

MARINA REVISED RULES OF PRACTICE AND PROCEDURE, January 28, 2014

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Pursuant to the authority vested in the MARINA under the Public Service Act, as amended, Presidential Decree No. 474, Executive Order No. 125, as amended and Republic Act No. 9295 and its Implementing Rules and Regulations, the MARINA hereby adopts the following rules of practice and procedure:

RULE I

GENERAL PROVISIONS

Section 1. Title - These Rules shall be known as the MARINA Revised Rules of Practice and Procedure.

Section 2. Coverage – These Rules shall apply to the following cases:

- Application/Petition for:
- CPC issuance;
- CPC exemption;
- PC renewal/extension;
- Amendment to the CPC; and,
- Approval of Sale and Transfer;
- Complaint involving violation/s of the terms and conditions of the CPC; RA 9295 and its Implementing Rules and Regulations; MARINA Issuances; and other laws pertinent to maritime transportation.
- Complaint arising from a maritime incident/accident

Section 3. Construction. – These Rules shall be liberally construed in order to promote their object in obtaining a just, speedy and inexpensive disposition and resolution of petitions filed before the MARINA.

Section 4. Nature of Proceedings. – Proceedings before the MARINA shall be non-litigious and summary in nature.

The MARINA shall not be bound by the technical rules of procedure and evidence but shall proceed to hear and decide all petitions in a most expeditious manner, employing all reasonable means to ascertain the facts of every case in accordance with justice and equity and the merits of the case.

The MARINA may issue general or specific procedural directions at any time, including before or during any proceeding.

Section 5. Suppletory Application. – In the absence of an applicable provision under these Rules, the relevant provisions of the Revised Rules of Court of the Philippines and the relevant jurisprudence may, in the interest of speedy disposition of cases, be applied by analogy or in a suppletory character.

Section 6. Rules on Electronic Evidence. – Unless specifically provided under this Rules, the rules on admissibility of electronic evidence shall be applicable.

Section 7. Definition of Terms. – As used in these Rules, the following terms shall have the meaning as indicated:

Answer – refers to a pleading in which a defending party sets forth his defenses.

Application – refers to a written document seeking permission or authorization to undertake an activity regulated by the MARINA.

Complaint – refers to a pleading alleging the cause or causes of action of the party initiating the same.

Petition – refers to a written document seeking any other affirmative relief that is under the power and authority of the MARINA to grant.

Pleading – refers to a written document setting forth allegations of facts, claims, defenses, and/or reliefs sought submitted to the MARINA for appropriate action or judgment and shall include an application, complaint, or petition.

Section 8. Formal Requirements. – Pleadings shall be written in any of the official languages, typewritten or printed, in double space, on legal size white bond paper.

Every pleading shall contain a caption, title of the case, designation of the pleading, signature, and address and shall contain in logical form a plain, concise and direct statement of ultimate facts and laws in 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 and belief. 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.

A certification against non-forum shopping executed in accordance with the Rules of Court shall be attached to an initiatory pleading.

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

- a) Roll of Attorney's 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, 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 MARINA to give due course to the application or 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. Filing and Service of Pleadings. - All pleadings shall be filed with the appropriate records unit of the MARINA Office/Unit having jurisdiction over the application/petition or complaint.

Applications or petitions shall be filed personally. All other pleadings may be filed personally or by registered mail. If filing is made by registered mail, the same shall be accompanied by a money order in the amount of the corresponding filing fees, payable to the MARINA. Non-payment of the filing fees, or non-inclusion of the said money order, shall render the pleading as not filed.

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.

Filing of the complaint cases shall be accompanied by proof of service to the opposing parties.

Section 10. Processing Fees. – The applicant or petitioner, or complainant, shall be required to pay the filing or processing fees at the time of the filing of the application, petition, or complaint.

Non-payment of the filing or processing fees shall render the application, petition, or complaint, as not filed.

