, or onto any land form and the restoration of the affected areas to their former physical, chemical and biological state or conditions.

(i) "Contamination<sup>5</sup>" shall mean the introduction of substances not found in the natural composition of water or any land form, that make the water or land less desirable or unfit for its intended use.

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

(k) "Discharge<sup>6</sup>" includes, but is not limited to, the act of spilling, leaking, pumping, pouring, emitting, emptying, releasing or dumping of any material into a water body or onto land from which it might flow or drain into said water.

(l) "Dumping<sup>7</sup>" shall mean any unauthorized or illegal disposal into any body of water or onto land of wastes or toxic or hazardous material: Provided, that it does not mean a

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<sup>2</sup> Adopted from Law Dictionary 5<sup>th</sup> Ed by Steven H. Gilfis, Copyright 2003

<sup>3</sup> Definition of Terms, PAB Resolution 1-C

<sup>4</sup> See footnote 1

<sup>5</sup> See footnote 1

<sup>6</sup> See footnote 1

<sup>7</sup> See footnote 1

release of effluent coming from commercial, industrial, and domestic sources which is within the effluent standards.

(m) "Effluent<sup>8</sup>" shall mean a discharge from a known source which is passed into any body of water or ONTO land or wastewater flowing [out] of a manufacturing plant, industrial plant or any domestic, commercial and recreational facility.

(n) "Effluent Standard<sup>9</sup>" shall mean any legal restriction or limitation on quantities, rates, and/or concentrations or any combination thereof, of physical, chemical or biological parameters of effluent which a person or point source is allowed to discharge into a body of water or onto land.

(o) "Emission<sup>10</sup>" shall refer to any air contaminant, pollutant, gas stream which is passed into the atmosphere.

(p) "Emission Standard<sup>11</sup>" shall mean a standard stipulated in Section 19 of the Clean Air Act and Rule XXV of its Implementing Rules and Regulations.

(q) "Formal Lifting Order (FLO)" shall refer to an Order from the Board permanently setting aside the Cease and Desist Order for a particular violation after satisfactory compliance with the conditions set by the Board.

(r) "Ground Water<sup>12</sup>" shall mean a subsurface water that occurs beneath a water table in soils and rocks, or in geological formations.

(s) "Hazardous wastes" shall mean/refer to:

- A. Substances that are without any safe commercial, industrial, agricultural or economic usage and are shipped, transported or brought from the country of origin for dumping or disposal into or in transit through any part of the territory of the Philippines;
- B. By-products, side-products, process residues, spent reaction media, contaminated plant or equipment or other substances from manufacturing operations, and as consumer discards of manufactured products; or,
- C. Solid waste or combination of solid waste which because of its quantity, concentration, or physical, chemical or infectious characteristics may: cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(t) "Managing Head<sup>13</sup>" 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.

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<sup>8</sup> See footnote 1

<sup>9</sup> See footnote 1

<sup>10</sup> Definition of Terms, RA 8749

<sup>11</sup> See footnote 10

<sup>12</sup> See footnote 1

<sup>13</sup> See footnote 3

(u) "Notice of Violation (NOV)" refers to a document issued to a person, facility or business entity informing that person, facility or entity that certain acts or omissions in the course of its business operation or relating to the conduct of its business have been committed or ARE continuously being committed in violation of pollution and environmental management law/s.

(v) "ORED" shall mean any of the Offices of Regional Executive Director of the Department.

(w) "PENRO<sup>14</sup>" shall mean any of the Provincial Environment and Natural Resources Offices of the Department.

(x) "Person<sup>15</sup>" or "Persons" shall include any being, natural or juridical, susceptible of rights and obligations or of being the subject of legal relations.

(y) "Pollution<sup>16</sup>" 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 or emission 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.

(z) "Pollution Control Facility" or "Pollution Control Device<sup>17</sup>" shall mean any device or apparatus installed to prevent, control or abate pollution.

(aa) "Pollution cases" shall refer to controversies being resolved involving pollution control and environmental management laws.

(bb) "Pollution control and environmental management laws" shall refer to the relevant laws enacted by the executive branch of the Philippine Government.

(cc) "Regional Office<sup>18</sup>" shall mean any of the Regional Offices of the Environmental Management Bureau.

(dd) "Small Business Enterprise" shall mean any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, is more than Three Million Pesos (P3,000,000.00) but not more than Fifteen Million Pesos (P15,000,000.00).

(ee) "Stationary source<sup>19</sup>" refers to any building or fixed structure, facility or installation that emits or may emit any air pollutant.

(ff) "Technical Conference" shall refer to a meeting called OR CONVENED by the Regional Office or the Board for the purpose of: (1) giving the respondent or his duly authorized representative, the opportunity to contest the basis of A NOV as well as the basis of the applicable fines or penalties; (2) informing the respondent of the possibility of imposition and/or accrual of fines; and; (3) obtaining a commitment from the

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<sup>14</sup> See footnote 3

<sup>15</sup>Definiton of terms, IRR of PD 984

<sup>16</sup> Definition of Terms, IRR of PD 984

<sup>17</sup> See footnote 10

<sup>18</sup> See footnote 3

<sup>19</sup> See footnote 10

respondent to implement remedial measures to abate or mitigate the pollution complained of, or undertake to comply with required licensing or permitting conditions or requirement, or requirements of the regulations, as applicable, among others.

(gg) "Temporary Lifting Order (TLO)" shall mean an order issued by the Board, after a satisfactory showing of the respondent's compliance with specified conditions, to provisionally set aside the effect of a Cease and Desist Order and allow the limited operation of a facility or business but only for a specific purpose or for a limited period."

