

Administrative Adjudication in Protected Areas

Part 1: Administrative Procedures Involving Prohibited Activities under the NIPAS Act and relevant laws, rules and regulations as well as PAMB regulations, resolutions and other issuances including but not limited to seizure, confiscation and disposal or destruction of Illegal Structures, Establishments and Construction Works in Protected Areas as well as Machineries, Equipment, Tools and Conveyances Used in Connection Therewith

1.1. Coverage

This rule shall provide the administrative rules on the abatement/cessation of illegal structures, establishments, construction works and other destructive/disruptive activities which are constructed and/or undertaken in areas explicitly prohibited by law, in strict protection zones, in areas identified as geo-hazard zones, or in any other prohibited zones within protected areas which the Protected Area Management Board (PAMB) or the Protected Area Management Plan, or the Disaster Risk Reduction and Management Plan of LGUs situated within the PA deemed free from human habitation or interference.

As used in this Rule, illegal structures, establishments and construction works shall include but not be limited to a house, building, bunkhouse, temporary shelter, shed, structural frames, fences, billboards, animal house, barn, fish cage, fish pen, or fish corral, farms and plantations, road construction, reclamation works, ports, jetties, wharves, dams and other energy-producing structures, mining related infrastructures and other infrastructure works and activities. The aforementioned terms shall be used in their generic sense and shall be construed in favor of giving life to conservation management.

1.2. Commencement

The abatement/cessation of illegal structures, establishments and construction works in protected areas may be commenced *motu proprio* by the DENR (PENRO/CENRO/Protected Area Superintendent (PASU), upon discovery of the same, or by a sworn written complaint filed by any person.

If filed by any person, the complaint shall be accompanied by affidavits of the complainant and of his/her witness/es in such number of copies as there are respondents plus two (2) copies for DENR files.

If the area where the structure or construction work is covered by a tax declaration, the persons named therein shall be presumed to be the owners thereof and have to have caused the establishment of said structure, or of the construction work being undertaken.

1.3. Where filed

The complaint may be filed with any of the following which exercises jurisdiction over the area where the violation occurred:

1. Protected Area Superintendent (PASU); or
2. Protected Area Management Board (PAMB)
3. CENRO Offices where the protected area is located

1.4. Summary Procedure Initiated by the PASU

1. Specific Coverage—This procedure shall cover dismantling, condemnation or seizure of illegal structures, establishments and construction works as defined in this rule.
2. Discovery and Investigation – Upon discovery of the illegal structures, establishments and construction works, the PASU shall immediately cause the conduct of an investigation and within five (5) days prepare an Investigation Report.
3. Order to Voluntarily Vacate and Dismantle the Illegal Structures—Upon the completion of the Investigation Report, the PASU shall issue an Order to Voluntarily Vacate and Dismantle the Illegal Structures, Establishments and Construction Works.
4. Voluntary Dismantling— Illegal structures, establishments and Construction Works shall be voluntarily abated, vacated and dismantled within ten (10) days upon receipt of such Order. Said Order shall be personally served upon the respondent(s) in the place of last known residence and shall be posted in the subject structure. In case of absence of the respondent, or when his whereabouts is unknown, or his refusal to receive the Order, posting of the same in conspicuous places in the barangay hall of the barangay having jurisdiction over the area where the structure is located is sufficient notice.
5. Forced Dismantling—After ten (10) days upon notice and the subject structure is not vacated or voluntarily dismantled by respondent(s), the PASU may, on its own, dismantle the same.
6. Condemnation of the Illegal Structure—In cases where dismantling of the illegal structures will cause harm or damage to the environment than when it is left untouched, the PASU shall ask PAMB to order its condemnation. (suggestion: the PASu shall order its summary abatement and forthwith file a report with the chairperson of the PAMB.)
7. What to Do with the Dismantled or Condemned Illegal Structures— The illegal structures thus dismantled, condemned or seized shall not be returned to the owner thereof in consonance with Art. 449 of the Civil Code of the Philippines which provides that ” [h]e who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right to indemnity.”
8. Costs of Dismantling – The costs incurred by the PASU in the dismantling of the illegal structures, establishments and construction works shall be for the account of the owner. The PASU shall take immediate steps to recover the costs of dismantling from the owner.
9. Manner of Dismantling - The illegal structures, establishments and construction works shall be dismantled and removed from the area utilizing methods and means that will cause the least damage to the protected area.

