



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF TRANSPORTATION  
MARITIME INDUSTRY AUTHORITY

**MARINA RULES OF PRACTICE AND PROCEDURE IN  
ADMINISTRATIVE INVESTIGATION OF CASES  
INVOLVING VIOLATIONS COMMITTED BY  
SHIPOWNERS/ OPERATORS, SHIPYARDS,  
BOATBUILDERS, SEAFARERS AND OTHER MARITIME  
ENTERPRISES OR ENTITIES**

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**MARINA RULES OF PRACTICE AND PROCEDURE IN ADMINISTRATIVE  
INVESTIGATION OF CASES INVOLVING VIOLATIONS COMMITTED BY  
SHIPOWNERS/ OPERATORS, SHIPYARDS, BOATBUILDERS, SEAFARERS  
AND OTHER MARITIME ENTERPRISES OR ENTITIES**

Pursuant to the authority vested in the MARINA under Presidential Decree No. 474<sup>1</sup> and Executive Order No. 125/ 125-A<sup>2</sup>, the following rules are hereby adopted:

**RULE I - GENERAL PROVISIONS**

***Section 1. Title of the Rules. –***

These Rules shall be known as the “**RULES OF PRACTICE AND PROCEDURE IN ADMINISTRATIVE INVESTIGATION OF CASES INVOLVING VIOLATIONS COMMITTED BY SHIP OWNERS/OPERATORS, SHIPYARDS, SEAFARERS AND OTHER MARITIME ENTERPRISES OR ENTITIES.**”

***Section 2. Scope. –***

These Rules govern pleadings, practice, and procedure in all matters of investigation and proceedings for violation of MARINA Circulars, Administrative Orders, and other Issuances.

***Section 3. Purpose and Construction –***

These Rules shall be liberally construed in the pursuit of state policy to protect and promote public interest in a suitable manner and to assist the parties in obtaining just, speedy, and inexpensive determination of every case before MARINA.

***Section 4. Application of the Rules of Court and Rules on Electronic Evidence –***

In the absence of any applicable provision in these Rules, the pertinent provisions of the Rules of Court, the Rules on Electronic Evidence, including their amendments or revisions, and such other pertinent rules of procedure promulgated by the Supreme Court, as may, in the interest of expeditious disposition of the cases pending before the MARINA and whenever practicable and convenient, be applied suppletory or by analogy.

MARINA shall not be bound by the strict technical rules of procedure and evidence therein contained but may adopt, in the absence of any applicable rule herein, such mode of proceedings which is consistent with the requirements of fair play and conducive to the just, speedy and inexpensive disposition of cases, and which will give the MARINA the greatest possibility to focus on the merits or issues before it.

**RULE II - APPLICATION OF RULES**

***Section 5. Application of Rules –***

Except for application or issuance of Certificate of Public Convenience (CPC), Special Permit (SP), Provisional Authority (PA), or Permit to Operate (PTO), STCW-related cases, cases involving MARINA personnel and except in such cases that a specific MARINA rules of procedure applies, these Rules shall apply to the following cases:

1. Complaints, or administrative investigations initiated by MARINA, involving violations of the terms and conditions of the Certificate of Public Convenience (CPC), Certificate of Exemption (COE), Special Permit (SP), Provisional Authority (PA), and Permit to Operate (PTO), and other forms of authority to operate, committed by the Shipowner/ Operators and other entities.
2. Complaints, or administrative investigation initiated by MARINA, involving violations of the MARINA Circulars and other issuances committed by Shipbuilding and Ship Repairer

<sup>1</sup> Providing for the Reorganization of Maritime Functions in the Philippines, Creating the Maritime Industry Authority, and for Other Purposes.

<sup>2</sup> Reorganizing Ministry of Transportation and Communication, Defining its Powers and for Other Purposes.



(SBSR), Afloat Ship Repairers, Boatbuilders, Shipowners/Operators, maritime enterprises and other entities.

3. Complaints, or administrative investigations initiated by MARINA, involving the suspension, revocation or cancellation of Seafarer's Record Book (SRB), Seafarer's Identification Book (SIB), Seafarer's Identity Document (SID), or Domestic Certificate of Competency (D-COC) committed by Seafarers, Shipping Companies and/or other entities.

#### **Section 6. General Powers of the MARINA under these Rules –**

The MARINA shall have the power, authority, and duty to investigate, hear and adjudicate complaints involving any violation of RA No. 9295, MARINA Circulars, or rules and regulations issued by the MARINA, and impose such fines and penalties on, including revocation or suspension of licenses, permits, or Certificates of Public Convenience of, any Shipowner/Operator, Shipbuilding and Ship Repairer, Afloat Ship Repairer, Boatbuilder, Shipbreaker, Maritime Enterprise and other entities, or who shall violate or fail to comply with safety regulations.

Notwithstanding, the MARINA may issue general or specific procedural directions at any time, including before or during any proceeding under these Rules.