### RULE III JURISDICTION AND AUTHORITY OF THE BOARD

#### SECTION 1. JURISDICTION OF THE BOARD

A. General Jurisdiction- The Board shall have exclusive jurisdiction over the adjudication of pollution cases, and all other matters related thereto, including the imposition of administrative sanctions.

Pursuant to Section 19 of Executive Order 192, the powers and functions maybe delegated to the Regional Officers of the Department in accordance with rules and regulation to be formulated by the Board.

B. Specific Jurisdiction – Notwithstanding the general jurisdiction of the Board over adjudication of pollution cases, and all matters related thereto, the Board has specific jurisdiction, over the following cases:

1. Clean Air Act (RA 8749)
  - a. For actual exceedance of air quality standards or limitations provided under the Clean Air Act;
  - b. Any order, rule or regulation issued by the DENR with respect to such standard or limitation
2. Clean Water Act (RA 9275)

The PAB has the exclusive and original jurisdiction with respect to adjudication of pollution cases based on exceedance of the DENR Effluent Standards and other acts defined as prohibited under Section 27 of R.A. 9275.

3. Establishing an Environmental Impact Statement System (P.D. 1586)

The PAB has jurisdiction to hear cases of violation of P.D. 1586 and its IRR as defined in Section 27 (h) of R.A. 9275

4. Ecological Solid Waste Management Act (RA 9003)

The PAB has jurisdiction to hear cases of unauthorized transport and dumping into sea water solid waste as defined in R.A. 9003.

5. Toxic Substances and Hazardous Wastes Act RA 6969

The PAB has jurisdiction over cases of:

- a. Illegal transport or dumping or discharge of prohibited chemicals, substances or pollutants listed under R.A. 6969; and
- b. Operating facilities that discharges hazardous substances into water bodies.

SECTION 2. POWERS AND FUNCTIONS OF THE BOARD - The Board shall have the following powers and functions:

#### A. GENERAL POWERS OF THE BOARD

By virtue of section 19 of EO 192, the powers and functions pertaining to the Commissioners of the National Pollution Control Commission under P.D. 984, in relation to adjudication of pollution cases pursuant to Republic Act 3931 and P.D. 984, were transferred to the Board. Pursuant to this, the Board is vested with general adjudicatory powers.

In the adjudication of pollution cases, the board has the power and authority to, among others:

1. (e) Issue orders or decisions to compel compliance with the provisions of PD 984 and its implementing rules and regulations only after proper notice and hearing;
2. (f) Make, alter or modify orders requiring the discontinuance of pollution specifying the conditions and the time within which such discontinuance must be accomplished;
3. (g) Issue, renew, or deny permits, under such conditions as it may determine to be reasonable, for the prevention and abatement of pollution, for the discharge of sewage, industrial waste, or for the installation or operation of sewage works and industrial disposal systems or parts thereof: Provided, however, That the Commission [now PAB], by rules and regulations, may require subdivisions, condominium, hospitals, public buildings and other similar human settlements to put up appropriate central sewerage system and sewage treatment works, except that no permits shall be required of any new sewage works or changes to or extensions of existing works that discharge only domestic or sanitary wastes from a single residential building provided with septic tanks or their equivalent. The Commission [now PAB] may impose reasonable fees and charges for the issuance or renewal of all permits herein required;
4. (j) Serve as arbitrator for the determination of reparations, or restitution of the damages and losses resulting from pollution;
5. (k) Deputize in writing or request assistance of appropriate government agencies or instrumentalities for the purpose of enforcing this Decree and its implementing rules and regulations and the orders and decisions of the Commission [now PAB] ;
6. (p) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Decree.

7. Issue to the City or Provincial Sheriff or duly constituted authorities whom it may appoint, such writs of execution as may be necessary for the enforcement of such decisions or orders;
8. Promulgate rules and regulations for the delegation of the powers and functions of the Board to the Regional Offices of the Department;

B. EXPANDED POWERS OF THE BOARD

Pursuant to specific laws, the Board shall exercise, but not be limited to, the following powers:

B.1 Under Section 45 of RA 8749 (CAA) the Board shall:

1. Impose fines against the owner or operator of a stationary source,
2. Prepare a fine rating system to adjust the maximum fine based on the violator's ability to pay, degree of willfulness, degree of negligence, history of noncompliance and degree of recalcitrance,
3. Order the closure, suspension of development or construction, or cessation operations of the stationary sources until such time that proper environmental safeguards are put in place, and;
4. Issue an *ex parte* order for such closure, suspension of development or construction, or cessation of operations.

B.2 Under Section 48 of the Clean Air Act, the Board shall:

5. Recommend to the proper government agencies to file the appropriate criminal charges against the violators of the Act.
6. Assist the public prosecutor in the litigation of cases.
7. Adopt and promulgate the rules of practice and procedure in air pollution cases from stationary sources under this Act, pursuant to Section 2, Rule L of the IRR of Clean Air Act.

B.3 Under Section 28 of R.A. 9275, Clean Water Act of 2004, the Board shall:

8. Recommend to the DENR Secretary the imposition of fines for acts of omission prohibited under Section 27 of the Act.
9. Recommend to the DENR Secretary the issuance of Cease and Desist Order for acts of omission prohibited under Section 27 of the Act.
10. Recommend closure, suspension of development or construction, or cessation of operations or, where appropriate, disconnection of water supply under Section 28 of the Act.
11. Recommend filing of criminal charges against violators of acts prohibited by Section 28.

12. Recommend to the DENR Secretary to order the Local Water District or private water supplier to disconnect the water service of the violator.
13. Revoke or suspend a discharge permit.
14. Determine liability for clean-up.

#### RULE IV ACTIONS AND PARTIES

SECTION 1. WHO MAY BE PARTIES – Any person, party, entity 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 a complaint is called the "COMPLAINANT," and the party against whom a complaint is filed shall be called the "RESPONDENT."