1.5. Procedure for Complaints filed by Any Person

1. Specific Coverage—This procedure shall cover:
 - a. illegal structures, establishments and construction works as defined in the Rules which are constructed or erected in forest lands classified as multiple use zones as well as in easement zones in protected areas; and
 - b. Complaints filed by any person regarding illegal structures, establishments and construction works as defined in the Rules in protected areas.
2. Who Shall Hear the Case—The PAMB *en banc*/PAMB Execom may constitute a committee to hear cases before it under these rules. The PASu shall not notify the BMB forthwith of the creation of said committee.
3. Dismissal of the Complaint and Order to Voluntarily Vacate and Dismantle the Illegal Structures—The PAMB or the Committee may, within five (5) days from receipt of the complaint, dismiss the case outright for being patently without basis or merit, otherwise it shall issue a Notice of Hearing. Said Order shall be personally served upon the respondent in the place of last known residence and shall be posted in the subject structure. In case of absence of the respondent, or when his whereabouts is unknown, or his refusal to receive the Order, posting of the same in conspicuous places in the barangay hall of the barangay having jurisdiction over the area where the structure is located is sufficient notice.
4. Answer— Within ten (10) days from service of the Notice of Hearing, the respondent shall file his answer to the complaint and serve a copy thereof on the PASU/PAMB. Affirmative and negative defenses not pleaded therein shall be deemed waived.
5. Failure to Answer—Should the respondent fail to file an answer to the complaint within the period specified above, the PAMB or its committee before whom the case is pending may, on its own, or upon motion of the complainant, render judgment as may be warranted by the facts alleged in the complaint and the evidence adduced therein.
6. Hearing—The PAMB or its designated committee may require personal appearance of the parties during the hearing. Otherwise, the affidavits and other evidence submitted by the respondents shall suffice as evidence and shall constitute as their direct testimony.
7. Decision—The PAMB or its designated committee before whom the case is heard shall make a decision within thirty (30) days after the receipt of the last affidavits and position papers or Memorandum, or the expiration of the period for filing the same. This period may be extended if the hearing committee find it necessary to clarify certain material facts. However, it shall not deliberately use clarificatory procedure to delay its decision.
8. Motion for Reconsideration—A motion of reconsideration may be filed by the respondent within fifteen (15) days from the receipt of the decision. Otherwise, the decision shall become final and executory fifteen (15) days upon receipt of the decision. The PAMB *en banc* or the designated committee shall decide on the motion within fifteen (15) calendar days upon receipt of the motion.

9. Appeal—Decision of the PAMB or its designated committee may be appealed with the Office of the Secretary within thirty (30) days upon receipt of the decision. The appeal shall contain all the issues fact and law. Once received, the appeal shall be forwarded to the Undersecretary for Legal and Legislative Affairs who shall submit his recommendations to the Secretary within a period of fifteen (15) days.
10. Decision of the Secretary—The Office of the Secretary shall render decision within fifteen (15) days. The aggrieved party may, within fifteen (15) days, file a motion for reconsideration on the decision. The decision shall become final and executory within the next fifteen (15) days and shall be served to the PAMB and the aggrieved party for execution.
11. Execution of the Decision—The PAMB or its designated committee, upon receipt of the decision of the Office of the Secretary, shall order its execution. It may require the assistance of the members of the Philippine National Police (PNP) or Armed Forces of the Philippines (AFP), as the case may be.
12. Notwithstanding the foregoing procedure, the respondent may, on his/her own volition, voluntarily dismantle the illegal structures, establishments and construction works within the ten (10) day period for filing an Answer.

1.6. Reportorial Requirements

The concerned PASU shall make a report of the dismantling whether it was done voluntarily or involuntarily.

Part 2: Administrative Procedures Involving Seizure, Confiscation and Disposal of Fisheries and Aquatic Resources, Minerals, Sand, Gravel and other Quarry Resources, Cave Resources, Coal, Petroleum and other Energy Resources and All Other Natural Resources, Whether Processed or Unprocessed Sourced Directly from Protected Areas as well as Machineries, Equipment, Tools and Conveyances Used In Connection Therewith

2.1 Coverage

This governs the administrative adjudication of persons violating the NIPAS Act and other environmental laws, rules and regulations in protected areas such as, but not limited to, laws on fisheries, cave resources, mining, energy, waste, pollution and other pertinent laws, rules and regulations that are applicable within protected areas. It shall cover the disposition of fisheries and aquatic wildlife resources, minerals, sand, gravel and quarry resources, cave resources, oil, petroleum and other energy resources, and all other natural resources, as well as machineries, equipment, tools and conveyances used in connection therewith apprehended/confiscated/seized within the protected area.

2.2 Definition of Terms

As used in this Rules, the following terms shall be defined and/or construed as indicated below:

1. Apprehension - The initial measure taken by the DENR or other protected area law enforcers, when, having determined the existence of probable cause to do so, items listed in Rule 2.3 (1) hereof are found or intercepted and the temporary possession and control over the same is taken/exercised by those authorized to make apprehensions pursuant to Rule 2.4. hereof for administrative disposition in accordance with law.
2. Seizure - Upon determination that an apprehension is supported by a *prima facie* case against the offender(s), seizure is the official act of taking by persons authorized hereby those items listed in Rule 2.3 (1) hereof into government custody, pending formal administrative proceedings for the disposition thereof.
3. Confiscation - Upon determination of guilt in administrative proceedings outlined hereunder, confiscation is the official act of the DENR declaring that items listed in Section 2 hereof become property of the Government of the Republic of the Philippines.
4. Forfeiture - When items listed in Rule 2.3 (1) hereof are submitted by the DENR for disposition in judicial proceedings, forfeiture thereof in favor of the Government of the Republic of the Philippines shall be sought in addition to any other remedies applied for in the prosecution of the case.
5. Items/Products (use a more appropriate term) - Any fisheries and aquatic resources, minerals, sand and gravel and other quarry resources, cave resources, oil, coal, petroleum and other energy resources, water resources and all other natural resources not otherwise excluded under these Rules.