### **RULE III - DEFINITION OF TERMS**

#### **Section 7. Definition of Terms –**

For the purposes of this Rules of Practice and Procedure, the terms below shall be defined as follows:

1. **Administrative Cases** - refers to the cases where these rules shall apply as provided under Section 5, Rule II of these Rules.
2. **Authority** - refers to the Maritime Industry Authority (MARINA).
3. **Certification of Non-forum Shopping** - is a certification executed by the plaintiff or principal party who shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court (in this case, the MARINA) wherein his aforesaid complaint or initiatory pleading has been filed.
4. **Complainant** - means a person who files a complaint intended to initiate a proceeding.
5. **Complaint** - is a concise statement of the ultimate facts of the matter complained of and the relief sought for, sufficient in form and substance, subject to the MARINA's jurisdiction.
6. **Filing** - means submission of written pleadings, applications, comments, petitions, protests, motions, notices, compliance and other papers submitted to the Authority.



7. **Hearing** - means any proceeding at which evidence is taken on the merits of the matters at issue before the Authority.
8. **Hearing Officer** - refers to a person/s duly authorized to conduct and preside over any hearing of administrative case before the MARINA.
9. **Investigating Officer** - refers to the person assigned to conduct the necessary investigation.
10. **Legal Clearance** - refers to a document specifically issued by the MARINA to a seafarer, shipping company, manning agency or maritime enterprise.
11. **MCO-Legal Service** - refers to the MARINA Legal Service in the Central Office in Manila.
12. **MRO-Legal Service** - refers to the MARINA Regional Legal Service having jurisdiction over a case covered under these Rules.
13. **MARINA** - refers to the Maritime Industry Authority.
14. **Pleading** - means a written document submitted by a party, or a person seeking to participate in a proceeding before the Authority, setting forth allegations of fact, claims, defenses, requests for relief, and/or other matters relevant to a proceeding and is used herein to refer to a petition, complaint, or answer as provided for in these Rules.
15. **Preventive Suspension** - refers to the precautionary measure of temporarily invalidating, withdrawing, and the surrender of the certificates or documents of a seafarer involved in a maritime accident or incident pending the investigation of any alleged violation of MARINA Circulars and other issuances.
16. **Respondent** - means a person under the Authority's jurisdiction against whom any complaint or petition is filed or directed or a person who is under formal investigation by the Authority.
17. **Seafarer's Identification Book (SIB)** - refers to the document issued by the MARINA to all Filipino seafarers and other ship personnel complement onboard vessels below 35GT (MC No. 2010-02).
18. **Seafarer's Identification Document (SID)** - refers to an International Identity Document under ILO Convention 185 (revised 2003) used to obtain proof of the bearer's eligibility for visa waiver; and to identify them as genuine seafarers who may be entitled to transit with their passports at ports and border crossings, and to shore leave without a visa. (MC No. MD-2019-01).
19. **Seafarer's Record Book (SRB)** - refers to a document issued by the MARINA to all Filipino seafarers and cadets/ cadettes that serves as record of sea service of the holder onboard ships of 35GT and above for commercial vessel and 500GT and above for fishing vessel (formerly known as SIRB).



- the act of providing a party with a copy of the pleading or paper concerned.

## RULE IV - PLEADINGS, FILING AND SERVICE

### **Section 8. Form. –**

Pleadings shall be written in English and/or Tagalog, typewritten or handwritten and shall contain in logical form a plain, concise, and direct statement of ultimate facts and laws to which the party relies and the relief sought for.

All initiatory pleadings shall be accompanied by verification which shall contain a sworn statement that affiant has read the pleading and that the statements or allegations therein are true and correct of affiant's own knowledge or based on authentic record/s. It may ask a general prayer for such further relief as may be deemed just and equitable. In case the party is a juridical entity, the verification shall be executed by a duly authorized responsible officer. The corresponding board resolution or secretary's certificate authorizing such officer to represent the entity shall be attached to the pleading.

If a party is represented by a lawyer, the following shall be indicated in the pleading:

- a) Attorney's Roll Number;
- b) IBP Official Receipt Number or IBP Lifetime Membership Number, including the date and place of issue;
- c) Current Professional Tax Receipt Number, including the date and place of issue;
- d) Mandatory Continuing Legal Education Compliance Number for the immediately preceding compliance period, including the date of issue; and
- e) Mailing address including e-mail address, which shall not be a post office box number, including the lawyer's contact number and e-mail address, if applicable.

Substantial compliance with the above requirements shall be sufficient for the Authority to give due course to the application, petition or complaint. Any error or defect which does not affect the substantial rights of the parties or alter the nature of the case, or which may be subject to correction or verification, shall not cause the dismissal of the application, petition, or complaint.