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.

For complaints filed directly with the PAB, the PAB may choose to assume jurisdiction over the case at once or remand the case to the Regional Office.

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. PERMISSIVE JOINDER OF PARTIES. – All persons in whom or against whom any right to relief in respect to or arising out of the same act or omission or series of acts or omissions is alleged to exist, whether individually or collectively, may join as complainants or respondents in one complaint.

SECTION 4. COMPULSORY JOINDER OF INDISPENSABLE PARTIES. – Parties in interest without whom no final determination of the action can be achieved shall be joined either as complainants or respondents.

SECTION 5. FORM AND CONTENTS OF COMPLAINTS. – The complaint shall be in writing and under oath, 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.



Section 6. MOTIONS, PLEADINGS AND POSITION PAPERS. Except for the complaint, which may be filed in a single copy, all motions, pleadings, position papers and other similar papers, submitted to the Regional Office and the Board shall be filed in seven (7) and fourteen (14) copies respectively.

SECTION 7. 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)

IN THE MATTER OF THE  
WATER/AIR POLLUTION  
CONTROL AND ABATEMENT CASE /  
[VIOLATION OF SPECIFIC THE LAW]

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

- versus

FOR: (State the nature/cause of action)

Respondent.

X ----- x

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. EFFECT OF TRANSFER OF INTERESTS. - in case of any transfer of interest, the action may be continued by or against the original party, unless the Board orders the person to whom the interest is transferred to be substituted in the action or joined with the original party.

#### RULE V ACTION UPON COMPLAINT

##### A. COMPLAINTS DIRECTLY FILED WITH THE BOARD OR CASES WHERE THE BOARD MOTU PROPIO ORDERS INVESTIGATION

SECTION 1. ENDORSEMENT TO THE REGIONAL OFFICE. Where the Board finds that a complaint filed directly with it is proper, or where the Board *motu proprio* orders investigation, the said complaint or order, shall be endorsed to the Regional Office concerned within three (3) working days for investigation.

SECTION 2. INVESTIGATION AND REPORT. Within three (3) working days from receipt of such endorsement, the Regional Office shall conduct an investigation and within seven (7) working days from the investigation, the Regional Office shall submit a report to the Board stating the action taken by the Office, result of investigation, status of the case and further action recommended to the Board.

##### B. COMPLAINTS FILED WITH OR CASES ENDORSED TO THE REGIONAL OFFICE

SECTION 3. ENDORSEMENT TO THE REGIONAL OFFICE. Where a complaint, is filed with the Regional Office, or if it is endorsed to the latter by the Board, or if endorsed by the Department, any of its office, agency, bureau or unit, PENRO, CENRO, the EMB Regional Director or the duly authorized representative shall within three (3) working days upon receipt, order the investigation of the complaint.

SECTION 4. INVESTIGATION AND REPORT BY THE REGIONAL OFFICE. Within ten (10) days from the investigation or within three (3) working days after the samples taken have been analyzed, the Regional Office shall submit a report on the action taken by the Office, the result of investigation and the status of the case to the originating Office and the Board. Where the case has already been elevated to the Board, the party may request for a copy of the investigation report within five (5) days from the submission of report by the Regional Office

### C. COMMON PROVISIONS

SECTION 5. ISSUANCE OF NOTICE OF VIOLATION – Where, after the conduct of investigation pursuant to the preceding provisions (Rule V-A and V-B), there is *prima facie* evidence of a violation, the Regional Director shall issue a Notice of Violation against the respondent, a copy of which shall be transmitted to the Board within three (3) days

SECTION 6. CONTENTS OF THE NOTICE OF VIOLATION. The Notice of Violation shall state and include, among others, the following:

- a. A copy of the complaint, the investigation, inspection or monitoring report;
- b. Pertinent provisions of laws, rules, orders, permitting conditions, etc. that are being violated;
- c. Date of the Technical Conference, which shall not be later than ten (10) days from the date of Notice and the failure of such respondent to attend the technical conference or submit his position paper on the said date, shall mean a waiver of his right to contest the findings of the report or present evidence in his defense and the case may be decided based on evidence on record; and,
- d. Depending on the nature of the violation, any immediate and urgent steps and measures necessary to mitigate, abate or stop certain acts or omissions.

SECTION 7. RESULTS OF TESTS. Where inspections and samplings are conducted, the Regional Office shall, within five (5) days from the release of the results laboratory analyses, furnish a copy of the same to Respondent.

SECTION 8. ISSUANCE OF CEASE AND DESIST ORDER. Where there is *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 greatly exceeds the allowable DENR Standards, as provided in guidelines established by the Board, the Regional Director may immediately issue an Interim CDO pursuant to the provisions of the applicable law, which shall be effective for a period not longer than seven (7) days. The Interim CDO shall in all respect be considered as a regular CDO if

it is subsequently confirmed by the Board or the Secretary, as the case may be. Such confirmation may only be made prior to the lapse of the Interim CDO.

SECTION 9. MONTHLY REPORTS OF REGIONAL OFFICE. The Regional Office shall submit monthly reports to the Board of the NOV's issued and status of the cases referred, endorsed, investigated and acted upon every 5<sup>th</sup> day of the month. The PAB Secretariat shall devise a standard format of reporting.

SECTION 10. BOARD ACTION ON NOV'S ISSUED. The monthly reports of the NOV's issued shall be consolidated and calendared for the Board's information in the next Board meeting of the following month, without prejudice to the Board issuing specific instructions to the Regional Office concerned, as deemed necessary. The Board shall also submit a quarterly report of its actions to the Secretary or whenever it is deemed necessary.