2.3. Items subject to apprehension, seizure, confiscation and forfeiture

1. Illegal Items or Products - Any fisheries and aquatic wildlife resources, minerals, sand and gravel and other quarry resources, cave resources, oil, coal, petroleum and other energy resources, water resources as defined in Rule 2.2 (5) above that are gathered, removed, extracted, collected, utilized, processed and/or transported: (a) without the requisite authorization or permit; or (b) with incomplete required supporting documents; (c) with genuine authorizations or permits and/or supporting documentation that have an expired validity, have been cancelled or that contain forged entries; or (d) with spurious (fake) authorizations, permits and/or supporting documentation. In implementing these Rules, original documents shall be required at all times to actually accompany any forest products being moved or transported to any place and for any purpose. Whenever the requisite authorization and/or supporting documentation are required to but do not actually accompany the forest products, such absence constitutes a violation covered by these Rules

2. Machinery, Equipment, Tools And Implements - used in the possession, gathering, collecting, processing and/or transporting of any of the products listed in Paragraph 2(3)(1); and

3. Conveyance - any mode or type or class of vehicle or craft or any other means used for transportation either on land, water, air, or any combination thereof, whether motorized or not, used for or in taking and/or maintaining temporary or permanent possession or control, gathering, collecting, processing, disposing of, or otherwise transporting, moving or transferring any of the products listed in Paragraph 2(3)(1).

2.4 Persons Authorized to Make Apprehensions and Effect Seizures.

1. Apprehension - The following persons collectively known as apprehending officers, are authorized to apprehend items outlined in Rule hereof:
 - (a) Park Superintendent;
 - (a) Field Officers;
 - (c) Deputized law enforcers (i.e., other government officials and private citizens duly deputized by the DENR/BFAR/LGU or his duly authorized representative);
 - (d) Members of other law enforcement agencies; and
 - (e) Private Citizens as provided by law.
2. Seizure — The administrative seizure of illegal items takes effect when, for the purpose of holding the same in *custodia legis*, any Field Officer designated as a Seizure Officer actually takes delivery from an apprehending officer as described Rule 2.5. in hereof and thereby assumes possession/control of item(s) apprehended pursuant hereto. Only the following are designated Seizure Officers with authority to effect the administrative seizure of items listed in Rule 2.3. hereof within their respective areas of operation:
 - (a) The Protected Area Superintendent or Other Officers of the same rank actually assigned to the area of apprehension at the time thereof;
 - (b) The Community Environment and Natural Resources Officer (CENRO) of the place where the violation occurred.

2.5. Administrative Apprehension, Seizure and Confiscation of Timber and Forest Products

Upon inspection or interception of items listed in Rule 2.3 hereof, or upon the discovery of such items that are abandoned, or whose owner, claimant, custodian or other interested party is absent or cannot be determined, the apprehending officer shall observe the following summary procedures:

2.5.1 ON-SITE recording and preservation of data and evidence:

The following procedures shall be complied with:

1. On Site Determination of Probable Cause — Upon encountering a possible violation of NIPAS law, rules and regulations, PAMB resolutions, regulations and other issuances and other laws, rules and regulations, the apprehending officer shall establish his/her/their authority by identifying themselves to any person(s) witnessing the activity by stating their full name, rank and official designation. They shall exhibit their current Identification Card and/or authorization to conduct law enforcement if he/she is not the PASU or field staff/officer. The apprehending officers shall invoke these Rules and announce the commencement of a verification procedure. They shall then verify the existence of probable cause for an apprehension as outlined below.

2. Ocular Inspection and Immediate Release – Conduct an ocular inspection of all required authorizations and/or activities which the PAMB duly approved or regulated. If all requisite authorizations, permits, and accompanying documentation are verified to be in order, and the probable cause for an apprehension is absent, the release of all items inspected must be effected immediately. In such cases, the DENR seal for inspection/verification must be rubberstamped or otherwise affixed on the face of all transport documents inspected in connection herewith. In the absence of such seal, they shall write the date, state the fact of inspection, and the release. After which the apprehending officers shall affix their signatures above their full printed name in the official log book for the matter.
3. On-Site Record of Violations — Should inspection pursuant to the preceding paragraph indicate a violation of NIPAS Act, other laws, rules and regulations, and the probable cause for an apprehension is present, the apprehending officer shall immediately:

(a) verbally inform the person(s) apprehended of his findings and announce that an apprehension will be conducted in accordance with these Rules;

(b) recite the constitutional rights of the persons apprehended to remain silent and to have a competent and independent counsel of his/her own choice (Miranda rights), etc.;

(c) prepare a written ON-SITE RECORD of the names, addresses and other available data of all persons found in possession, exercising control and/or supervision over, or performing or otherwise involved in the possession, supervision, control, cutting, gathering, processing and/or transporting the item(s); and

(d) record the itemized list of all on-site machinery, equipment, tools, and implements used in the commission of or otherwise connected with the offense.

The apprehending officers shall then indicate the date and sign the ON-SITE RECORD.