### **Section 9. Complaint –**

- a) Complaint filed with the Authority is sufficient in form and substance if it is in writing and shall contain:

- (1) The name and address of the complainant;
- (2) The name and address of the person/ entity against whom the complaint is made; and
- (3) A brief and concise statement of the acts or omissions complained of as constituting the offense, and a reference, whenever practicable, to the provisions of MARINA Circulars;

All complaints shall be subscribed and verified by the complainant and shall accompany the affidavits of his/her witnesses.

The Authority may file or initiate a complaint based on the recommendation of the appropriate MARINA offices concerned or employee/ personnel authorized by the MARINA.



All complaints except those initiated *motu proprio* by the Authority shall be subscribed, sworn to and verified by the complainant, with a Certification of Non-Forum Shopping and shall accompany the affidavits of witnesses.

- b) A party having more than one cause of action against the other party, arising out of the same relationship, shall include all of them in one complaint. Any cause of action not pleaded in the complaint is deemed waived.
- c) No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person/entity complained of may be required to comment.

**Section 10. Who May File. –**

A complaint may be filed by any person, juridical entity or *motu proprio* by the Authority.

**Section 11. Form and Contents of a Complain. –**

The names and addresses of all the complainants and respondents must be stated in the complaint. It shall be signed under oath by the complainant with Certification of Non-Forum Shopping. Otherwise, the complaint shall be dismissed without prejudice, save in cases initiated by the Authority which need not be under oath.

**Section 12. Use of Judicial Affidavit. –**

The use of Judicial Affidavit may also be adopted in place of the direct testimonies of witnesses. The adoption of the Judicial Affidavit Rules is without prejudice to clarificatory questions that may be asked during the hearing.

**Section 13. Caption and Title. –**

In all cases filed with the Authority, the party initiating the action shall be called the "Complainant" and the opposing party the "Respondent".

The full names of all the real parties in interest, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint, as well as in the decisions, resolutions or orders of the MARINA.

As far as practicable, each pleading shall have the following caption and title:

Republic of the Philippines  
Department of Transportation  
**MARITIME INDUSTRY AUTHORITY**  
(MARINA Central or Regional Office Address)

\_\_\_\_\_,  
Complainant

-versus-

Case No. \_\_\_\_\_  
For: \_\_\_\_\_

\_\_\_\_\_,  
Respondent.

X ----- /

**Section 14. Where to file the complaint –**

(1) For offenses committed by a shipowner/operator, shipbuilder, boatbuilder, afloat ship repairer, maritime enterprise, or such other entities, the complaints or investigation reports for violation of MARINA Circulars and other issuances shall be filed:

- a. At the MARINA Regional Office (MRO) which issued the CPC, Certificate of Exemption, Certificate of Registration, and other licenses/accreditation;



- b. In cases without a valid CPC, Certificate of Exemption, Certificate of Registration, and other licenses/accreditation, at the MRO which has jurisdiction over the place where the violation or maritime accident/ incident took place;
  - c. In cases of violation for collection of Annual Tonnage Fees, the complaints or investigation reports shall be filed at the MRO where the vessel is registered.
- (2) In cases involving preventive suspension, suspension, revocation or cancellation of SRB, SIB, SID, and DCOC:
- a. In case that the seafarer is involved in a maritime accident/incident:
    - i. at the MRO which issued the CPC; or
    - ii. in case the vessel involved is without a valid CPC, at the MRO which has jurisdiction over the place where the violation or maritime accident/ incident took place
  - b. In all other administrative violations, the complaint or investigation report shall be filed with the MRO which issued the SRB, SIB, or SID or where the principal address or resident of the complainant or respondent, at the convenience of the parties.
- (3) In cases where the MARINA Central Office shall exercise original jurisdiction pursuant to existing administrative issuances, the complaint or investigation report shall be filed at the appropriate records unit of the Central Office to be referred to the MCO Legal Service.

**Section 15. Manner of Filing and Service of Pleadings. –**

Initiatory pleadings or complaints and initial responsive pleadings, such as an answer, must be served or filed personally or by registered mail when allowed, and shall not be served or filed electronically, unless express permission is granted by the Authority. In case of personal filing, the date of receipt by the MARINA is the date of filing. In case of registered mail or private courier, the date of posting is the date of filing.

The complaint shall be in such number of copies as there are respondents, plus two (2) copies for the official file.

Service of pleadings may be made by personal delivery, registered mail or private courier. By agreement of the parties, service may also be made by electronic mail or facsimile transmission.

**Section 16. Filing Fees. –**

Except in cases initiated by the Authority, the complainant shall be required to pay the filing fees pursuant to existing MARINA Circulars (MC No. 2015-05) on administrative fees and charges, as amended.

Indigent litigants/ Party<sup>3</sup> shall be exempt from payment of filing fees, appeal fees and other lawful fees, and of transcripts of stenographic notes which the Authority may order to be furnished. *Provided that* the litigant shall execute the required affidavits pursuant to Section 19, Rule 141 of the Rules of Court.