RULE VI  
HEARING OFFICERS  
(Cases heard before the Regional Office)

SECTION 1. HEARING OFFICERS - In cases before the Regional Office, the Regional Director or the duly authorized representative designated by the Regional Director 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 functions:

- a. Preside over the Technical Conference;
- b. Hear cases and receive evidence subject to these rules and exercise full and active control of the proceedings at any stage thereof;
- c. Issue subpoena *ad testificandum* and subpoena *duces tecum*;
- d. Administer oaths on all matters or proceedings related to the performance of his duties;
- e. Cite for contempt in accordance with these Rules;
- f. Ensure that for cases endorsed to the Board, all the following documents are attached:
  1. Copy of the Original Complaint;
  2. Notice of Violation issued to Respondent;
  3. Position Paper submitted by the Respondent;
  4. Commitment sheet executed by the Respondent or duly authorized representative;
  5. Minutes of the technical conference;

6. Results of laboratory analysis of sampling conducted;
  7. Report of the inspection or investigation conducted; AND,
  8. Such other relevant information and documents concerning the case.
- g. Submit monitoring reports and documents as directed by the Board.

## RULE VII COMPLIANCE AND ENDORSEMENT TO THE BOARD

SECTION 1. TESTING AND MONITORING AFTER THE COMPLIANCE PERIOD. Within five (5) days from expiration of the period agreed upon or as a result of the Technical Conference, a compliance test inspection and/or sampling shall be conducted by the Regional Office and the results thereof shall be reported within five (5) days after the results have been analyzed.

SECTION 2. COMPLIANCE BY THE RESPONDENT. If the result of the inspection and sampling conducted indicates that the respondent has satisfactorily complied with the standards, rules and orders and/or corrected any violation, the Regional Office shall within five (5) days elevate the case to the Board for computation and imposition of fines by the Board.

SECTION 3. MANIFEST ERROR AND PATENT DISREGARD OF GUIDELINES IN THE COMPUTATION OF FINES. Notwithstanding the above section, the fine or penalty initially computed by the Regional Office may be amended, modified, or nullified by the Board, if the calculation and imposition of penalty was done with manifest error and patent disregard of fine rating guidelines issued by the Board. This authority of the Board shall not be subject to prescription.

SECTION 4. STAGGERED PAYMENT SCHEME ALLOWED ON MERITORIOUS GROUNDS. Upon respondent's motion that is not financially capable of paying the entire amount of the fines imposed upon it as provided in the guidelines for rating of fines, the Board may allow respondent to pay the amount due in monthly installments within a period not exceeding one (1) year. A provisional Certificate of Compliance signed by the Board Secretary may thereafter be issued for the purpose of obtaining environmental permits, without prejudice to any actions that the Board may subsequently take in case of respondent's default. Should the respondent default on any of the monthly installment, the remaining balance shall become due and demandable.

SECTION 5. TRANSMITTAL OF RECORDS TO THE BOARD. For cases elevated to the Board, the original records of the case shall be transmitted to include:

- a. The copy of the complaint, the inspection or monitoring report;
- b. The Notice of Violation;
- c. Position Paper by the Respondent;
- d. Commitment Sheet and/or Compliance Plan;
- e. The Minutes of the Technical Conference;

- f. Report and Results of the testing, monitoring and inspection conducted;
- g. Copy of the Resolution of the case; and,
- h. other relevant documents and papers related to the case.

RULE VIII  
COMMON PROVISIONS ON HEARING OF CASES

SECTION 1. SUBPOENA - 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 at least five (5) days prior to the scheduled hearing. The Board or Hearing Officer shall issue the subpoena upon a showing of general relevance.

SECTION 2. OCULAR INSPECTION – Whenever necessary to the determination of the issues surrounding the case, the Board or Hearing Officer may direct the conduct of an ocular inspection.

SECTION 3. 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 a reasonably prudent man in the conduct of his 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; and,
- (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 4. 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 5. INTERVENTION BY AN INTERESTED PARTY - Any party who claims to have an interest in 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 6. CONSOLIDATION OF CASES - Where there are two (2) or more cases pending before the Board or before different Hearing Officers involving the same respondent (pollution source) and issues, the cases subsequently filed shall be consolidated with the first case 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.

SECTION 7. ORDERS, RESOLUTIONS AND DECISIONS. Every order or decision promulgated by the Board or the Regional Office 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.

SECTION 8. PRONOUNCEMENTS ON COSTS AND EXPENSES. Every order shall contain pronouncements on costs and expenses against the respondent subject to the provisions of Rule XVII.

SECTION 9. DECISIONS AND FINAL ORDERS ARE PUBLIC RECORDS. The Board shall make available for public inspection all decisions or final orders and resolutions in the adjudication of cases.

SECTION 10. ANNUAL INVENTORY OF CASES. The Board and Regional Offices shall conduct an annual inventory of cases indicating the progress and status. The inventory shall be conducted from the last week of December until the second week of January.

The Regional Offices shall submit the report not later than the third week of January and it shall be calendared for the Board's information in its last meeting for the month of January.

## RULE IX 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; provided that; at least one (1) representative from the private sector must be present in the ad hoc committee or in the subsequent Board meeting where the confirmation is decided upon.

SECTION 4. SPECIAL AUTHORITY - If the Board cannot convene in a special meeting because of the absence of a quorum, the DENR Secretary upon recommendation of the Presiding Officer, in cases involving 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 Presiding Officer 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 - 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, except where the Board, in its discretion, provides for oral arguments or for the presentation of additional evidence.

SECTION 6. PRESIDING OFFICER - The Secretary, who is also the Chairman of the Board shall in his absence designate a Presiding Officer and an Alternate Presiding Officer from the Members of the Board to preside over the hearings of the Board in his absence.