4. Apprehension and Delivery of Offenders to the Nearest Police Station – The apprehending officer shall also take temporary custody of the person apprehended for the sole purpose of delivering him/her immediately to the nearest police station for proper disposition. The apprehending officer shall, as much as possible, submit all available and necessary documents to the police station to support the filing of criminal complaint against the offender.
5. On Site Determination of Fraudulent Misrepresentation Prejudicial to the Government — Intent to defraud the Government shall be presumed: (rephrase or delete)

(a) In case the quantity or volume of a shipment or stock of the items/products exceeds what is authorized, documented, manifested or declared: (i) **by five percent** (5%) or more, in case of timber, and/or (ii) by **two percent** (2%) or more, in case of lumber; and/or (for deletion/revision)

(b) Upon discovery of a misdeclaration on the quantity and species ~~being~~ verified pursuant hereto.

In all such cases, the entire shipment shall be considered illegal due to fraudulent misrepresentation with intent to prejudice the Government of the Republic of the Philippines. Such shipments shall be apprehended/seized, and subject to confiscation or forfeiture proceedings. The apprehending officer shall effect the apprehension and proceed as hereunder

outlined even if the requisite authorizations and supporting documents for all or part(s) of said shipment are verified to be otherwise in order.

6. On-Site Conveyance Check — In case the violation noted involves the use of a conveyance, as herein defined, the apprehending officer will announce the apprehension thereof. Should the conveyance require government registration, the apprehending officer will require the presentation thereof and will inspect (a) the Certificate of Registration (b) the Official Receipt of its ownership (c) the Driver's License or similar authorization. Said documents shall be returned to the holder thereof upon notation of the holder's identity and address, as well as of the name and address of the owner of the conveyance, its license plate number and other identifying marks or information.
7. On-Site-Report - In addition to the foregoing, the following information, if available, shall be recorded immediately upon apprehension,
 - (1) time, date and place of apprehension;
 - (2) full name and address of the offender(s);
 - (3) full names of all persons accompanying or providing on-site assistance to the apprehending officer or individual;
 - (4) circumstances that led to the apprehension (e.g., discovery of abandoned items, spot check by monitoring team, verification of absent, lacking, forged or spurious documentation, etc.);
 - (5) names of local government officials present and/or of other person(s) witnessing the apprehension;
 - (6) preliminary description of the item(s) being apprehended;
 - (7) place, time and date of origin and intended destination, consignors and consignees of the items being apprehended; and,
 - (8) such other data or information and comments, observations and recommendations as may be available or pertinent on-site.

2.6. Outline of Procedures for Summary Administrative Apprehensions.

The following procedures shall be complied with for the summary administrative apprehension of items listed in Rule 2.3 hereof:

1. Apprehension Receipt — After finding the existence of probable cause to make an apprehension and upon completion of the foregoing procedure, the apprehending officer shall issue and hand-over to the offender an Apprehension Receipt, which shall contain the following:
 - (a) the precise nature of the offense cited;
 - (b) the time, date and place of issuance of the Apprehension Receipt; and
 - (c) the full names in print and signatures of both the apprehending officer and of the offender(s).
2. Provisional Apprehension Receipt – Should the counting, measurement, description, tagging, and/or value-estimation of the items being apprehended, and/or of any other documentation activity related thereto remain incomplete at the close of regular office hours of the day when the apprehension was made, when more time is required to complete the same, the apprehending officer shall explain and reflect the same in the Apprehension Receipt. In such cases the

Apprehension Receipt shall be prominently marked with the word ***PROVISIONAL***. The Provisional Apprehension Receipt shall also state the date, time and place where the uncompleted documentation activity will resume. This procedure shall be followed each day that the documentation activity remains incomplete until final completion thereof.

3. Transparency of Apprehension Proceedings – As much as possible, the documentation activity outlined above shall be undertaken with full transparency and in the presence of the offender(s), owner, custodian, possessor, consignor, consignee, or other person(s) claiming the apprehended items or representatives of any of said persons, as well as any other concerned or interested persons. If the documentation activity is undertaken in the absence of anyone interested therein or their presence cannot be required/obtained or it is impracticable, such fact shall be stated on both the INCIDENT REPORT and APPREHENSION RECEIPT with an explanation, if any.

Moreover, the apprehending officer shall immediately implement such measures to ensure that any persons, if known, who have an interest in the apprehended item(s) be informed of the reasons(s) for the apprehension, as well as invite said person(s) to attend every proceedings, stating the date, time and date when such proceeding will commence or resume.

2.7. Outline of Procedures for Summary Administrative Seizure.

The following procedures shall be complied with the summary administrative seizure of items listed in Rule 2.3 hereof.

1. Delivery - As soon as possible after items are apprehended as outlined above, the same shall be delivered by the Apprehending Officer to the nearest Seizure Officer authorized pursuant to Rule --- hereof, who shall forthwith sign and issue a Seizure Receipt stating the date, place and time, name of Apprehending Officer(s), and containing an itemized list of the item(s) delivered to him. In case such delivery of any apprehended item(s) is impracticable, the Apprehending Officer shall deposit the same for temporary safekeeping at the nearest Government office. Should such temporary safekeeping be impracticable for any reason, the apprehending officer shall take necessary measures until delivery thereof is effected as herein provided.