**Section 17. Prohibited Pleadings and Motions. –**

The following pleadings and motions shall not be allowed:

- a) Motion to dismiss the complaint except on the ground of lack of jurisdiction over the subject matter, improper venue, res judicata, forum shopping and lack of cause of action;
- b) Motion for a bill of particulars;
- c) Motion for new trial;
- d) Petition for Relief from Judgment;
- e) Motion to declare respondent in default;
- f) Appeal from any interlocutory order of the Hearing Officer, such as but not limited to, an order:

<sup>3</sup> Section 21, Rule 3 of the Rules of Court, as amended by A.M. No. 19-10-20-SC



- (1) denying a motion to dismiss;
- (2) denying a motion to inhibit;
- (3) denying a motion for issuance of writ of execution; or
- (4) denying a motion to quash writ of execution.
- g) Appeal from the issuance of a certificate of finality of decision by the Hearing Officer;
- h) Appeal from orders issued by the Hearing Officer in the course of execution proceedings;
- i) Rejoinder; and
- j) Dilatory motions.

Such other pleadings, motions and petitions of similar nature intended to circumvent above provisions. The same shall be noted without action and attached to the records of the case.

**Section 18. Action on the Complaint. –**

Within ten (10) days after the filing of the complaint, the Authority shall either dismiss the complaint if it finds that there is insufficient information to substantiate the allegations in the complaint or the parties cannot be identified or traced or there is no ground to continue with the investigation, or require the respondent to submit a verified answer and its supporting affidavits and documents.

The respondent shall submit a verified answer within ten (10) days from receipt of the Order with the complaint and supporting documents.

Evidence that may not have been furnished a party shall be made available for examination, copying, or photographing at the expense of the requesting party.

**Section 19. Proof of Service. –**

Proof of service shall consist of a written acknowledgement by the party served or affidavit of the party serving stating the date, place, and manner of service, with the registry return receipt or official receipt of the courier attached thereto.

If service is made by electronic mail or facsimile transmission, proof of service shall consist of an affidavit stating how the service was effected and how receipt thereof was verified.

**Section 20. Acceptance. –**

Only pleadings, motions, documents, and other papers which conform to the formal requirements of these Rules shall be accepted for filing. The acceptance thereof shall not mean waiver of any obligation to comply with the provisions of these Rules. Failure to comply with the formal requirements may be cause for the striking off of all or part of the documents filed.

**Section 21. Notices, Orders, Resolutions, Decisions. –**

Notice of initial hearing in applications, complaints, and copies of final orders, resolutions and decisions of the Authority shall be served upon the party and/or counsel of record by personal delivery, registered mail, or private courier, through the records unit of the MARINA having jurisdiction over the application or complaint.

Any other orders or issuances of interlocutory nature may be served upon the parties by electronic mail or facsimile transmission.

**RULE V - ANSWER**

**Section 22. Requisites and Contents. –**

The answer which is in writing, verified and under oath, shall be specific and shall contain material facts and applicable laws, if any, including original or certified copies of documentary evidence, sworn statements covering testimonies of witness/es, if any, in support of one's defense.

When this Authority determines the answer is satisfactory, the case shall be dismissed. Otherwise, formal investigation/ proceedings shall proceed.

**Section 23. Failure to File Answer. –**

The respondent who fails or refuses to file an answer to the complaint shall be considered a waiver, on the part of the respondent, to present controverting evidence and the case shall be decided based on the facts alleged in the complaint, its attachments, and available records.



## RULE VI - PREVENTIVE SUSPENSION

### **Section 24. Preventive Suspension; Nature. –**

Preventive suspension is not a penalty. It is a precautionary measure of temporarily invalidating, withdrawing, and the surrender of the certificates or documents of a seafarer involved in a maritime accident or incident pending the investigation of any alleged violation of MARINA Circulars and other issuances.

### **Section 25. When Preventive Suspension Issued. –**

In the interest of safe ship operations, and safety of life or property at sea, and protection of the marine environment, the Authority may, upon motion or *motu proprio*, issue an order temporarily invalidating, withdrawing, and the surrender of the SRB, SIB, SID, or D-COC of the seafarer involved in a maritime accident or incident, if:

- a. Subject to paragraph (b) and (c) hereof, the marine casualty has resulted in any of the following which has occurred directly in connection with the operations of a ship:
  1. The death of a person;
  2. The loss of a person from a ship;
  3. The loss of a ship;
  4. Material damage to a ship;
  5. Involvement of a ship in a collision; or
  6. Severe damage to the marine environment brought about by the damage or loss of a ship or ships;
- b. There exists reasonable ground to believe that the continued service of the seafarer onboard a ship, if not corrected, will lead to further maritime violations, or would endanger the safety of the ship, its occupants or any other person or the marine environment; or
- c. The safety investigation report shall recommend the preventive suspension of the seafarer's certificates or licenses stating the grounds relied upon or conditions for lifting.