Section 11. Proof of Service. If service is made by registered mail or private courier, proof of service shall consist of a written acknowledgment 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 12. Service of Summons, Notices, Orders, Resolutions, Decisions. – Notice of initial hearing in applications or petitions, or summons in complaints, and copies of final orders, resolutions and decisions of the MARINA 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 Office having jurisdiction over the application or petition, or complaint.

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

Section 13. Prohibited Pleadings and Motions. – The following shall be considered as prohibited pleadings and motions which shall not be entertained:

- Motion to dismiss;
- Motion for a bill of particulars;
- Motions for reconsideration in whatever stage of the proceedings, except for final orders, resolutions, or decision;
- Petition for relief from judgment;
- Motion for extension of time to file pleadings, affidavits or any other paper;
- Motions for postponement, except for justifiable reasons;
- Appeal from any interlocutory order;
- Motions for clarification of orders, resolutions, and decisions.
- Demurrer to evidence;

- Any other pleading which is intended, or appears to, cause the delay of the proceedings.

The filing of such pleadings shall not suspend the proceedings nor interrupt the running of the prescriptive period.

Section 14. Appearance. – a) A lawyer appearing for a party is presumed to be properly authorized for that purpose. In every case, he shall indicate in his pleadings and motions his Attorney's Roll Number, as well as his PTR and IBP numbers for the current year.

b) A non-lawyer may appear in any of the proceedings before the MARINA only under the following conditions:

- (1) he represents himself as party to the case;
- (2) he is a duly authorized representative of the party to the case empowered by Special Power of Attorney (SPA) in case of Sole Proprietorship or Secretary's Certificate or Board Resolution in case of partnership or corporation.

c) A non-lawyer who appears in contravention of this Section shall not be recognized in any proceedings before the MARINA.

d) Appearances may be made orally or in writing. In both cases, the complete name and office address of counsel or representative shall be made on record and any change therein shall be filed with the records of the case and furnished the parties concerned.

e) Any change or withdrawal of counsel or representative shall be made in accordance with the Rules of Court.

Section 15. Exclusion of a person from the hearing – Contumacious conduct by any person at any hearing before the MARINA is a ground for the exclusion of that person from the hearing.

Further, pursuant to Section 29, Chapter V of the Public Service Act, as amended, the hearing officer may exclude and summarily punish any person guilty of misconduct at any hearing or in his presence or so near the same as to interrupt the hearing or session or any proceedings before him, including cases in which a person present at a hearing session or investigation held by the hearing officer refuse to be sworn as witness or to answer as such when lawfully required to do so.

To enforce the provisions of this Rule, the hearing officer may request the assistance of the Philippine National Police and/or MARINA's Enforcement Office for the execution of any order made for said purpose.

RULE II

PROCEDURE IN APPLICATIONS FOR THE ISSUANCE AND RENEWAL/EXTENSION OF, AMENDMENTS TO, AND EXEMPTION FROM CPC, APPROVAL OF SALE AND TRANSFER AND OTHER PETITIONS RELATING TO CPC

Section 1. Coverage. – The procedure set forth herein shall apply to cases falling under Section 2 (a), Rule 1 hereof.

Section 2. How Commenced. – An application or petition is deemed commenced upon the filing thereof and upon payment of the applicable processing fees.

Section 3. Who may file an Application/Petition. – A ship owner/operator or its duly authorized representative supported by a special power of attorney or in case of a corporation, a secretary's certificate and board resolution may file a petition before the MARINA.

However in cases of petition for approval of sale and transfer, the seller or the buyer, or its duly authorized

representative supported by proof of authority as provided by the preceding paragraph shall file the petition with the MARINA.

Section 4. Contents of the Application/Petition. – The applicant for issuance, extension or renewal of CPC shall state in its application the service it proposes to offer, whether liner or tramping or both, or other types of service, and the routes it proposes to serve.