In cases where the seized items can be consumed as food items such as fisheries products, the issuance of a seizure receipt shall authorize the PASu or his authorized representative to distribute said fisheries products to LGUs, orphanages, homes for the aged, hospitals, or similar charitable institutions as they may deem appropriate, after the proper documentation necessary for adjudication or litigation have been taken. In case the fisheries products are still alive, they shall be forthwith released into the wild, as appropriate, in the presence of the Protected Area staff, the LGUs, or other law enforcement agencies assigned in the area.

In no case shall fisheries products caught using toxic or noxious substances be distributed for consumption. They shall instead be disposed accordingly in the safest means possible. For fisheries products that are classified as threatened, whether living or dead, shall be disposed of by burying them in an appropriate manner that will allow for subsequent retrieval for studies.

2. Summary Administrative Seizure — Upon delivery to those authorized pursuant to Rule 2.4. hereof, the Seizure Officer concerned shall forthwith verify and examine all the documents submitted to him by the Apprehending Officer as required by the foregoing provisions.
 - (a) He shall confirm that the item(s) delivered to him strictly coincide with the itemized list thereof reflected in the documents of apprehension. If such confirmation cannot be completed within the same day, the procedure for extensions outlined in Rule 2.6.2. hereof shall apply. In case of variance between the items so delivered and those reflected in the documents of apprehension he shall require a sworn statement from the apprehending officer with a complete, clear and concise explanation for said variation, which shall form an integral part of the permanent records of the case.
 - (b) In verifying the existence of a probable cause case against the offender, the Seizure Officer or his duly authorized representative shall personally examine the Apprehending Officer and any witnesses appearing before him in order to satisfy himself of the evidence at hand.
 - (c) Should a probable cause against the offender be thus found to exist for purposes of issuing a Seizure Order, the Seizure Officer shall immediately declare this fact by issuing a SEIZURE ORDER for the apprehended item(s).
 - (d) In case the apprehended conveyance involved is a government vehicle, the procedure above shall be followed and the vehicle shall be immediately released to the highest regional official of the office who owned the same upon the undertaking that the same conveyance will be produced when needed in any judicial or administrative investigation.

2.7. Outline of Procedures for Summary Administrative Confiscation.

The following procedures shall be complied with for the summary administrative confiscation of items listed in Rule 2.3 hereof. Immediately upon, or as soon as practicable after issuance of a SEIZURE ORDER, the following outline shall be followed in the summary seizure proceedings.

1. Notice of Hearing — A Notice of Hearing shall be issued by the Seizure Officer or the duly authorized representative stating therein the specified place and date within two (2) weeks from the date of the issuance of the Seizure Order. The Notice of Hearing shall be accompanied by the Incident Report. The Notice of Hearing shall require the apprehended person to bring any and all controverting evidence or witnesses he/she may present. The Notice shall also state a warning that if the apprehended person fails to attend the hearing or present controverting evidence, he/she will be placed in default and judgment by default be imposed upon him/her.
2. Hearing - The Seizure Officer or his/her duly authorized representative who is any of the officers stated in Section 2.3 hereof, shall preside as the Hearing Officer at Confiscation hearings, which shall be summary in nature. All interested parties shall be heard by themselves and/or through counsel of their own choice. The proceedings shall be recorded, or at least the minutes of the meeting shall be made.

A complete set of the documents supporting the apprehension and seizure as hereinabove outlined shall be provided to the interested parties, and who shall be afforded the opportunity to present

controverting evidence. In lieu of presenting testimonial evidence, any party may elect to submit a Memorandum, attaching thereto affidavits and any other supporting documents, with a request that the issues be decided on the basis thereof. The applicable provisions of the Rules of Court shall have supplementary application. The hearing shall be completed and terminated within thirty (30) regular business days from commencement thereof.

3. Disputable Presumptions - In the administrative proceedings conducted pursuant hereto, the following shall be considered presumptions and taken as part of the evidence unless specifically controverted and successfully overcome by a preponderance of evidence.

- (a) All those apprehended on-site for direct or indirect participation in the commission of the offense(s) cited had full knowledge of and willingly participated therein;

- (b) The registered owner and/or operator/driver of a conveyance used in the commission of the offense had full knowledge and willingly participated therein by providing the conveyance for the illegal purpose to which said conveyance was applied. In case the registered owner of the conveyance is a partnership or corporation, the partners and/or officers thereof had full knowledge of and granted authorization or issued instructions for the use or application of the conveyance in the commission of the offense.

- (c) Any of the items included within Rule 2.3. hereof were obtained from an illegal source.

4. Decision — The Decision shall be rendered by the PAMB, or in default thereof, by the DENR Regional Director, upon recommendation of the Hearing Officer. Substantial evidence shall suffice to sustain an administrative decision. Any decision favoring the violator/s shall merit the immediate dismissal of the case, and the controversy deemed closed with the consequent order for the release of the seized item(s) to the violator/s or its owners.

If the violator is found to have committed the acts stated in the Incident Report, a ruling shall be issued declaring the seized items including the conveyances used in the commission of the offense to be confiscated in favor of the Government, together with recommendations for further prosecution for any offense committed, if any.

The decision shall become final and executory upon the lapse of fifteen (15) days which shall start upon the receipt of the decision by the concerned party, unless a Motion for Reconsideration is filed as provided below.

Nothing herein shall prevent the Protected Area Management Board (PAMB) from delegating their authority or from constituting a group of persons to act as Hearing Officer.