The seafarer whose certificates and documents have been placed under preventive suspension shall not be allowed to join onboard any ship until an order lifting the preventive suspension has been issued.

### **Section 26. Duration of Preventive Suspension. –**

Unless otherwise provided for by law, the Authority may place the seafarer's certificates or documents under preventive suspension for a **minimum period of thirty (30) days to a maximum period of ninety (90) days**.

During the period of preventive suspension, the seafarer and the shipping company shall appear and fully participate in the investigation proceedings and provide relevant testimony or documentary evidence in relation to the case.

### **Section 27. Lifting Order. –**

Unless the seafarer's certificate or documents are suspended or revoked for another charge, the Authority shall issue an order lifting the order of preventive suspension as the circumstances may warrant.

## RULE VII - PROCEEDINGS

### **Section 28. Nature of Proceedings. –**

The proceedings shall be summary in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly



apply. The Hearing Officer may avail of all reasonable means to speedily ascertain the facts of the controversy, including ocular inspection and examination of well-informed persons.

**Section 29. Issuance of Show Cause Order Complaints. –**

The Authority may, based on the report of the appropriate office or any employee/ personnel authorized by the Authority, sworn statement of any offended party, or *motu proprio*, issue a Show Cause Order which shall contain a statement of the particulars and matters which the Authority is inquiring into and may call upon the respondent to appear and submit a verified answer to the complaint at a place and time therein stated and explain why no judgment or action shall be taken against the respondent. Pending hearing and final consideration of the case, the Authority may, upon motion or *motu proprio*, in the interest of public service, safety or security of the state, issue a cease and desist order to a respondent.

**Section 30. Service of Show Cause Order or Subpoena. –**

The Show Cause Order or Subpoena together with its attachments may be served by the MARINA or its duly authorized representative upon the party and/or counsel of record by personal delivery, registered mail, or private courier.

When attempts to serve by personal mail, registered mail or private courier remain unsuccessful or no longer practicable, the Show Cause Order or Subpoena may be served by electronic mail by sending an electronic copy thereof together with its attachments to the party's electronic mail address.

Any other orders or issuances of interlocutory nature may be served upon the parties by personal delivery, registered mail, private courier or electronic mail or facsimile transmission.

**Section 31. Summary Hearing. –**

Whenever practicable, the Authority may conduct a summary hearing and issue an order dispensing with the direct examination of witnesses and that the affidavits of witnesses shall take the place of their oral testimony/ies.

**Section 32. Clarificatory examination –**

The Authority after determining the necessity or if requested, may conduct clarificatory examination which shall be confined strictly to material and relevant matters, and insofar as may be compatible with the ends of public interest. Prolonged argumentation and other dilatory proceedings shall not be entertained.

**Section 33. Conduct of Online Hearing for Clarificatory Examination –**

Under exceptional circumstances and with the approval of the Authority, clarificatory hearings may be conducted through videoconferencing.

**Section 34. Pre-Hearing Conference. –**

A pre-hearing conference may be conducted on contested cases, or on highly contentious administrative complaints to consider and encourage whenever appropriate, the possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof, the simplification of issues, the necessity or desirability of amendment to the pleadings, the limitation of the number of witness, and such other matters as may aid in the prompt disposition of the case. This shall not however, prevent the hearing officers from calling the parties to a hearing to answer clarificatory questions and the submission of respective position papers or memoranda. At any stage of the proceeding, the Authority may call for a conference to be held, if the same may aid in the speedy disposition of cases without adversely affecting the rights of the parties thereto.

**Section 35. Role of Hearing Officer in Proceedings. –**

The Hearing Officer shall personally conduct the hearing if deemed necessary and take full control of the proceedings, and examine the parties and their witnesses with respect to the matters at issue. The Hearing Officer may allow the parties or their counsel to ask questions only for the purpose of clarifying points of law or fact involved in the case. He/she shall limit the presentation of evidence to matters relevant to the issue before him/her and necessary for a just and speedy disposition of the case.



The Hearing Officer may issue orders on matters interlocutory in nature. However, Judgement, Decision, Final Order, Resolution on Motion for Reconsideration, or any order revoking or suspending the SRB, SIB, SID or D-COC granted to seafarers shall be decided by the MARINA Regional Directors. Notwithstanding the filing of a motion for reconsideration to an interlocutory order before the MARINA Regional Director, proceedings shall continue unless restrained by the MARINA Regional Director.

The MCO – Legal Service shall have such number of qualified and competent members of the bar as hearing officers as may be necessary for the hearing and adjudication of contested cases.

**Section 36. Issuance of Subpoena. –**

If the party desires the attendance of a witness and/or the production of documents, he/she shall make a request for the issuance of the necessary *subpoena ad testificandum* and/or *subpoena duces tecum*, at least seven (7) calendar days before the scheduled hearing.

Likewise, the Hearing Officer may issue *subpoena ad testificandum* to compel the attendance of witnesses and *subpoena duces tecum* to produce documents or things.