The Applicant for Amendment of CPC shall state in its application the service it proposes to offer, whether liner or tramping or both, or other types of service, and/or the reason for amending its CPC.

For liner service, the following shall be indicated in the application:

- a) name of ship;
- b) the route(s) to be served;
- c) the reasonable or practicable schedule of trips or sailing frequencies per route or link; and,
- d) initial rates to be adopted.

For tramping service and other types of operation/service, the following shall be indicated in the application:

- a) name of ship;
- b) area of operation or service; and,
- c) type of service it proposes to offer.

The routes shall indicate the exact location of the ports of origin and destination. In case there is no port, indicate the barangay, town, beach, sitio in the application.

Section 5. Where to File. – All applications/petitions shall be filed with the MARINA Office where the applicant/petitioner has its principal place of business. Applications for CPC amendment or renewal/extension shall be filed with the MARINA Office where the CPC or Certificate of Exemption was issued.

Section 6. Acceptance for Filing. - Only applications or petitions which conform to the formal requirements of these Rules and supported with complete and valid qualification, jurisdictional and documentary requirements as provided under the applicable provisions of the 2014 Amendments to the Revised Rules and Regulations Implementing Republic Act 9295 shall be accepted. Applications or petitions with incomplete requirements shall be returned to the applicant or petitioner.

Acceptance for filing shall not be construed as a waiver of failure to comply with the formal requirements of these Rules.

Section 7. Caption and Title. - In all cases filed with the MARINA, the party initiating the action shall be called the “Applicant” or “Petitioner”, and the opposing party the “Oppositor”.

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 application or petition, as well as in the decisions, resolutions or orders of the MARINA.

Unless otherwise indicated, each pleading shall have the following caption and title:

Republic of the Philippines
Department of Transportation and Communication
Maritime Industry Authority
Franchising Service (or Maritime Regional Office ____)

(Address of concerned MARINA Office)

In the Matter of _____ Case No. _____

(Title of Application or Petition)

_____, Applicant (or Petitioner)

(Name of Applicant or Petitioner)

Section 8. Issuance of the Notice of Hearing – After the filing of the application and payment of applicable fees, the application or petition shall be docketed, and within three (3) days therefrom, the MARINA shall issue the notice of hearing.

Section 9. Publication – The applicant or petitioner shall cause the notice of hearing to be published once in a newspaper of general or regional circulation at least five (5) days before the hearing.

In support of its pro-poor policy, the MARINA may allow the consolidated publication of the notice of hearing of various operators/applicants operating in a common area/route, indicating therein the individual applicant's or petitioner's relevant information required by these Rules.

Section 10. Effects of failure to publish the notice of hearing. – No hearing shall be conducted unless the applicant or petitioner complied with the preceding section.

Where there is non-compliance with the publication requirement as provided for in the preceding section, the MARINA may, upon the request of the applicant or petitioner and the payment of appropriate fees, issue a second notice of hearing to enable the petitioner to comply with the publication requirement. Failing this, the application or petition shall be dismissed without prejudice to the re-filing thereof.

Section 11. Provisional Relief. – Upon filing of the application or petition and payment of the processing fee, the MARINA may, within three (3) days from such filing and payment, grant the relief prayed for based on the pleadings and other supporting documents, without prejudice to the final resolution of the case.

Section 12. Opposition or Comment. – Any opposition or comment to an application or petition shall be admitted and noted by the MARINA if duly backed by evidence and documentation. Such admission of the opposition or comment shall only serve to aid the MARINA in the evaluation of the merits of the application or petition and shall not make the filer a party to the proceeding.

Section 13. Amendments of Applications or Petitions. – An application or petition may be amended at any time provided that the notice of hearing has not been published. However, if the notice of hearing has already been published, amendment may only be made upon leave of court.

If the amendment will substantially modify the application or petition, the MARINA after granting leave, shall require the publication of the notice of hearing of the amended application or petition.