5. Motion For Reconsideration - A party aggrieved by the decision may file only one (1) Motion for Reconsideration within a non-extendible period of fifteen (15) days from receipt of the decision, containing a concise statement of the grounds relied upon for the purpose. The Hearing Officer shall issue a ruling on such Motion within fifteen (15) days from receipt thereof, stating the grounds therefor. Unless a Notice of Appeal is filed by a party with the Hearing Officer within a non-extendible period of fifteen (15) days from receipt of denial of the Motion for Reconsideration, the decision of the Hearing Officer shall become final and executory. If there is a timely Notice of

Appeal, the Hearing Officer shall transmit the complete records of the case to the Regional Director's Office for appropriate action.

6. Appeal - Within a non-extendible period of fifteen (15) days from receipt of the ruling on the Motion for Reconsideration, a party, after paying the corresponding Appeal Fee of ₱1,000.00 and a bond equivalent to the value of all the confiscated items under Rule 2.3. hereof, may file an Appeal with the Office of the Secretary of the DENR, which shall contain a concise statement of all the issues of facts and law raised on appeal. The Office of the Secretary of the DENR shall decide the controversy within thirty (30) days from receipt of the appeal.
7. Decision - A Party aggrieved by the decision rendered may, within fifteen (15) days from receipt thereof may file, one (1) Motion for Reconsideration, failing which, the same shall become final and executory.
8. Execution of Decision - When a Decision becomes final and executory upon the lapse of the reglementary periods herein prescribed, the concerned officer who issued the final decision shall, *motu proprio* or upon motion by any party, issue a Certification to that effect and the execution thereof. The confiscated items shall become permanent property of the Government and entered into the books as such and disposed of in accordance with law.

2.8. Abandoned Illegal Items/Products, Fish species, fishery by-products or derivatives.

The following procedures apply in cases where illegal items/products and other items listed in Rule 2.3. hereof are abandoned, or when the owner, claimant, custodian or other interested party(ies) is unknown, cannot be determined, or cannot otherwise be found.

1. Apprehension - The items listed in Rule 2.3. hereof shall forthwith be apprehended. Whenever practicable, photographs of the apprehension site and the item(s) seized shall be taken and shall form a permanent part of the records of the case. For this purpose, the apprehending officer shall state the date, caption and write his full printed name and affix his signature at the back of each photograph so taken.
2. Notice of Apprehension - The INCIDENT RECORD OF VIOLATIONS, ON-SITE REPORT AND APPREHENSION RECEIPT shall be prepared as mandated hereby. In lieu of service of the APPREHENSION RECEIPT, a **Notice of the Apprehension** shall be left by the apprehending officer on-site, posted or tacked into the nearest tree, wall or other similar permanent structure. In this connection, the notice shall contain the following:
 - a. date, time and place of the apprehension;
 - b. full printed name, designation and signature of the apprehending officer;
 - c. complete, itemized list of the item(s) apprehended;
 - d. summary statement of the violation(s) cited; and
 - e. full printed name and office address of the seizure officer to whom said items will be submitted.

3. Summary Proceedings - Summary Seizure/Confiscation Proceedings shall be conducted by the Hearing Officer designated in these Rules. In such cases, the Notice of Hearing shall be posted for at least two (2) weeks in at least three (3) public places, including, but not limited to:
 - (a) Barangay Hall of the apprehension site;
 - (b) Bulletin Board of the PASU Offices where the Proceedings will be conducted; and
 - (c) Municipal Hall of the apprehension site.

Should the owner, claimant or other interested party fail to appear at the proceedings, such failure shall be deemed waiver of the right to appear and of any/all rights to the items apprehended in favor of the Government. The Hearing Officer shall state this fact in the records and certify that posting of Notice of Hearing had been effected in compliance herewith. Thereupon, he shall forthwith issue his Decision based on the evidence at hand.

2.9. Temporary Release of Conveyances.

The registered or constructive owner of a conveyance is presumed to have authorized the use of the said conveyance to transport the items seized under Section 2(3)(1). As such, any conveyance may only be released to the owner pending the resolution of the administrative case, upon his/her motion, if the following conditions are met:

1. Confirmation - Written confirmation in the records of the case is entered by the Hearing Officer declaring under oath:
 - (a) that the original official registration papers of the conveyance and supporting documents thereof are secured and made an integral part of the records of the case, possession of which shall not be released unless ordered in the final decision of said case or by other competent authority;
 - (b) that the Applicant was not among those who were apprehended by virtue hereof and is not a respondent in the case by virtue of which the conveyance is being detained *pendente lite*;
 - (c) the Applicant has not previously been held administratively or criminally liable for violation of forestry laws, rules and regulations; and
 - (d) the available evidence does not in any way indicate the complicity of the applicant in the offense cited in the confiscation proceedings.
2. Sworn Statement And Undertaking — Submission by the applicant of a Sworn Statement:
 - (a) declaring the precise nature of his/her claim thereon;
 - (b) declaring that he/she has not previously been held administratively or criminally liable for violation of forestry laws;
 - (c) unconditional undertaking to return possession of the conveyance to the PASU office in the same condition as it was released to the applicant as may be required for the final disposition of the case.
 - (d) that the registered owner will participate in proceedings to determine culpability of the operator of the conveyance at the time of the apprehension.
 - (e) if the registered owner of a conveyance is a corporation, the statement shall contain an undertaking that an officer will be present to participate during the investigation process.