#### RULE X 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 or recommend to the DENR Secretary 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 (CDO) shall be immediately executory and shall remain in force and effect until modified or lifted by the Board or the DENR Secretary.

The Board or the DENR Secretary 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.

SECTION 2. CEASE AND DESIST ORDER AGAINST WHO ISSUED. A CDO shall be issued against the respondent immediately directing it to stop or refrain from doing, conducting an act or continuing a particular activity or course of action in violation of environmental laws; such as but not limited to, the operation of a particular machine, equipment, process or activity or doing a particular act expressly prohibited by law.

SECTION 3. CDO UNDER THE CLEAN AIR ACT. Under the Clean Air Act, the PAB shall order the closure, suspension of development, construction, or operations of the stationary sources until such time that proper environmental safeguards are in place. (Chapter VI, Section 45)

SECTION 4. BOARD ACTION ON INTERIM CEASE AND DESIST ORDER. Where an interim CDO effective for seven (7) days has been issued by the Regional Director the Board shall issue a Cease and Desist Order or recommend to the Secretary the issuance of a CDO, pursuant to the provisions of the applicable law.

SECTION 5. REMEDY OF RESPONDENT. The respondent may contest the order by filing a motion to lift the order with the Board, with proof of service of copies thereof to the Regional Office and the other parties.

The Board shall direct the Regional Office which has jurisdiction over the case and the other parties to file their comments within five (5) 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 6. IMPLEMENTATION OF CEASE AND DESIST ORDER - The Regional Director or his duly authorized representative, in coordination with the Regional Executive Director (RED) 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 or cannot be implemented, the Regional Director shall submit a written report to the Board stating therein the causes of delay or non-execution.

The implementing team shall be designated by the Regional Director.

In the implementation of Cease and Desist Orders, the Regional Director shall observe the following guidelines:

1. Upon issuance or receipt of the CDO by the Board, the EMB Regional Director or his duly authorized representative shall inform the local government unit (province/municipality/city) concerned regarding the implementation thereof by furnishing it with copies of the Orders received from the Board;
2. Upon arrival at the respondent's premises, the implementing team shall present proper identification as well as its mission Order duly signed by the Regional Director;
3. The head of the implementing team shall discuss the contents of the CDO with the Managing Head and the Pollution Control Officer, or in their absence any person in-charge thereon;
4. After the briefing, the team shall proceed with the execution by padlocking and sealing the source from which the effluent or emission were being generated;



5. Should there be refusal on the part of the respondent to have the CDO implemented, the head of the implementing team shall report such incident to the Regional Director, without prejudice to such respondent being declared in contempt and other criminal liability under relevant laws;
6. The Regional Director, whenever it is deemed necessary, may seek the assistance of the Local Government Units (LGUs) and/or Philippine National Police (PNP) through its PNP Regional Director. The written communication shall state the urgency of having the CDO implemented within the seventy-two (72) hour period as prescribed in the existing Rules;
7. The LGUs and/or the PNP together with the same implementing team may break into respondent's premises for the purpose of implementing the CDO in accordance with number four (4) above; and
8. After the execution, the Regional Office shall document the same with the taking of photographs/videos and thereafter notify respondent that the removal of the padlocks and seals is a criminal offense punishable by existing environmental laws rules and regulations without prejudice to such respondent being declared in contempt and other criminal liability under relevant laws.

SECTION 7. SHOW CAUSE ORDER – instead of issuing a CDO, the Board may opt to direct respondent to Show Cause why no CDO be issued against it, subject to these criteria:

1. The results of a series of effluent samplings shows a marked decrease in the values of the relevant parameters; or
2. The values of the relevant parameters are not far from the DENR Standards.

#### RULE XI TEMPORARY AND FORMAL LIFTING ORDERS

SECTION 1. TEMPORARY LIFTING ORDERS. – Upon Motion of the respondent, the Board may issue or in case of violation under CWA, recommend to the Secretary the issuance of a TLO after a satisfactory showing of respondent's compliance with the conditions provided in the CDO. The TLO shall have the effect of provisionally setting aside the CDO and allow the limited operations with a facility or limited operations of business for specific purpose to be determined by the Board.

A TLO may only be issued for the purpose of implementing a pollution control program or for the purpose of conducting a sampling and or payment of fines.

SECTION 2. REQUIREMENTS FOR THE ISSUANCE OF A TEMPORARY LIFTING ORDER - No TLO shall be issued unless the respondent submits the following:

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

- (1) The proposal containing the comprehensive PCP, including the plans and specifications of the respondent's anti-pollution facility, budget and the Gantt chart of activities relate thereto; provided that the signatory thereof shall be the owner if the respondent is a sole proprietorship, or the managing head and/or its Board

Secretary, duly authorized by the Board of Directors, if respondent is a corporation;

(2) A surety bond equivalent to twenty-five percent (25%) of the total cost of the pollution control program, which shall likewise include the following conditions:

a. the period within which the PCP is to be completed shall include the period necessary for installing or preparing the facilities, machines, devices and/or stacks for sampling or inspection;

b. that surety guarantees respondent's compliance with the timetable of construction or completion as indicated in the Gantt Chart of activities in relation to the installation of such facilities and machines, consistent with the period stipulated in the PCP;

c. surety's commitments that upon completion of the proposed PCP, respondent's effluent or emission shall comply with the appropriate standard.

(3) A detailed description of the interim remedial measures to be instituted by the respondent in order to address the source of pollution within the shortest time possible pending the completion of the PCP;

(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 to comply with the conditions imposed by the Board, signed by the respondent or its duly authorized managing head; and

(6) A written commitment to comply with such other conditions that 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 to comply with the conditions imposed by the Board, signed by the respondent or its duly authorized managing head;

(3) Where a commitment to undertake a PCP was made by the respondent during the Technical Conference, a certification from the Regional Office that such a PCP has been fully completed or implemented; and

(4) A written commitment to comply with such other conditions that the Board may deem appropriate under the circumstances.