Section 14. Initial Evaluation of the Application or Petition. – If deficiencies are noted upon initial evaluation of the application or petition, an Order shall be issued within three (3) days from date of filing, requiring applicant to rectify the noted deficiencies, or to submit document(s) deemed necessary on or before the scheduled hearing.

An applicant or petitioner who fails to rectify the noted deficiencies, or submit the necessary documents during the scheduled hearing shall be issued an Order denying or dismissing its Application.

Section 15. Hearing. – Compliance with Section 9 hereof must be shown at the hearing before a party may be allowed to present his exhibits.

Section 16. Markings. – At the initial hearing, the applicant or petitioner shall present compliance with the jurisdictional, qualification and documentary requirements which shall be marked by letter (A, B, C, etc). If the application or petition is contested, the documents introduced by the oppositors shall be marked by number (1, 2, 3 etc.).

Section 17. Formal Offer of Exhibits (FOE). – The applicant or petitioner shall file his FOE within five (5) days after the initial hearing.

Section 18. Post Evaluation of the Application or Petition. – If the documents, after evaluation satisfy the MARINA requirements, the MARINA shall issue an order within three (3) working days from receipt thereof admitting the same and the case shall be deemed submitted for resolution.

However, if after evaluation the MARINA finds that there are lacking documents or that some of the submitted documents are needed to be corrected, it shall issue an order directing the applicant or petitioner to submit or correct the same. Failure of the applicant or petitioner to comply with the said directive shall be a ground for dismissal of the application or petition.

Section 19. Motions. – Motions may be made orally or in writing, with proof of service to oppositors admitted by the MARINA. No hearing on motions shall be conducted. The MARINA shall act on motions on the basis of the allegations and supporting documents that the party has submitted and the comments of admitted oppositors.

Section 20. Issuance of Decision. – Where there is no opposition to the application or petition, the MARINA shall render an order or decision within Ten (10) days after the case has been submitted for resolution. However where there is an opposition, the Authority shall render a decision within thirty (30) days after the case has been submitted for resolution, except when the records are voluminous or the issues are complicated that a longer period is required.

The decision shall be in writing, stating clearly and distinctly the facts and the law on which it is based.

Bareboat chartered ships shall be issued a separate CPC wherein the validity shall be based on the duration of the charter agreement or co-terminus with the charter contract.

Section 21. Signatories to the Decision. The Administrator or his designated signatory shall have the authority to sign the Decision.

In case of MRO issuance, the Decision and the Certificate shall be signed by the Regional Director.

Section 22. Finality of the Decision. – The order, ruling, decision or resolution shall take effect immediately, and shall become final and executory after fifteen (15) days from receipt of a copy thereof, unless a motion for reconsideration or appeal is filed.

Section 23. Motion for Reconsideration. A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial and documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

No party shall be allowed to file a second motion for reconsideration of a judgment or final order.

Section 24. Appeal. – An appeal from a decision of a MARINA Office may be taken to the MARINA Administrator on any legal ground. The title of the case shall remain as it was in the MARINA Office of origin,

but the party appealing shall be further referred to as the appellant and the adverse party as the appellee.

The appeal shall be made by filing a notice of appeal, accompanied by a verified appeal memorandum, and by payment of the appeal fee with the MARINA Office of origin. Within five (5) days from receipt of the notice of appeal and appeal memorandum, the MARINA Office of origin shall elevate the records of the case to the Office of the Administrator together with a summary of the proceedings.

The filing of the appeal beyond the reglementary period, or the failure to file an appeal memorandum or to pay the appeal fee shall cause the dismissal of the appeal. The appeal may also be dismissed on any other valid ground as may be determined by the MARINA Administrator.

Section 25. Withdrawal. – A party desiring to withdraw an application or a petition shall file a motion to withdraw stating therein the reasons for withdrawal. Section 26. Revival/Re-opening of Dismissed Case. – Applicant or petitioner may file a motion to revive or reopen a case without prejudice, within thirty (30) days from receipt of the order dismissing the same. No petition for revival or re-opening of the case shall be entertained after the lapse of 30 day period.