Photographs of the conveyance evincing its condition at the time it was released to the applicant shall form part of the applicant's Sworn Statement and Undertaking.

3. Posting of Bond — Upon approval of an Application for Temporary Release of Conveyance, and as a precondition to the actual *pendente lite* release thereof, the Applicant shall post a cash or surety bond to guarantee the prompt return of the conveyance to the PASU as may be required pursuant hereto. In no case shall a personal or private bond or guarantee or recognizance be admitted for this purpose.

The bond shall be equivalent to two hundred percent (200%) of the replacement cost of the conveyance at the time the bond is submitted. A cash bond in favor of the PASU must be filed by the applicant with the nearest PASU Office or Sub-Office; surety bonds in favor of the DENR must be from the GSIS or other government surety. Original documents evidencing the posting of the bond shall be submitted to the Hearing Officer and form part of the records of the case.

4. Recall Of Conveyance — In case of misrepresentation in the Application for Temporary Release of Conveyance and/or any documents submitted in connection with or support thereof, or in case of failure to comply with any representations or undertakings made in connection therewith, the conveyance shall be ordered recalled by the Hearing Officer and the same shall forthwith be returned by the applicant to the PASU. In case of failure to return the conveyance in compliance with a directive issued in the administrative case, the bond shall be called and forfeited in favor of the Government.
5. Return/Cancellation of Bond — When the decision in a case becomes final and executory as outlined above and administrative confiscation of the conveyance is not ordered by the Government, immediate return thereof to the owner and cancellation/return of the bond filed in connection therewith shall be ordered.

2.10. Arrests and Prosecution for Other Offenses.

Below are additional rules on arrests and prosecution for other offenses:

1. In addition to the functions outlined hereinabove, the Apprehending Officer may, whenever circumstances so warrant, effect the arrest of any person(s) apprehended by virtue hereof, and forthwith deliver such person(s) to the proper authorities in accordance with the provisions of the NIPAS Act, the Philippine Fisheries Code of 1998, as amended, and other pertinent laws, rules and regulations.
2. The administrative remedies provided herein is without prejudice to the filing of other cases, civil or criminal, when the circumstances so warrant. Should the evidence in any administrative case arising by virtue hereof so warrant, the Apprehending Officer/Hearing Officer shall initiate the filing of a criminal/civil in the appropriate agencies of the government.
3. In all matters pertaining to arrests and prosecution of any person(s) effected pursuant hereto, the concerned PASU personnel may also coordinate with other agencies of the government in the further prosecution of the acts committed.

4. The foregoing guidelines shall be in addition and without prejudice to any other requirements as are or may hereafter be provided by law, and other pertinent rules and regulations.

2.11. Reportorial Requirements.

Updated Quarterly Reports shall be submitted by the PASU to the Protected Area Management Board (PAMB), the DENR Regional Director, and the Biodiversity Management Bureau, containing the following information:

1. Status Report of Cases — A complete list of all administrative cases initiated pursuant hereto, including the pertinent dates, places and parties involved, current status and estimated period for completion, as well as recommendations for the efficient and expeditious disposition thereof, if any.
2. List of Seized and Confiscated Items — A complete list of all items seized and detained *pendente lite*, with particular descriptions of each item, current condition thereof and place of detention/safekeeping. A second list shall be submitted reflecting all conveyances temporarily released pursuant hereto, stating the names of recipients thereof, with the condition and amounts of the bonds pertaining thereto. A third list shall likewise be submitted for all confiscated items awaiting final disposition in accordance herewith, accurately described with recommendations as to the final disposition thereof, if any.
3. Items Not Recommended for Disposition — The updated Semi-annual Reports shall specify which confiscated items awaiting final disposition are not recommended for the purpose of disposition because:
 - (a) the same had been submitted in evidence to a court or other government agency in connection with the prosecution of offenders in judicial or other proceedings, stating the complete details thereof; or
 - b) the same are subject of donation; or
 - c) the same are to be deposited with appropriate government agency; or
 - d) the same will be utilized for the DENR's own needs in accordance with existing related rules and regulations; for a specified purpose or activity.
4. Items Requiring Urgent Disposition — In the case of seized items which cannot be detained for safekeeping until final disposition thereof is determined in accordance with the foregoing procedures due to:
 - (a) the highly perishable nature thereof; or
 - (b) that a place for adequate safekeeping thereof cannot be provided; or
 - (c) because the continued detention thereof until final disposition in accordance herewith is impractical.

In the case of items confiscated in favor of the Government when the continue/prolonged safekeeping thereof while awaiting final disposition in accordance herewith is not recommended

for any of the foregoing reasons, all such items shall be itemized in a separate List of Items for Urgent Disposition.

5. The List of Items for Urgent Disposition shall be submitted to the PASU without delay, and in any case within forty-eight (48) hours from discovery of the urgent nature of the circumstances. Said List shall state:
 - (i) the general case information cited in sub-paragraph (a) of this Section,
 - (ii) particular description of the item(s);
 - (iii) the estimated value thereof;
 - (iv) the reason(s) for recommending urgent disposition; and
 - (v) mode of disposition recommended to avoid irreparable damage or prejudice to the item(s).