**SECTION 3. TEMPORARY LIFTING ORDER FOR PURPOSES OF IMPLEMENTING POLLUTION CONTROL PROGRAMS** – The Board may, upon proper motion of the Respondent, issue or recommend to the DENR Secretary pursuant to the provisions of the applicable law, a Temporary Lifting Order (TLO) to allow the implementation or completion of comprehensive pollution control programs subject to the conditions provided under Section 3-A.

The TLO issued pursuant to this section shall be effective for a period to be determined by the Board, based on the complexity of the operations involved and the technical nature of the pollution control program, which in no case shall exceed thirty (30) days. However, the Board may, upon proper motion and for meritorious reasons, extend the effectivity of the TLO beyond such a period, subject to the submission of weekly progress reports.

SECTION 4. WEEKLY PROGRESS REPORTS REQUIRED. Where a Temporary Lifting Order (TLO) is issued for the purpose of implementing pollution control programs, the Respondent shall be required to submit weekly progress reports indicating therein the latest status of the construction or rehabilitation, the percentage of work completed, and the proposed date of sampling. Failure to submit the progress reports shall be a ground for the revocation of the TLO issued.

SECTION 5. LAPSE OF THE TLO. Upon the lapse of the period specified in the Temporary Lifting Order or failure to submit the progress reports, the Cease and Desist Order (CDO) shall automatically resume its effectivity, without prejudice to the filing by respondent of a Motion for the extension of the TLO before the lapse of the said period.

SECTION 6. MOTION FOR EXTENSION OF TEMPORARY LIFTING ORDER ISSUED UNDER SECTION 3-A - A motion for the extension of the period specified in the TLO issued under Section 3-A hereof may be filed with the Board at least fifteen (15) days before the expiration of the TLO, with proof of service of copies thereof on the Regional Office and the parties concerned. The Regional Office and the parties concerned may file with the Board their comments thereto within ten (10) days from receipt of the said motion. No TLO shall be extended by the Board except upon motion of respondent, and neither shall any motion for extension be granted unless the respondent presents competent proof that;

1. The remedial measures approved by the Board or the Regional Office in granting the TLO have been substantially instituted;
2. That there has been a substantial improvement in the respondent's effluents or emissions;
3. The respondent has regularly submitted the weekly progress reports; and,
4. The Respondent has fully paid the fines imposed for previous violation/s committed;

SECTION 7. TEMPORARY LIFTING ORDER FOR SAMPLING PURPOSES – Subject to Section 3-B hereof, any TLO issued to enable the Regional Office to take samples shall not exceed fifteen (15) days. Upon the lapse of the said period, the CDO shall automatically resume its effectivity; without prejudice to the CDO taking effect prior to the expiration of the said period, upon proof that the result of the analyses of the samples taken indicates non-compliance with the standards.

SECTION 8. FORMAL 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 for a series of two (2) consecutive samplings taken from its completed wastewater treatment facility or air pollution control facility, the DENR Secretary or the Board, may, upon proper motion, issue a resolution formally lifting the

Cease and Desist Order and terminating the case; Provided that, the Respondent has fully paid the fines imposed upon it.

SECTION 9. FAILURE TO COMPLY – should the respondent failed to abate the pollution or fully implement the approved pollution control program or comply with the standards or any order of the Board, the Board or the Regional Office in cases falling within its jurisdiction shall, upon the expiration of the TLO or prior to its expiration in cases covered by Section 8 hereof, deem the case submitted for resolution and thereafter promulgate the appropriate decision, which shall include the reinstatement of the CDO and the imposition of fines and/or forfeiture of bonds.

SECTION 10. FUTURE VIOLATION. Any future violation involving the same respondent shall warrant the filing of a new case, to be assigned a new docket number.

## RULE XII APPEAL FROM ORDERS OF THE BOARD

SECTION 1. SUBJECT MATTER. An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter.

SECTION 2. EFFECT OF APPEAL. Appeal taken from a judgment or final order shall not stay the execution of such judgment or Order of the Board.

SECTION 3. APPLICATION OF RULE 43 OF THE REVISED RULES OF COURT. Appeals taken from orders of the Board shall be governed by Rule 43 of the Revised Rules of Court.

## RULE XIII FINALITY OF DECISIONS

SECTION 1. FINALITY OF ORDER, RESOLUTION OR DECISION – Any order, resolution or decision of the Board, Regional Office or DENR Secretary shall become final and executor fifteen (15) days after the receipt of a copy thereof by the party adversely affected, unless a motion for reconsideration is filed or an appeal is perfected within said period. One motion for reconsideration may be filed, which shall suspend the running of the said period. The mere filing of an appeal shall not stay the decision of the Board.

Section 2. BOOK OF ENTRY OF JUDGMENT – The Secretariat shall keep a Book of Entry Judgment, containing in chronological order the entries of all Final Orders, Decisions and Resolutions issued by the Board.

## RULE XIV 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 or the DENR Secretary shall have the power to issue to the Sheriff such writs as may be necessary to enforce and execute such orders, resolution or decision. The PENRO or the CENRO may be requested by the Regional 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 not less than ten (10) days nor more than thirty (30) days after its receipt by the implementing officer or team concerned. The said officer or team shall, within forty-eight(48) hours from the completion of the enforcement or execution of the order, resolution or decision, submit to the Board a report signed by him or its members, as the case may be, stating the whole of the proceedings taken to enforce the said order, resolution or decision, together with the corresponding proof of service.