Section 27. Abandonment of the Application or Petition. – If the applicant or petitioner has failed to act on its application or petition within three (3) months from filing thereof, the application shall be deemed abandoned and an Order of Dismissal shall be issued.

RULE III

COMPLAINT CASES IN THE EXERCISE OF MARINA'S QUASI-JUDICIAL FUNCTIONS

Section 1. Coverage. – The procedure set forth herein shall apply to cases falling under Section 2 (b) and (c), Rule 1 hereof.

Section 2. Who May File. – A complaint may be filed by any person or by the MARINA, through the Enforcement Office/Investigating Officer.

Section 3. Form and Contents of a Complaint – 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 a declaration of non-forum shopping. Otherwise, the complaint shall be dismissed without prejudice, save in cases initiated by the MARINA which need not be under oath.

Section 4. Caption and Title. – In all cases filed with the MARINA, 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.

Unless otherwise indicated, each pleading shall have the following caption and title:

Republic of the Philippines
Department of Transportation and Communication
Maritime Industry Authority
Franchising Service, Central Office (or Maritime Regional Office ____)

(Address of concerned MARINA Office)

_____, Complainant Case No. _____

For: _____

versus

_____, Respondent.

Section 5. Where to File the Complaint. – If the complaint is filed against a ship owner/operator with a valid or expired CPC or any other form of authority to operate, or with a CPC Exemption, the complaint shall be filed with the MARINA Office where the CPC or CPC Exemption was issued.

If the complaint is against a shipowner/operator without a valid CPC or without a Certificate of Exemption, the complaint shall be filed at the MARINA Office having jurisdiction over the place where the violation took place.

Section 6. Action on the Complaint. – The Prosecutor shall conduct a preliminary investigation for the determination of probable cause.

Section 7. Preliminary Investigation. – A preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to warrant the issuance of a formal charge.

The prosecutor may issue an order to aid him in the determination of the probable cause or may set a hearing to propound clarificatory and other relevant questions.

In such case, the prosecutor shall either dismiss the complaint if he finds no sufficient ground to continue the same or file a formal charge with the Franchising Service if he established that there is sufficient ground to warrant the issuance of a formal charge.

Section 8. Resolution after preliminary investigation. – If the prosecutor finds cause to hold the shipowner/operator complained of for trial, he shall prepare the resolution and the formal charge. Otherwise, he shall recommend the dismissal of the complaint.

No complaint may be filed or dismissed by the prosecutor without the prior written authority or approval of the Director of the Maritime Legal Affairs Service.

Section 9. Formal Charge. – The prosecutor shall file his complaint before the Franchising Service which shall state therein the alleged violation accompanied by certified true copies of documentary evidence.

The Franchising Service within ten (10) days from receipt thereof shall issue an order requiring the respondent to file a verified answer.

Section 10. Answer. – Upon being served with summons, the respondent must file his verified answer or comment, not a motion to dismiss, to the charges within ten (10) days from receipt thereof duly supported by affidavits of his witnesses and other relevant documentary evidence.

Section 11. Effect of Failure to answer. – If the respondent failed to file an answer within the reglementary ten (10) day period herein provided, the case shall be deemed submitted for decision based on the evidence on record.

The MARINA, motu proprio, or on motion of the complainant, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein.

Section 12. Withdrawal of the Complaint. – any motion filed for the withdrawal of the complaint by the private complainant will not result in its outright dismissal nor discharge the respondent complained of from any administrative liability.

Section 13. Amendments of Complaints. – Complaints may be amended once as a matter of right before the respondent files a responsive pleading thereto. After the filing of such responsive pleading, amendments of pleadings or the filing of supplemental pleadings may be made only upon leave of the MARINA.

