ADMINISTRATIVE POWERS AND PROCEDURE IN THE IMPOSITION OF ADMINISTRATIVE SANCTIONS

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SECTION 1. Jurisdiction - The Administrator or his duly authorized representative shall have jurisdiction to hear and decide cases filed against erring grains businessmen and grains haulers for violation of the provisions of P.D. 4, as amended and R.A. 7581 (Price Act), R.A. 7394 (Consumer's Act), and all other related laws related to the grains industry as well as orders, instructions, rules and regulations issued by the National Food Authority and any other related rules and regulations that may be promulgated thereafter.

Any apprehension made pursuant to the preceding paragraph shall carry with it the power to seize the instruments, tools and effects of any offense committed to be used as evidence against the violator concerned:

SECTION 2. Power to Summon, Issue Subpoena Ad Testificandum and Duces Tecum - The Administrator or his deputized Enforcement Officer, shall have the power to summon or subpoena any person, natural or juridical, and require by subpoena duces tecum said person to bring along papers and books and other documents, and/or take his testimony or those of his witnesses in connection with any investigation being conducted by the Authority for violation of the provisions of P.D. No. 4, as amended, other pertinent existing laws, rules and regulations, orders, circulars and directives, promulgated or may be issued hereafter, or in connection with any contract entered into with the National Food Authority. Any case of contumacy or failure to appear upon summons or subpoena or who upon appearing refuses to make oath, give testimony or produce documents for inspection when thereunto lawfully require shall be subject to discipline as in the case of contempt of court and shall be proceeded against in the manner provided by law.

SECTION 3. Power to Make Arrest - (a) The Administrator or his Deputized Enforcement Officer shall have the power to arrest any person for violation of any provisions of P.D. No. 4, as amended, and other pertinent existing laws, the implementation and enforcement of which is vested with the Authority, these rules and regulations, orders, circulars and directives, and such rules and regulations which may be promulgated hereafter.

b. The persons vested with the Authority in the foregoing paragraphs shall exercise the same under the following circumstances:

- When the person to be arrested has committed, is actually committing, or is about to commit an offense in his presence;

- When an offense has in fact been committed and he has reasonable ground to believe that the person to be arrested has committed it.

c. Duty to Disclose Official Character - It shall be the duty of any person exercising authority as aforesaid, to make known his official character as an officer of the National Food Authority or other government agency duly authorized to make arrest and to exhibit such authority for inspection if demanded.

d. After an arrest is made, it shall be the duty of the arresting officer to deliver the person arrested before the proper judicial authorities, within the period of six (6) hours, otherwise the person arrested shall immediately be released.

SECTION 4. Power to Administer Oath - The Administrator or his duly authorized representative shall, pursuant to Section 6, paragraph a, sub-paragraph (xvii) of P.D. No. 4, as amended, have the power to administer oaths in connection with any act performed in the exercise of the function of his/their office/s.

SECTION 5. Grounds for Imposition of Administrative Fine -

Violation	Penalty
1. Importation of rice irrespective of quantity and variety	Fine ranging from not less than P1,000.00 nor more than P4,000.00 and/or cancellation of license and/or criminal prosecution under Sec. 29 of P.D. 4 as amended
2. Selling or Offering to sell said imported rice	- do -

SECTION 6. Venue - Any complaint/report involving violation of P.D. 4, as amended, and other laws, orders, instructions, rules and regulations shall be filed with the Regional/provincial office where the offense was committed.

SECTION 7. Imposition of Sanctions - (a) Any violation of the provisions of P.D. No. 4, as amended, and other laws, orders, circulars, instructions, rules and regulations shall be proceeded criminally depending on the nature and the gravity of the offense and/or in accordance with the procedures as may be promulgated by the Authority. Administrative sanctions may be in the form of suspension/s or cancellation of license and/or imposition of fines as the evidence may warrant.

b. Before any license is cancelled or revoked, for any violation of or failure to comply with any of the provisions of P.D. No. 4 as amended, and other pertinent existing laws, rules and regulations, orders, directives promulgated or may be issued hereafter, the licensee concerned shall be informed in writing of the charges filed against him by the Administrator or his authorized agent or representative, and shall be allowed to file an answer under oath within five (5) days from receipt thereof. Failure to answer shall be construed as waiver to formal hearing and the case shall be decided on the basis of the evidence presented. The implementation of the foregoing shall be in accordance with the SOP now existing or which may be issued by the Authority hereafter.

c. Grounds for suspension of license:

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- Over-pricing of NFA rice and corn

- Hoarding or undue accumulation by a grains businessman of rice and corn beyond his normal inventory level and unjust refusal to dispose of, sell or distribute the same to the general public.