In all instances, the *subpoena ad testificandum* and *subpoena duces tecum* issued by the Hearing Officer must be duly noted by the Director/OIC–Director having direct supervision over the said Hearing Officer.

**Section 37. Order of Presentation. –**

As far as practicable, the direct testimony of the witnesses presented by the parties shall be contained in an affidavit which shall be submitted to the opposing parties at least three (3) calendar days before the scheduled hearing with proof of actual service to the opposing party/counsel. All documents referred to or mentioned in the affidavit of the witness shall be attached thereto. The following order of presentation of evidence shall be followed: a) The party initiating the proceedings shall present his/her evidence by offering the affidavits and supporting documents of his/her witnesses and such additional evidence as he/she may wish to present. In consolidated proceedings, all parties initiating the consolidated proceeding shall first present their evidence. b) The party or parties opposing the grant of the relief sought shall then present their evidence; and (c) Presentation of rebuttal or sur-rebuttal evidence may be allowed subject to the discretion of the Hearing Officer.

**Section 38. Extent of Cross-Examination. –**

In the cross-examination of witnesses, only relevant, pertinent and material questions necessary to enlighten the Hearing Officer shall be allowed.

**Section 39. Consolidation. –**

The Hearing Officer on his or her own initiative, or upon motion by a party, may consolidate cases involving common questions of fact or law, or may conduct joint hearings thereon. However, upon motion of the interested party, a separate hearing may be held on issues peculiar only to the movant.

**Section 40. Appearances. –**

Any party to a hearing may appear in person and may be assisted by counsel who is admitted to practice law in the Philippines and is a member in good standing of the Philippine Bar.

**Section 41. Notice and Proof of Service. –**

Hearings shall be conducted with notice to all parties of the place for such conference or hearing. Proof of service of notice shall be in accordance with Sections 15 of Rule IV.

**Section 42. Presumptive Service. –**

There shall be presumptive notice to a party if such notice appears on the records to have been mailed at least twenty (20) calendar days prior to the scheduled date of hearing and if the addressee is from within the jurisdiction of the MARINA Regional Office, or at least thirty (30) calendar days if the addressee is from outside its regional jurisdiction.

**Section 43. Records of Proceedings. –**



All conferences and hearings may be recorded by the official stenographer, and the transcript of stenographic notes shall be made part of the records of the case.

**Section 44. Revival/ Re-opening of Dismissed Case. –**

A party may file a motion to revive or reopen a case dismissed without prejudice within fifteen (15) calendar days from receipt of the order dismissing the same; otherwise, his only remedy shall be to re-file the case.

**Section 45. Postponement of Hearing. –**

The parties and their counsel shall be prepared for continuous hearing. Postponement of hearing shall be allowed only on meritorious grounds and shall not exceed twenty (20) calendar days from the date of resetting.

**Section 46. Period to Hear Cases. –**

Hearings in all administrative complaints shall, as much as practicable, be completed within ninety (90) calendar days from the date of the first hearing. For this purpose, the period for the conduct of the preliminary hearing and conference shall be excluded from the ninety (90) calendar-day within which to complete the hearings.

## **RULE VIII - CEASE AND DESIST ORDER**

**Section 47. Grounds for the Issuance of Cease and Desist Order (CDO). –**

A CDO may be issued by the Administrator or Regional Director concerned when it is established by substantial evidence that the adverse party is doing, threatening or is about to do, is proposing to be done, some act/s or operation in violation of existing MARINA Circulars, rules and regulations covered under these Rules or other maritime-related laws and provided that any of the following exists:

- a. Such act or operation is detrimental to national security or public interest, or the CDO is necessary to preserve and protect the health and safety of the general public; or
- b. The commission or continuance of such act or operation, unless restrained, will cause grave and irreparable injury to the general public.

**Section 48. Filing of Application –**

An action for the issuance of a CDO may be commenced by any of the following applicants:

- a. Upon recommendation of the Enforcement Section (MROs)/ Enforcement Service (Central Office) upon finding, during the investigation, that there is ground for the issuance of CDO; or
- b. Aggrieved party, upon filing with the MRO-Legal Service of an application in writing, verified and under oath, either attached to a complaint or as an independent action.

**Section 49. Contents of a Verified Application. –**

The application for the issuance of a CDO must specify the following:

- a. the material facts establishing the ground for such issuance;
- b. the name, contact information and address of the respondent where the orders, issuances, or communications may be served; and
- c. the documentary and testimonial evidence supporting and relevant to the issuance of a CDO.

If the application is filed by an aggrieved party, it shall also specify his or her name, contact information and address where the orders, issuances, or communications may be served, including electronic mail address when available.



The MARINA may require the submission of additional information and/or evidence should it deem necessary for the disposition of the case.

Until the MARINA issues the CDO, the fact that a complaint has been filed, including the contents of the complaint, shall be confidential.