RULE XV  
CONTEMPT

SECTION 1. DIRECT CONTEMPT PUNISHED SUMMARILY — A person guilty of misbehavior in the presence of or so near the Board or Hearing Officer as to obstruct or interrupt the proceedings before the same, including disrespect toward the Board or Officer, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by the Board and punished by a fine not exceeding two thousand pesos or imprisonment not exceeding ten (10) days, or both.

SECTION 2. REMEDY THEREFROM — The person adjudged in direct contempt by the Board or Hearing Officer, may not appeal therefrom, but may avail himself of the remedies of certiorari or prohibition. The execution of the judgment shall be suspended pending resolution of such petition, provided such person file a bond fixed by the Board or Hearing Officer which rendered the judgment and conditioned that he will abide by and perform the judgment should the petition be decided against him.

SECTION 3. INDIRECT CONTEMPT TO BE PUNISHED AFTER CHARGE AND HEARING — After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the Board or Hearing Officer and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of the Board, the Hearing Officer or staff or personnel of the Regional Office or the PAB Secretariat in the performance of his official duties or acting in his official capacity in carrying out the functions under the Rules;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of the Board, Hearing Officer or the Regional Office or the PAB Secretariat;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a Board not constituting direct contempt under section 1 of this Rule by the Hearing Officer or the Regional Office or the PAB Secretariat;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Failure to obey a notice of hearing duly served;

(f) Any person who fails or refuses to comply with the lawful orders, resolutions, decisions, writs or subpoenas issued by the Board; or who refuses entry into the premises of respondent to personnel duly authorized or deputized to conduct inspection or sampling.

SECTION 4. HOW PROCEEDINGS COMMENCED — Proceedings for indirect contempt may be initiated *motu proprio* by the Board or Hearing Officer against whom the contempt was committed, upon grounds and in the manner prescribed under the

Revised Rules of Court.

SECTION 5. PUNISHMENT FOR INDIRECT CONTEMPT — If the respondent is adjudged guilty of indirect contempt committed against Board, he may be punished by a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both or as provided in existing laws and rules and regulations.

SECTION 6. CONTEMPT NOT BAR TO FURTHER ACTION. The penalty or liability provided under this rule shall be without prejudice to the filing of appropriate charges, criminal or otherwise, specifically punished under applicable laws, rules or orders.

#### RULE XVI 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.

SECTION 7. ARBITRATION AWARD MADE IN FAVOR OF PRIVATE PARTIES. Any payments made in favor of private parties in satisfaction of any liability for loss or damages shall be without prejudice to the imposition by the Board of the appropriate fines and penalties pursuant to applicable laws, rules or orders.

RULE XVII  
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 to be 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.

SECTION 3. ANNUAL REPORT ON FEES COLLECTED AND ASSESSED. Regional Offices shall prepare and submit to the Board an annual report of the costs and expenses assessed and fees collected and paid, the report shall be submitted to the Board not later than January 30 of the following year and shall be calendared by the Secretariat on the first meeting of the Board for the month of February.

RULE XVIII  
ADMINISTRATIVE SANCTIONS, REPORTS AND CRIMINAL PROSECUTION

SECTION 1. ADMINISTRATIVE SANCTION - The Board shall impose the administrative sanctions and fines pursuant to provisions of applicable laws, rules and orders.

SECTION 2. COMMITTEE ON FINES – A Committee on Fines composed a Chairman and Co-Chairman, who shall come from the Members of the Board, one (1) Legal Counsel and three (3) members of the technical secretariat shall primarily conduct and review the computation of fines and penalties, for approval by the Board. (PAB Resolution 01-2002)

Should four (4) members of the Board attend the committee meeting thus constituting a quorum, the committee meeting will then be treated as a regular PAB hearing.

SECTION 3. COMPUTATION OF FINES - 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 following proceedings shall be observed in the computation and presentation of fines:

- a) After determining that the only issues that remain outstanding involve the payment of fines and whenever the Board deems it necessary, the Board Secretary, acting by the authority of the Board, shall issue a "Notice of Technical Conference" or a Memorandum directing the Regional Office to

- conduct a technical conference with the respondent, attaching thereto the initial computation of the fines imposed;
- b) During the said conference, the basis of the computation of the fines shall be explained to the respondent, which shall include such details as the date of sampling and results of laboratory analysis of samples collected, among others;
  - c) Upon the termination of the conference, respondent shall be required to sign a commitment sheet, which shall in no case exceed sixty (60) days from the date of the conference;
  - d) After receipt of the position paper, or within fifteen (15) days from the termination of the conference if none has been filed, the secretariat shall present its recommendation as to the imposable amount to the Committee on Fines indicating therein the basis of the computation;
  - e) The Committee on Fines may approve the Secretariat's recommendation, or defer action thereon and direct the reception of the additional evidence;
  - f) Thereafter, the amount approved by the Committee on Fines shall forthwith be presented to the Board for its consideration;
  - g) If the Board concurs with the Committee on the amount recommended by the Secretariat, the Board shall issue an Order directing respondent to pay the fines in full within fifteen (15) days from receipt thereof. Otherwise, the Board may remand the case to the Committee on Fines for further deliberation;
  - h) **In cases where** the Regional Office conducts the Technical Conference, a comprehensive report shall be submitted to the Secretariat within ten (10) days from the termination of the conference. Position papers and other documents submitted by respondent to the Regional Office shall likewise be transmitted to the Secretariat for the consideration of the Committee. (Resolution 02-2006 amending Resolution 02-2003 and Resolution 01-2003).

The failure of respondent to present competent evidence in relation to a particular period in its computation shall be construed as an admission that no such evidence exists, and respondent shall thereafter be barred from claiming otherwise.