Section 14. Summary Proceeding. – Except for cases when the MARINA determines that circumstances warrant the conduct of a formal hearing, the following procedure shall be followed for all complaints filed with the Franchising Service:

a)

Upon being served with summons, the respondent must file his verified answer or comment, not a motion to dismiss, to the charges within ten (10) days from receipt thereof duly supported by affidavits of his witnesses and other relevant documentary evidence.

b)

If the respondent fails to file an answer or comment within the reglementary ten (10) day period herein provided, the Hearing Officer shall direct the complainant to file a verified position paper together with supporting documents. Thereafter, the case shall be deemed submitted for resolution.

The respondent shall be entitled to notice of subsequent proceedings but shall not be allowed to take part therein.

c)

If the respondent files an answer, within three (3) days from such filing, the Hearing Officer shall issue an Order setting the case for mandatory conference to consider the following:

- The possibility of an amicable settlement through mediation;
- Simplification of issues;
- The necessity or desirability of amendments to the pleadings;
- The possibility of obtaining stipulations or admissions of facts and documents to avoid unnecessary proof;
- The submission by the parties of additional documentary evidence; and
- Such other matters as may aid in the prompt disposition of the action.

The Rules on Pre-trial under Rule 18 of the 1997 Rules of Court as to the appearance of parties, filing of Pre-trial Brief, and failure to appear during the hearing shall be adopted without prejudice to the right of the MARINA to adopt other means or procedures that may aid in the prompt disposition of the matter or action.

Sections 2, 3, 4, and 10 of A.M. No. 12-8-8-SC or the Judicial Affidavit Rule are also hereby adopted.

d)

If a compromise is reached, the same must be reduced in writing and signed by the parties. Thereafter, the Hearing Officer shall render judgment based on the compromise agreement and the same shall be final and executory. When no settlement is reached, the Hearing Officer shall issue an Order directing the parties to

simultaneously file within fifteen (15) days from receipt thereof their respective verified position papers, together with the affidavits of their witnesses and other supporting documents.

e)

At any time before considering the record closed and the case submitted for resolution, the Hearing Officer may require the submission of additional documents or conduct clarificatory hearing to aid in the proper and just adjudication of the case.

Section 15. Trial. – When during the Mandatory Conference the MARINA determines that circumstances warrant the conduct of a formal hearing, the trial shall be limited to the issues stipulated upon as stated in the Mandatory Conference Order.

The trial shall proceed in the following order:

a)

The prosecution shall present its evidence to prove the charge;

b)

Cross-examination by the adverse party;

c)

The prosecution may, if it deems necessary, ask questions on re-direct examination on matters covered during the cross-examination and the respondent shall thereafter be allowed to conduct re-cross examination on matters covered by re-direct examination;

d)

The respondent shall then offer evidence in support of his defense following the same order;

e)

Presentation of rebuttal or sur-rebuttal evidence may be allowed subject to the discretion of the Authority.

f)

When the respondent admits the offense or violation charged but interposes a lawful defense, the order or trial may be modified.

In addition to existing rules, Sections 6, 7, and 8 of A.M. No. 12-8-8-SC shall also govern the presentation of, objection/s to, and offer of evidence by the parties.

Except as permitted by law or by Order of the MARINA all hearings shall be public. The MARINA or the Hearing Officer may, however, limit the number of spectators and participants to the extent that safety and good order require. The Hearing Officer may also eject or bar the admission of any person who disrupts or threatens to disrupt a public hearing.

Section 16. Markings. – All documentary evidence or exhibits shall be properly marked by letters (A, B, C, etc.) if presented by the complainant and by numbers (1, 2, 3, etc.) if presented by the respondent.

Section 17. Subpoena. – The MARINA shall have the power to require the attendance of witnesses or the production of books, papers, documents and other pertinent data, motu proprio or upon request of any party before or during the hearing, upon showing of general relevance or that the circumstances described under Section 5 of

A.M. No. 12-8-8-SC are obtaining.