**Section 50. Issuance of Cease and Desist Order. –**

Upon its conduct of verification and investigation, the MARINA may issue an ex-parte CDO, without the necessity of a prior hearing, when in its determination the ground relied upon exists. The CDO shall specifically state the act or operation complained of and require the person or juridical entity to immediately cease and desist from the commission or continuance thereof. The MARINA may also include in its CDO the submission of necessary proof of compliance within the time prescribed for monitoring purposes.

**Section 51. Effectivity of the Order. –**

The CDO shall be immediately executory and enforceable upon receipt of the party subject thereto. If in case the service of the CDO has been rendered impossible due to fault of the party subject thereto, and the fact and full account of which is stated in an affidavit of service, the CDO shall be immediately executory and enforceable upon its publication or issuance. It shall remain in full force and effect until modified or lifted on motion by the party adversely affected or *motu proprio* by the Administrator or Regional Director concerned, when the ground/s for its issuance has ceased to exist.

The CDO shall not be stayed by an appeal taken therefrom or by a petition for certiorari, unless otherwise ordered by the appropriate court, upon such terms as it may deem just.

**Section 52. Implementation of the Order. –**

Upon issuance of the CDO, the Enforcement Section (MROs)/Enforcement Service (Central Office) shall ensure that the copy thereof be immediately furnished to each party subject thereto and may notify the public through its publication of the same on the MARINA website.

The Enforcement Service/Section shall implement or cause the implementation of the CDO not later than seventy-two (72) hours from receipt thereof. The Enforcement Service/Section shall submit to the concerned MRO/s a report within forty-eight (48) hours after the completion of the implementation, stating therein the actions taken. Should the CDO be implemented beyond seventy-two (72) hours or cannot be implemented, the Enforcement Service/Section shall submit a written report to the concerned MRO/s stating therein the causes of delay or non-execution.

**Section 53. Separate Proceedings. –**

The issuance of a CDO prior to or during the investigation of a compliance check shall not be interpreted in a manner as to prejudice the party subject thereof. The investigation by the Enforcement Service/Section shall be treated as a separate and distinct proceeding from the CDO proceeding.

**Section 54. Motion to Lift Order. –**

Any person or juridical entity against whom a CDO was issued may, within ten (10) calendar days from receipt of the CDO, file a verified motion to lift the same on the ground that the requisites for the issuance of a CDO are not complied with. The motion to lift based on this ground shall be set for hearing for adjudication by the MARINA not later than fifteen (15) calendar days from its filing and the resolution thereof shall be made not later than thirty (30) calendar days from the termination of the hearing thereon. If the MARINA fails to resolve the motion to lift within the period herein prescribed, the CDO shall automatically be lifted.

At any time during the effectivity of the CDO, any person or juridical entity against whom a CDO was issued may also file a motion to lift said order on the ground that the factual or legal basis for which it was issued no longer exists. The motion to lift based on this ground shall be set for hearing and resolution by the MRO-Legal Service.

In both instances, the notice of hearing shall be addressed to all parties concerned and shall specify the time and date of the hearing.



If the respondent fails to file the appropriate motion to lift the CDO within the period prescribed based on the first ground or if the MRO-Legal Service denies the motion to lift based on either grounds, the CDO shall continue to have force and effect.

The motion to lift the CDO shall not stay its enforcement and execution. The lifting of the CDO shall not preclude the issuance of another CDO based on the same act/s complained of should such act/s after lifting of the CDO would then recommence within twelve (12) months from its lifting, subject to the penalties provided in Section 56. Beyond the said period, any future violation of the same respondent shall warrant the filing of a new application for the issuance of a CDO.

**Section 55. Contents of Motion to Lift. –**

The motion to lift shall contain the following:

- a. The material facts establishing the ground relied upon;
- b. The material date/s relevant to said motion; and
- c. The documentary and testimonial evidence supporting and relevant to the motion.

**Section 56. Penalties for Non-Compliance. –**

If upon monitoring and assessment, findings of non-compliance shall be without prejudice to the issuance of a Show Cause Order.

**RULE IX - FINAL ORDERS, RESOLUTIONS AND DECISIONS**

**Section 57. How Rendered. –**

All final orders, resolutions and decisions shall be signed by the Director/OIC-Director having direct supervision over the Hearing Officer, or by the Director/OIC-Director himself/herself if he/she is the Hearing Officer.

**Section 58. Finality of Decision -**

The order, ruling, decision or resolution of the Director/ OIC-Director shall take effect immediately, and shall become final and executory after fifteen (15) calendar days from receipt of a copy thereof unless a motion for reconsideration or appeal is filed.

**RULE X - FILING OF MOTION FOR RECONSIDERATION**

**Section 59. Motion for Reconsideration of Final Decisions. –**

A party adversely affected by a decision, order or resolution may within fifteen (15) calendar days from receipt of a copy thereof, file a motion for reconsideration with proof of service upon the other party. No more than one motion for reconsideration by each party shall be entertained.