Upon consultation with the Parks Operations Supervisor at the DENR Regional Office, or in his absence, with the DENR Regional Director, shall issue directives for the expeditious disposition of all such items in conformity with law, justice and equity.

When the circumstances so warrant, the DENR Regional Director may directly negotiate the disposal of the herein confiscated items.

1.12. Disposition of Items Confiscated in Favor of the Government.

The following rules shall be observed in the disposition of items confiscated in favor of the Government.

1. Items confiscated in favor of the Government in summary administration proceedings conducted pursuant hereto shall be disposed of in accordance with law.
2. The disposition of items administratively confiscated in favor of the Government pursuant to these Rules shall be governed by the same rules of procedures applied by the DENR Central Committee on Bids and Awards. In this connection, the Committee shall reproduce its requirements and rules of procedure for adoption and strict compliance. When the circumstances so warrant, DENR Regional Director may directly negotiate the disposal of the herein confiscated items.
3. For the implementation of these Rules, the PASU concerned, upon clearance from the PAMB, is authorized to dispose of items administratively confiscated in favor of the Government pursuant hereto, provided that the value of each or all the items to be disposed of in each instances not exceed one hundred thousand pesos (P100,000.00). In cases where the value of any item, or when the total value of the items scheduled for disposition at any instance, exceeds the cited amount, disposition thereof shall be referred to the Central Committee on Bids and Awards, which shall conduct proceedings in relation thereto. In this connection, DENR Regional Committees on Bids and Awards are hereby constituted as follows:

Chairman – DENR Regional Director or, in his absence, a duly designated member of the PAMB;

Member – Designated Legal Officer;

Member – The concerned Hearing Officer/PASU.

The representative from the Commission on Audit (COA) may be designated as observer.

4. Consistent with the provisions of Republic Act No. 6713, (Code of Conduct and Ethical Standards for Public Official and Employees), DENR employees and their relatives within the fourth civil degree of consanguinity or affinity shall in no way, directly or indirectly, be allowed to participate in or otherwise be interested in any part of any proceedings for the disposition of confiscated items subject of these Rules.
5. In no case shall same individual(s) from whom the items for disposition were confiscated be qualified/admitted as a bidder in these proceedings. This prohibition shall extend to their family members up to the fourth degree of affinity or consanguinity, and to corporations where the offenders were corporate officers or members of the Protected Area Management Board (PAMB) at the time of the apprehension.

1.13. Expenses for the Transfer, Safekeeping, Maintenance and Delivery of Apprehended, Seized and Confiscated Items.

1. All expenses incurred by the PASU or any authorized operating under the auspices of the PASU and under these rules, in transferring apprehended items to the place of safekeeping, the necessary maintenance thereof, and delivery to any other place or person as may be required by the circumstances and/or in the implementation of the procedures outlined herein, shall attach as primary liens over such items in favor of the PAMB/DENR and shall be deducted from and reimbursed to the DENR/Other agencies as administrative costs from the proceeds of the sale thereof if any. In this connection, the PAMB/DENR shall allocate a fund to enable field officers to advance expeditiously hauling expenses and avoid deterioration and/or loss of economic value of the products/conveyances.
2. In cases of products, tools, equipment, implements and conveyances that are forfeited in favor of the Government and disposed of by judicial or other official mandate, the concerned PASU shall make official representations with the Court or Government Agency concerned for the purposes of recovering the aforementioned primary lien.
3. The PAMB may promulgate such other guidelines, rules and regulations as may, from time to time, be deemed necessary or appropriate under the circumstances in order to ensure the recovery of expenses incurred in the implementation of these rules.

1.15. Remittance of Proceeds of Sales.

All proceeds from the sale or other disposition of any item(s) confiscated pursuant hereto shall accrue to the IPAF of the protected area. Immediately upon receipt of payment, or any part thereof for any item(s) sold or otherwise disposed of pursuant to these Rules, the entire amount(s) so received shall, in the form of a Cashier's Cheque or Manager's Cheque, and together with complete documentation and concise explanation therefor, be remitted to the IPAF.

An updated Quarterly Report on all funds remitted to IPAF pursuant to the preceding paragraph shall be submitted by the PASU to the DENR Regional Director; Quarterly Reports shall be consolidated into an Annual Report to be similarly submitted at the end of the fiscal year.

1.16. Designation of Secretariat for Administrative Cases.

1. The PAMB through the DENR Regional Office concerned shall designate a SECRETARIAT FOR ADMINISTRATIVE CONFISCATION CASES charged with the collection, storage, processing, monitoring, analysis and submission of Quarterly and Annual Reports thereon. All case updates shall be submitted to the BMB for centralized information management.
2. All reports required by these Rules shall be coursed through the Secretariat so constituted to ensure the most efficient administration thereof.
3. The PAMB or the DENR Regional Director may require the Secretariat and all other designated DENR personnel concerned to prepare such other reportorial requirements as may, from time to time, be necessary for the effective implementation of these Rules.

1.17. Additional Guidelines and Instructions.

The PAMB may, from time to time, issue such other guidelines, directives and implementing instructions for the orderly and effective implementation of these Rules.