- Non-compliance with the rules, regulations, decisions, orders, circulars or directives lawfully issued by the Authority and other laws related to grains business.

- Committing any other acts similar or analogous to the foregoing.

d. Summary Suspension - The Administrator or his duly authorized representative, may, summarily suspend without hearing, the license of any licensee for violation/s of the conditions for issuance of a license and the laws, rules and regulations relative thereto, after notice.

e. Indefinite Suspension - Pending investigation against any licensee, the Administrator or his duly authorized representative may whenever he deems necessary in the interest of the public, suspend the license of any licensee indefinitely.

f. Grounds for revocation/cancellation of license

- Violation/s of the conditions of license.

- Engaging in act/s of misrepresentation for the purpose of securing a license or renewal thereof such as giving false testimony.

The Administrator may likewise suspend, cancel or revoke any license, after a hearing has been afforded, when the licensee:

- dies;

- is non-compos mentis;

- is bankrupt or insolvent;

- has sold, transferred or conveyed wholly or substantially his business establishment/facilities/equipment for grains;

- has in any other manner become non-existent, or incapacitated to conduct said business; or

- When the business of such licensee is in the process of dissolution or has been dissolved.

SECTION 8. Commencement of Action - (a) All administrative complaints against erring grains businessmen and grains haulers shall commence either by filing a complaint together with the sworn statement of complainant and his/her witnesses and documentary evidence or by filing a statement of violation duly signed by the Deputized Enforcement Officer of the Region or Province where the offense was committed.

b. Complaint/s Defined - A complaint is sworn written statement charging a person/s, corporation, partnership or association with an offense and subscribed by the complainant or by his/her duly authorized representative.

c. Statement of violation defined - A statement of violation is a written statement charging a person, corporation, partnership or association with an offense, duly signed by the Enforcement Officer of the Region or Province where the offense was committed.

d. Contents - The complaint/statement of violation shall state the following:

- the names and addresses of the complainant and respondent

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- the section, article or paragraph of P.D. No. 4 as amended, or other laws, circulars, instructions, rules and regulations violated.

- the ultimate facts of the cause of action or the acts or omissions complained of as constituting the offense.

- the approximate date, place and time of the commission of the offense or the approximate time of the discovery of said commission.

- the names and addresses of witnesses.

- the complaint shall state further the relief prayed for while the statement of violation shall state further the preliminary and preventive orders recommended by the Deputized Enforcement Officer.

e. Where to file complaint/statement of violation - The complaint/statement of violation shall be filed in triplicate copies with the Regional Office/Provincial Office where the Offense was committed.

f. When to file complaint/statement of violation - The complaint/statement of violation shall be filed within three (3) months from the day of the commission of the offense, if such date is unknown at the time of the discovery, but, not beyond one (1) year from the date of the commission. After said period, the filing thereof shall be barred.

g. Who shall prosecute and defend the case - The complaint shall be prosecuted by the complainant by himself or counsel. The statement of violation shall be prosecuted by the Deputized Enforcement Officer. The respondent shall be defended by himself or counsel.

SECTION 9. Action Upon the Complaint - (a) Pre-trial Conference - Within two (2) calendar days from receipt of the assigned case, the Hearing Officer shall set the case for pre-trial conference with the end in view of simplifying the issues, marking of evidence and stipulation of facts.

b. Waiver - If respondent/s fail/s to file his/their answer and pertinent documents within the period specified or fails to appear during the conference, respondent/s shall be deemed to have waived his/their right to present his/their evidence and the case shall be heard ex-parte and the Hearing Officer shall recommend the disposition of the case based on evidence on record.

c. Summary Judgment - Should the Hearing Officer find upon consideration of the pleadings, affidavit and evidence submitted that resolution/decision may be rendered thereon, he/she shall consider the case submitted for decision.