**Section 60. Opposition. –**

Any party to the proceeding may file an opposition to the motions allowed by these Rules accompanied by such supporting affidavits and documents necessary, serving a copy thereof upon the movant.

**RULE XI - APPEAL FROM ORDER OR RESOLUTION**

**Section 61. Who May Appeal and Where to Appeal. –**

The Party aggrieved by a final order, ruling, decision, or resolution on the motion for reconsideration of the Regional Director/ OIC-Director may appeal to the Administrator. However, interlocutory orders cannot be the subject of an appeal.

**Section 62. How Appeal Taken. –**

Appeal shall be taken by filing a Notice of Appeal and Memorandum of Appeal with the MARINA Office which rendered the decision, copy of which shall be served on the Regional Director/ OIC-Director who rendered the decision and the adverse party. Proof of service thereof shall be attached to the Memorandum of Appeal together with the proof of payment of the filing fee prescribed under these Rules.



**Section 63. Referral of Appealed Cases –**

The Administrator shall refer the appealed cases to the MCO-Legal Service for docket and assignment of number, and for review and evaluation. The MCO-Legal Service shall prepare a draft decision, which shall be forwarded to the Administrator for decision.

**Section 64. Appellate docket and other lawful fees. –**

Within the period for taking an appeal the party making an appeal shall pay to the MARINA Office which rendered the decision appealed from the full amount of the appeal fees and other lawful fees as provided under existing MARINA Circulars and its subsequent amendments.

**Section 65. Caption. –**

The title of the case shall remain as it was in the MARINA Office of origin, but the party appealing shall be called the "Appellant" and the adverse party as the "Appellee".

**Section 66. Contents of the Memorandum of Appeal. –**

The Memorandum of Appeal shall contain a concise statement of the facts and issues involved and the grounds relied upon for the review, and shall be accompanied by a certified true copy of the decision appealed from, together with certified true copies of such relevant portions of the record as are referred to therein and other supporting papers. The Memorandum of Appeal shall state the specific dates to show the timeliness of the appeal.

**Section 67. Order to Answer. –**

The Administrator may issue an Order directing the indispensable parties to file an answer/comment to the Memorandum of Appeal within fifteen (15) calendar days from receipt of the Order to answer.

A copy of the answer/ comment shall be served on the Party appealing the case and all such other parties concerned.

**Section 68. Summary of Proceedings and Transmittal of Records. –**

Within five (5) calendar days from receipt of the Notice of Appeal and Memorandum of Appeal, the Administrator shall issue an Order requiring the Regional Director/ OIC-Director to submit a Summary of Proceedings of the case and to transmit the entire records of the case to the Administrator.

**Section 69. Reply –**

The Appellee may file a reply to the Administrator, copy furnish the appellant and such adverse parties within fifteen (15) calendar days from receipt of the Answer. The Administrator, however, may direct any or all the parties to submit additional pleadings or documents which it may deem necessary in the proper adjudication of the case.

**Section 70. Effect of Appeal. –**

The appeal shall stay the decision appealed from unless otherwise provided by law, or the Administrator directs execution pending appeal, as it may deem just, considering the nature and circumstances of the case.

**Section 71. Finality of Decision of Appellate Agency. –**

The order, ruling, decision or resolution of the MARINA Administrator shall become final and executory after the lapse of fifteen (15) calendar days unless a motion for reconsideration or an administrative appeal to the Office of the President is filed.

**Section 72. Judicial Review. –**

Any decision, order or resolution of the Office of the President may be brought to the Court of Appeals by filing a petition for review under Rule 43 of the Rules of Court.

**RULE XII - MISCELLANEOUS PROVISIONS**

**Section 73. Repeal. –**

Rule III of the MARINA Revised Rules of Practice and Procedure, MARINA Memorandum Circulars and all other prior rules of procedures, regulations, guidelines, issuances or practices



followed before the MARINA or parts thereof that are inconsistent herewith are hereby deemed repealed or modified accordingly.

**Section 74. Separability Clause. –**

If for any reason, any provision of these Rules is declared unconstitutional or contrary to law, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

**Section 75. Effectivity. –**

These Rules shall become effective fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette and upon filing with the Office of the National Administrative Register (ONAR) of the UP Law Center. Upon becoming effective, these Rules shall be applied to pending proceedings before the Authority to the extent that they are applicable.

Manila, Philippines, SEP 21 2023.

  
Atty. HERNANI N. FABIA  
Administrator

**SECRETARY'S CERTIFICATE**

This is to certify that the MARINA Rules of Practice and Procedure in Administrative Investigation of Cases Involving Violations Committed by Shipowners/ Operators, Shipyards, Boatbuilders, Seafarers, and other Maritime Enterprises or Entities was approved during the 300th Board Meeting of the Maritime Industry Authority held on 21 September 2023.

  
Atty. SHARON D. ALEDO  
Corporate Board Secretary

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