SECTION 4. CRIMINAL PROSECUTION - The institution of an action pursuant to these Rules shall be without prejudice, nor shall it be bar, to the filing of a complaint for the violation of the penal provisions of applicable laws and their implementing rules and regulations.

#### RULE XIX 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 or accredited by the Department; provided that, in cases where the respondent has a private laboratory or is the subsidiary or parent company with an in-



house laboratory, it shall secure the services of an independent accredited laboratory to conduct the analysis.

SECTION 2. SAMPLES TAKEN IN PRESENCE OF EMB PERSONNEL – to ensure strict compliance with protocols and procedures, no sampling shall be conducted at the instance of respondent except in the presence of a duly-authorized personnel of EMB, otherwise the result thereof may be disregarded.

SECTION 3. 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.

SECTION 4. EFFECT OF COLLUSION – any act of collusion or connivance between the respondent and the laboratory that conducted the analysis shall render the same void and without any probative value whatsoever. In addition, the report containing the said laboratory analysis shall be stricken from the records.

SECTION 5. LIABILITY FOR COLLUSION. Subject to Rule XV herein, contempt proceedings may be initiated by the Board against parties liable for such collusion or connivance without prejudice to the filing of appropriate charges, whether criminal or otherwise, including the cancellation of any professional license or accreditation.

In addition, the recognition or accreditation of the laboratory by the Department may be cancelled or revoked.

## RULE XX REPORTORIAL REQUIREMENTS FROM RESPONDENTS

Section 1. MONTHLY REPORTS FROM RESPONDENTS WITH PENDING CASES. All respondents with pending cases with the Board shall be required to submit monthly self monitoring reports (SMR) to the Board in accordance with the Procedural and Reference Manual for DAO 2003-27, the following shall be observed:

- a. submission of general information (Module 0) and the corresponding amendments or changes (Module 1), whenever applicable;
- b. monthly submission of SMR (Module 3) for violations of the Clean Water Act (RA 9275);
- c. monthly submission of SMR (Module 4) for violations of the Clean Air Act (RA 8749);
- d. submission of other undertakings/commitments as provided for in Module 6 of the Procedural Reference Manual, as the need arises.

All SMRs shall be under oath, signed by the owner, if respondent is a single proprietorship, or by the managing head and its PCO if respondent is a corporation. SMR's shall be submitted not later than the 14<sup>th</sup> day of the following month, duly received by the Regional Office concerned. Finally, the Regional Offices shall furnish the Board, not later than January 30 and July 30, semi-annual list of companies or entities that have

complied with the above requirements. (PAB Resolution 02-2001 as amended by PAB Resolution 03-2004)

RULE XXI  
ARCHIVE OF CASES

SECTION 1. INACTIVE CASES. Inactive cases shall refer to those cases that have remained dormant or that have not been calendared before the Board for a period of more than five (5) years. The Board shall adopt these criteria in the archiving of inactive cases:

- a. Pending cases in which the issue remaining for resolution involves solely permit violations under Presidential Decree 984;
- b. Pending cases without any record or evidence (e.g., results of laboratory analysis) of either air or water pollution;
- c. Cases that have already been finally resolved by the Board (i.e., Total [sic] Lifting Order, Lifting Order or Permanent Lifting Order);
- d. Pending cases where the entity/ies corporate existence is terminated pursuant to existing laws as certified by the Securities and Exchange Commission or other government regulatory agency; and,
- e. Pending cases that have remained inactive for more than ten (10) years to which the Board in its discretion fairly assumed that the failure to prosecute pollution fines within a reasonable period was brought about by delays not attributable to the Respondents.

SECTION 2. ARCHIVED - The existence of any of the above enumerated standards shall be sufficient basis for the issuance by the Board of a Resolution directing the Secretariat to archive a case

RULE XXII  
MISCELLANEOUS PROVISIONS

SECTION 1. RULES OF PROCEDURE FOR ENVIRONMENTAL CASES (A.M.No. 09-6-8-SC) –

- A. The Rules of Procedures for environmental cases promulgated by the Supreme Court on April 29, 2010 shall not affect the jurisdiction of the Board vested by the Clean Air Act and Clean Water Act and shall continue to adjudicate water and air pollution cases.
- B. The sanctions and administrative penalties imposed by the Board shall be without prejudice to the other reliefs to be granted by the court under the Rules of Procedure for Environmental Cases such as but not limited to Writ of Kalikasan, Writ of Continuing Mandamus, Environmental Protection Order (EPO) and Strategic Lawsuit against Public Participation (SLAPP)

SECTION 2. 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 3. 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 4. REPEALING CLAUSE – PAB Resolution No. 1-C Series of 1997 as amended is 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 5. EFFECTIVITY CLAUSE - These rules shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Done in Quezon City this 29 day of JUNE 2010 in the year of our Lord, two thousand and TEN.

***ORIGINAL SIGNED***  
**HORACIO C. RAMOS**  
Chairman

***ORIGINAL SIGNED***  
**USEC. DEMETRIO L. IGNACIO, JR.**  
Presiding Officer

***ORIGINAL SIGNED***  
**USEC. TERESITA S. CASTILLO**  
Member

***ORIGINAL SIGNED***  
**DIR. JUAN MIGUEL T. CUNA**  
Member

***ORIGINAL SIGNED***  
**DR. ANTHONY S.F. CHIU**  
Member

***ORIGINAL SIGNED***  
**ATTY. LEONARDO SAWAL**  
Member

***ORIGINAL SIGNED***  
**ENGR. JEFFREY MIJARES**  
Member

Attested By:

***ORIGINAL SIGNED***  
**ATTY. JONAS R. LEONES**  
Board Secretary and Legal Counsel