Section 18. Amendments to Conform to the Evidence. – When at a hearing, issues not raised by the pleadings are introduced by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these new issues may be made upon motion of any party at any time during or after the hearing. If evidence upon new issues is objected to on the ground that it is not within the issues raised in the pleadings, the MARINA may allow the amendment of pleadings and such evidence to be received, when it appears that the presentation of the merits of the proceeding will be served thereby without prejudicing the public interest or the rights of any party.

Section 19. Motions. – Motions may be made orally or in writing, with proof of service to the adverse party. Motions may be acted upon with or without a hearing. The MARINA shall act on motions on the basis of the allegations and supporting documents that the party has submitted and the comments of the adverse party.

Section 20. Duty of the Prosecutor. – It shall be the duty of the Prosecutor to actively prosecute the case or, in case where there is a private complainant represented by counsel, to actively direct and supervise the prosecution of the case.

Section 21. Procedure in MARINA Regional Offices without Prosecutor – In case a MARINA Regional Office does not have a prosecutor, the duly authorized legal officer shall perform the functions of a prosecutor in the conduct of preliminary investigation, the filing of a complaint or a formal charge and the prosecution of the case.

Section 22. Judgment; hearing when ordered. – If the MARINA finds, upon consideration of the pleadings, the affidavits and other evidence, and position statements submitted by the parties, that a judgment may be rendered thereon without need of a formal hearing, it may proceed to render judgment not later than thirty (30) days from the submission of the position statements of the parties unless the record is voluminous and the issues are complicated that a longer period to prepare is required.

In cases where the hearing officer deems it necessary to hold a hearing to clarify specific factual matters before rendering judgment, he shall set the case for hearing for the purpose. At such hearing, witnesses whose affidavits were previously submitted may be asked clarificatory questions by the proponent and by the MARINA and may be cross-examined by the adverse party.

The order setting the case for hearing shall specify the witnesses who will be called to testify, and the matters on which their examination will deal, the same must be finished on the same date set therefor, insofar as practicable.

In cases where a hearing is ordered, the judgment in the case, which shall be in writing and state clearly and distinctly the facts and the law on which it is based, shall be rendered within thirty (30) days from declaration of the case as submitted for resolution, except when the records of the case are voluminous or the issues involved are complicated that a longer period is required.

Section 23. Finality of the decision. – The decision of the MARINA shall become final and executory after the lapse of the reglementary period for filing a motion for reconsideration or appeal and no such pleading has been filed.

Section 24. Appeal. – An appeal from a decision of a MARINA Office may be taken to the MARINA Administrator on any legal ground. The title of the case shall remain as it was in the MARINA Office of origin, but the party appealing shall be further referred to as the appellant and the adverse party as the appellee.

The appeal shall be made by filing a notice of appeal, accompanied by an appeal memorandum, and by payment

of the appeal fee with the MARINA Office of origin. Within five (5) days from receipt of the notice of appeal and appeal memorandum, the MARINA Office of origin shall elevate the records of the case to the Office of the Administrator together with a summary of the proceedings.

The filing of the appeal beyond the reglementary period, or the failure to file an appeal memorandum, pay the appeal fee, or furnish the opposing party shall cause the dismissal of the appeal. The appeal may also be dismissed on any other valid ground as may be determined by the MARINA Administrator.

RULE III

MISCELLANEOUS PROVISIONS

Section 1. Repeal. – MARINA Memorandum Circular Nos. 74 and 74-A are hereby repealed and all other prior rules, regulations, guidelines or practices followed before the MARINA which are inconsistent herewith are deemed modified accordingly.

Section 2. 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 3. Effectivity. – These Rules shall become effective fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette, whichever comes earlier. Upon becoming effective, these Rules shall be applied to pending proceedings before the Authority to the extent that they are applicable.

Manila, Philippines, 28 January 2014

(SGD.) MAXIMO Q MEJIA JR, PhD
Administrator

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