If the Hearing Officer finds that summary judgment is not appropriate, he shall direct the parties to the case to submit the verified position papers and/or memoranda within fifteen (15) days from notice.

d. Clarifying Questions - In cases where the Hearing Officer finds that there are complicated factual issues involved that cannot be resolved through position paper or memorandum, he may direct the parties within five (5) days from notice to appear before him to answer clarifying questions.

e. Nature of Proceedings - The proceedings before the Hearing Officer shall be non-litigious in nature, subject to the requirement of due process. The technicalities of law and procedure and the rules obtaining in the Courts of law shall not strictly apply thereto. The Hearing Officer may avail himself of all reasonable means to ascertain the facts of the case, including ocular inspection when appropriate.

f. Resolution of the Case - The Hearing Officer shall render his decision within thirty (30) calendar days after the case is submitted for decision.

g. Service and Finality of Orders/Decision - Orders/decision issued by the Regional Director/Duly Designated

Hearing Officer shall become final and executory after the lapse of fifteen (15) days from receipt by the respondent of a copy thereof, if no appeal or motion for reconsideration is perfected/filed on time.

SECTION 10. Appeals - (a) Period of Appeal - Decisions/Orders of the Regional Director/Duly Designated Hearing Officer shall be final and executory unless appealed to the Administrator by any or both parties within fifteen (15) calendar days from receipt of such decisions/orders.

b. Grounds - The appeal may be entertained only on any of the following grounds:

- If there is a prima facie evidence of abuse of discretion on the part of the Hearing Officer;

- If the decision/order is secured through fraud and coercion;

- If made purely on question of law; or

- If serious errors in the findings of facts are raised which, if not corrected would cause grave or irreparable damage of injury to the appellant.

c. Where to File - The appeals shall be filed with the Office of the Administrator within fifteen (15) days from receipt of the decision/order of the Regional Director. It must be submitted in seven (7) legible copies.

d. No Extension of Period - No motion or request for extension of the period within which to perfect an appeal shall be allowed.

e. Final Decision - The Decision of the Administrator shall be final and unappealable.

SECTION 11. Penalties - The imposable penalties for violation of the provisions of P.D. No. 4, as amended, and other laws, rules and procedures shall be as follows:

1. Fine in accordance with the procedure under Section 5 of these Rules.

2. Suspension of license.

3. Cancellation or revocation of license.

SECTION 12. Execution - In the enforcement or execution of the decision or final order holding the respondent liable for fine, said respondent shall surrender his license to the Authority and shall also desist from engaging in the grains business until the corresponding penalty of fine shall have been paid.

SECTION 13. Separability Clause - The provisions of the rules and regulations are declared to be separable and if any provision or the application thereof is held invalid or unconstitutional, the validity of the other provisions shall not be affected.

SECTION 14. Repealing Clause - All policies, issuances, rules and regulations inconsistent with these rules are hereby repealed, modified or amended accordingly.

Final Provisions

A. Penalty - Any violation of these rules and regulations shall subject the offender to the penalties imposed under Section 29 of the National Food Authority Act promulgated by Presidential Decree No. 4, as amended, notwithstanding the provisions of any law or rules and regulations to the contrary and the provisions of the Revised Penal Code.

B. Suppletory Clause - All other existing rules, regulations, orders and circulars promulgated to implement Republic Act No. 7607 otherwise known as the Magna Carta for Small Farmers dated February 6, 1992, The

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Consumer Act (Republic Act No. 7391), and the Price Act (Republic Act No. 7581) are hereby adopted as suppletory to the provisions of these Rules and Regulations.

C. Repealing Clause - All rules and regulations, circulars, directives, and/or parts thereof, inconsistent with any of the provisions of these rules and regulations are hereby repealed, modified or amended accordingly.

D. Effectivity - These rules of procedure shall take effect fifteen days (15) following publication once in a daily newspaper of general circulation and upon submission to the U.P. Law Center in accordance with the Revised Administrative Code of 1987 (E.O. 292).

Adopted: 25 Apr. 1994

(SGD.) ROMEO G. DAVID
Administrator

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